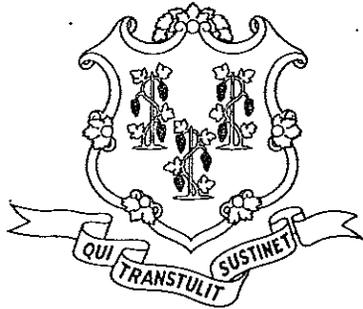


# Connecticut Well Drilling Board

Connecticut  
General Assembly



LEGISLATIVE  
PROGRAM REVIEW  
AND  
INVESTIGATIONS  
COMMITTEE

## SUNSET 1982

SUNSET REVIEW 1982  
CONNECTICUT WELL DRILLING BOARD

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## CONNECTICUT WELL DRILLING BOARD

### SUMMARY

The Connecticut Well Drilling Board was established by statute in 1969 to protect both the consuming public and the state's ground water resources, as well as maintain vital scientific data. All persons wishing to drill wells in Connecticut were required to meet standards of proficiency and have adequate financial resources prior to being issued a license by the board. The board was also empowered to handle complaints and take disciplinary action.

The eight member Connecticut Well Drilling Board is currently under the Department of Consumer Protection. The board sets standards for admission to the occupation and maintains standards for the practice of the occupation by:

- advising and assisting the Commissioner of Consumer Protection in establishing requirements for entry into the profession
- issuing a "certificate of registration annually" to each applicant who meets established standards
- advising the Commissioner of Consumer Protection on regulations for the industry
- receiving complaints, conducting hearings, and refusing, suspending, or revoking certificates of those well drillers found guilty of misstatement, fraud, misrepresentation, incompetence, willful failure to comply with statute or regulations, refusal to file reports of wells drilled, deceit, gross negligence, or misconduct in the business of well drilling
- preparing a roster of all registered well drillers and distributing it annually to the local director of health and the building inspector of each town
- issuing permits, upon application, for every proposed well that conforms to the code
- receiving, within 60 days after completion of a well, a complete record of the project from the well drilling contractor

In the interest of the public health, safety, and welfare, the Legislative Program Review and Investigations Committee sought to place the regulation of well drilling within a state agency capable of handling specific problems and determinations in this area, as well as consumer complaints. Staff research revealed that the Department of Health Services is particularly well-suited to regulate well drillers as it already has staff that are cognizant of the problems of water supply and well drilling, has procedures for registration and complaint handling, and considers well drilling an integral part of its water supplies responsibilities. Therefore, *the Legislative Program Review and Investigations Committee recommends that the regulation of well drillers be placed within the Department of Health Services and the department be empowered to combine and revise the present well drillers code and the public health code as it refers to well drilling into a single coherent code.* In addition, since the Department of Health Services seems best able to handle both registration and consumer complaints, *the Legislative Program Review and Investigations Committee further recommends that the board be terminated and the department assume its functions.*

The committee was concerned that consumers be aware that redress for their complaints is available through means other than litigation. *Therefore, the Legislative Program Review and Investigations Committee recommends that all well drillers be required to notify clients, in writing and before well drilling commences, that any complaints may be brought to the attention of the Department of Health Services for action.*

## INTRODUCTION

### Purpose and Authority for the Sunset Review

Chapter 28 of the Connecticut General Statutes provides for the periodic review of certain governmental entities and programs and for the termination or modification of those which do not significantly benefit the public health, safety, or welfare. This law was enacted in response to a legislative finding that there had been a proliferation of governmental entities and programs without sufficient legislative oversight.

The authority for undertaking the initial review in this oversight process is vested in the Legislative Program Review and Investigations Committee. This committee is charged, under the provisions of section 2c-3 of chapter 28, with conducting a performance audit of each entity or program scheduled for termination. This audit must take into consideration, but is not limited to, the four criteria set forth in section 2c-7. These criteria include: (1) whether termination of the entity or program would significantly endanger the public health, safety, or welfare; (2) whether the public could be adequately protected by another statute, entity, or program or by a less restrictive method of regulation; (3) whether the governmental entity or program produces any direct or indirect increase in the cost of goods or services and, if it does, whether the public benefits attributable to the entity or program outweigh the public burden of the increase in cost; and (4) whether the effective operation of the governmental entity or program is impeded by existing statutes, regulations, or policies, including budgetary and personnel policies.

In addition to the criteria contained in section 2c-7, the Legislative Program Review and Investigations Committee is required, when reviewing regulatory entities or programs, to consider, among other things: (1) the extent to which qualified applicants have been permitted to engage in any profession, occupation, trade, or activity regulated by the entity or program; (2) the extent to which the governmental entity involved has complied with federal and state affirmative action requirements; (3) the extent to which the governmental entity involved has recommended statutory changes which would benefit the public as opposed to the persons regulated; (4) the extent to which the governmental entity involved has encouraged public participation in the formulation of its regulations and policies; and (5) the manner in which the governmental entity involved has processed and resolved public complaints concerning persons subject to review.

## BACKGROUND

### Legislative History

The Connecticut Well Drilling Board was created in 1969 (P.A. 659) "for the purpose of safeguarding the public health" (Sec. 3[a]), "the preservation, allocation and management of the ground water of the state, the protection of the consuming public and the maintenance of geological and other scientific data" (Sec. 3[b] [1]). The board consisted of four active well drillers from different sections of the state, one employee of the Department of Health, one geologist or engineer, and one employee of the Water Resources Commission. The board was enjoined to "promote and encourage cooperation among well drillers and governmental agencies in the development and protection of records of underground water formations and resources" and to prepare and print bulletins "for the benefit of the industry" (P.A. 659, Sec. 3[a]), as well as to promulgate "regulations for the well drilling industry in cooperation with the State Department of Health and the Water Resources Commission" (P.A. 659, Sec. 3[b] [1]). The board was empowered to "establish the requirements of registration for well drilling contractors" (P.A. 659, Sec. 4[a]), which were to include proficiency "as demonstrated by experience or training and sufficient financial resources to have and maintain" equipment (P.A. 659, Sec. 4[a]). The board was further empowered to conduct investigations and suspend or revoke licenses. Fees for applications and license renewals were established at \$35 and \$25 respectively. Since 1969 well drilling in Connecticut has been restricted to persons holding a license.

In 1971, the board member from the Water Resources Commission was replaced with an employee of the Department of Environmental Protection (P.A. 872, Sec. 139). The board was placed under the Department of Consumer Protection in 1977 (P.A. 77-614), the number of well driller members was reduced to one, and three public members were added. Simultaneously, the power to promulgate or amend regulations and to establish requirements for licensure was transferred to the Commissioner of Consumer Protection "with the advice and assistance of the board" (P.A. 77-614, Sec. 180 and Sec. 181). In 1980 the number of well drillers on the board was increased to two (P.A. 80-184).

### Nature of the Occupation

According to statute, "'Well drilling' means and includes the industry, procedure and all operations engaged in by any person, full time or part time, for compensation or otherwise, to obtain water from a well or wells by drilling, or other methods,

- issuing a "certificate of registration annually"<sup>2</sup> to each applicant who meets established standards
- advising the Commissioner of Consumer Protection on regulations for the industry
- receiving complaints, conducting hearings, and refusing, suspending, or revoking certificates of those well drillers found guilty of misstatement, fraud, misrepresentation, incompetence, willful failure to comply with statute or regulations, refusal to file reports of wells drilled, deceit, gross negligence, or misconduct in the business of well drilling
- preparing a roster of all registered well drillers and distributing it annually to the local director of health and the building inspector of each town
- issuing permits, upon application, for every proposed well that conforms to the code
- receiving, within 60 days after completion of a well, a complete record of the project from the well drilling contractor
- granting exemptions, subject to approval by the commissioner, in cases of undue hardship.

Fiscal Information

The budget for the Connecticut Well Drilling Board is formulated by the Department of Consumer Protection which has supplied the information listed below:

	<u>FY 1980</u>	<u>Estimated FY 1981</u>
Board Expense	\$ 1,768	\$ 1,200
Staff Expense	4,927	5,500
Other Expenses	3,580	3,500
Administrative Exp.	<u>1,746</u>	<u>3,301</u>
Total Expense	\$12,021	\$13,501

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<sup>2</sup> General Statutes of Connecticut, revised to 1981, Sec. 25- 29.

## ACTIVITIES

### Statistics

Below is an outline of annual statistics for the Connecticut Well Drilling Board.

Number of meetings	12
Average attendance	5 members
Average length	2 hours
Number of licenses	165 (FY 1981)
Number of applicants	10 (FY 1981)
Number of complaints	24 (average per year)

### Licensing Process

Any person in Connecticut wishing to drill a well must "obtain from the [well drilling] board a certificate of registration...as a well drilling contractor."<sup>3</sup> The statutory requirements for such a certificate are "ability and proficiency in the skill of well drilling demonstrated by experience or training and sufficient financial resources to have and maintain adequate tools and machines for the work."<sup>4</sup> By regulation, well drillers are required to carry liability insurance for bodily injury (\$100,000 per person; \$300,000 aggregate) and for property damage (\$50,000 per accident; \$100,000 aggregate), have thirty-six months experience as a well driller, and pass written (National Water Well Association) and oral examinations. In addition, the board requires that the applicant submit four references from professionals familiar with his work. At the present time no examination is administered, and an individual need only meet the other requirements to become a licensed well driller.

All applicants are licensed upon receipt of evidence by the board that they have met the requirements. From July 1, 1980 to June 30, 1981, ten persons submitted applications to the board to become licensed well drillers. The estimated total number of well drillers in Connecticut for FY 1981 is 165.

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<sup>3</sup> General Statutes of Connecticut, revised to 1981, Sec. 25-129.

<sup>4</sup> Ibid.

## ANALYSIS AND RECOMMENDATIONS

The Legislative Program Review and Investigations Committee's analysis and evaluation of well drillers focused on both the Connecticut Well Drilling Board and on the regulation of the trade.

In evaluating the level of regulation appropriate to the occupation, the Legislative Program Review and Investigations Committee carefully examined the existing regulation and its requirements. At the present time, all well drillers are licensed. That is, a prospective well driller must meet a set of criteria, and no one may practice well drilling without such a license. However, the committee determined that the requirements currently in effect--financial resources, insurance, and thirty-six months of experience--in no way testified to an individual's proficiency as a well driller or protected the public from unscrupulous operators. Indeed, the experience component, which would seem to testify to skill, does not actually do so, as both the nature and quality of the experience is unspecified. Since the examination required by regulation has never been implemented, the Legislative Program Review and Investigations Committee co-chairperson inquired, at the public hearing, as to the "potential harm to the health, safety, welfare of the public...through the lack of compliance with the exam component"<sup>6</sup> of the requirements for licensure. No evidence was presented by any board member present of any harm to the public that had been engendered by the omission of the examination.

As present licensing requirements seem to offer no a priori protection to the public and yet have not resulted in situations of endangerment that would make it incumbent upon the state to implement such protection, the committee sought to clarify the status quo in statute. The committee concluded that since none of the prerequisites to operating as a well driller served to protect the public, they should be terminated. As a result of the foregoing evaluation, *the Legislative Program Review and Investigations Committee recommends that the level of regulation be changed to registration and all requirements terminated, allowing free entry into the occupation.* Under the regulatory system proposed by the committee, all individuals wishing to operate as well drillers in Connecticut must register with the state.

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<sup>6</sup> Representative Joseph Harper, Public hearing testimony, June 19, 1981, p. 90.

Although board members make an effort to resolve complaints, they are hampered by a number of factors. The primary factor is lack of "a competent field inspector...[with] well drilling experience...[and] knowledge in [sic] geology"<sup>11</sup> who can make technical determinations in evaluating complaints. Board members, who attempt to do so now, are not always available to visit a site. In addition, if a complaint were to reach the formal hearing stage, board members who participated in the investigation would have to disqualify themselves.

Staff examination of the Department of Consumer Protection complaint files for the Connecticut Well Drillers Board revealed, despite the seriousness of some complaints, that only in very infrequent and isolated instances do complaints even reach the informal hearing stage. The board has never conducted a formal hearing or suspended or revoked a license. Even well drillers who are guilty of repeated complaints are not disciplined in any way. The complaint files themselves were in some disorder, although this may reflect inadequate department staff support rather than board negligence. Complaints were not arranged in chronological order, nor were those cases that had been closed separated from those pending. In some cases, the files seemed incomplete.

In the interest of the public health, safety, and welfare, the Legislative Program Review and Investigations Committee sought to place the regulation of well drilling within a state agency capable of handling specific problems and determinations in this area, as well as consumer complaints. Staff research revealed that the Department of Health Services is particularly well-suited to regulate well drillers as it already has staff that are cognizant of the problems of water supply and well drilling, has procedures for registration and complaint handling, and considers well drilling an integral part of its water supplies responsibilities. In its concern with the provision of adequate and safe water, the department reviews water quality and quantity data, evaluates the proper use of watersheds and the possibility of contamination, works with the Department of Environmental Protection to eliminate and control any existing contamination, conducts water analyses, establishes compliance standards for water companies, and determines proper emergency measures when wells go dry.

A department representative testified that statutory "legislative objectives...[can best be] met through the efforts of full time professional staff" and "the board as an entity can

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<sup>11</sup> Ibid.

APPENDICES

LIST OF COMPLAINTS AGAINST WELL DRILLERS FILED WITH DCP

<u>Date Complaint Initiated</u>	<u>Nature of Complaint</u>	<u>Conclusion</u>
Dec. 28, 1979	Insufficient water and foul water	Litigation
Jan. 28, 1980	No water in well	Exchange of letters; no action
July 16, 1979	Sand in well water	New well drilled as result of board and department action
Nov. 6, 1979	Drilling wells prior to receiving permit	Informal hearing and agreement
Oct. 2, 1979	Drilling wells prior to receiving permit	Board requests violator to come to June 17, 1980 meeting
Feb. 8, 1980	Driller damaged water yield of well; misrepresentation of yield on completion report	Board requests both parties to attend June 17, 1980 meeting
Oct. 9, 1979	Builder being sued wants board interpretation of regulation	None
Oct. 11, 1979	Violations in well drillers code	Counter-complaint by well driller
Jan. 10, 1980	Wells do not meet minimum requirements	Response from board: "Enforcement...a cooperative effect among agencies."
Aug. 11, 1979	Hydrogen sulfide in water; tremendous flow and overflow	Board informs plaintiff well drilled properly
April 18, 1979	Water flow suddenly reduced; misrepresentation	Exchange of letters; no action
Nov. 6, 1979	Sand in well	Board informs plaintiff well driller is retired

APPENDIX B

SUNSET 1982

ENTITY: Connecticut Well Drilling Board (25-126 to 25-137)

ESTABLISHED: 1969 (P.A. 659)

PURPOSE: To help establish standards for admission into the profession and maintain standards in the practice of the profession; "to safeguard...the public health... in the development and protection...of underground water formations and resources" (25-128).

POWERS AND DUTIES:

- to advise and assist the Commissioner of Consumer Protection in establishing requirements for entry into the profession
- issue a "certificate of registration annually" (25-129) to each applicant who meets established standards
- advise the Commissioner of Consumer Protection on regulations for the industry
- receive complaints, conduct hearings, and refuse, suspend, or revoke certificates of those well drillers found guilty of misstatement, fraud, misrepresentation, incompetence, willful failure to comply with statute or regulations, refusal to file reports of wells drilled, deceit, gross negligence, or misconduct in the business of well drilling
- prepare a roster of all registered well drillers and distribute it annually to the local director of health and the building inspector of each town
- issue permits, upon application, for every proposed well that conforms to the code
- receive, within 60 days after completion of a well, a complete record of the project from the well drilling contractor
- to grant exemptions, subject to approval by the commission, in cases of undue hardship

<u>Permit Fee:</u>	<u>FY 1979-80</u>	<u>FY 1980-81</u>
	\$4	\$4
<u>Total Permits</u>	5,064	4,421
Revenue Generated	\$20,256	\$17,684

COMPLAINTS

Per year:

Received: 70

Within Board Jurisdiction: 24

Type:

From town or district officials (regulations): 8

From consumers: 16

APPENDIX D  
Criteria for Licensing

Connecticut Well Drilling Board

- ability and proficiency in the skill of well drilling demonstrated by experience or training (statutory)
- sufficient financial resources to have and maintain adequate tools and machines for the work (statutory)
- insurance: liability for bodily injury - \$100,000 per person  
\$300,000 aggregate  
  
liability for property damage - \$50,000 per accident  
\$100,000 aggregate  
(regulations)
- master driller (applicant must be or employ one)
  - 36 months experience as well driller
  - pass examination prepared and administered by National Water Well Association
  - oral examination conducted by board
  - after failing written examination twice, applicants may request an oral examination in lieu of of it (regulations)
- references: applicant must submit four references from professionals familiar with his ability and quality of his work (board)

N.B. At the present time well drillers do not take any examination

APPENDIX F

Legislative Changes

Repeal Sections 25-126(7), 25-127, and 25-128 of the General Statutes of Connecticut to eliminate the Connecticut Well Drilling Board.

Amend Sec. 25-129 of the General Statutes of Connecticut to provide for registration of well drillers and the termination of all requirements, as well as for a change in the renewal fee to \$100.

Amend Sec. 25-130 of the General Statutes of Connecticut to allow for the transfer of the issuance of permits to municipalities.

Add a section to Chapter 482 of the General Statutes of Connecticut to place the regulation of well drillers within the Department of Health Services and to empower the department to revise the well drillers code and the public health code as it refers to well drillers.

Add a section to Chapter 482 of the General Statutes of Connecticut to require well drillers to inform clients, in writing and before well drilling commences, that redress may be sought from the appropriate regulatory agency.