

107TH CONGRESS
2D SESSION

S. 3127

To amend the Safe Drinking Water Act to provide assistance to States to support testing of private wells in areas of suspected contamination to limit or prevent human exposure to contaminated groundwater.

IN THE SENATE OF THE UNITED STATES

OCTOBER 17, 2002

Mr. REED (for himself and Mr. FITZGERALD) introduced the following bill; which was read twice and referred to the Committee on Environment and Public Works

A BILL

To amend the Safe Drinking Water Act to provide assistance to States to support testing of private wells in areas of suspected contamination to limit or prevent human exposure to contaminated groundwater.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Private Well Testing
5 Assistance Act”.

1 **SEC. 2. ASSISTANCE FOR TESTING OF PRIVATE WELLS.**

2 Part E of the Safe Drinking Water Act (42 U.S.C.
3 300j et seq.) is amended by adding at the end the fol-
4 lowing:

5 **“SEC. 1459. ASSISTANCE FOR TESTING OF PRIVATE WELLS.**

6 “(a) FINDINGS.—Congress finds that—

7 “(1) more than 15,100,000 households in the
8 United States are served by private drinking water
9 wells;

10 “(2) while private well owners generally are re-
11 sponsible for regular testing of drinking water wells
12 for the presence of contaminants, cases of serious or
13 potentially widespread groundwater contamination
14 often require State health and environmental agen-
15 cies to conduct costly tests on numerous drinking
16 water well sites;

17 “(3) many of those sites are included in the
18 Comprehensive Environmental Response, Compensa-
19 tion, and Liability Information System of the Envi-
20 ronmental Protection Agency, through which Fed-
21 eral funding is available for testing of private wells
22 during initial site assessments but not for subse-
23 quent regular sampling to ensure that contaminants
24 have not migrated to other wells;

25 “(4) many State governments do not have the
26 resources to provide regular, reliable testing of

1 drinking water wells that are located in proximity to
2 areas of suspected groundwater contamination;

3 “(5) State fiscal conditions, already in decline
4 before the terrorist attacks of September 11, 2001,
5 are rapidly approaching a state of crisis;

6 “(6) according to the National Conference of
7 State Legislatures—

8 “(A) revenues in 43 States are below esti-
9 mates; and

10 “(B) 36 States have already planned or
11 implemented cuts in public services;

12 “(7) as a result of those economic conditions,
13 most States do not have drinking water well testing
14 programs in place, and many State well testing pro-
15 grams have been discontinued, placing households
16 served by private drinking water wells at increased
17 risk; and

18 “(8) the provision of Federal assistance, with a
19 State cost-sharing requirement, would establish an
20 incentive for States to provide regular testing of
21 drinking water wells in proximity to new and exist-
22 ing areas of suspected groundwater contamination.

23 “(b) DEFINITIONS.—In this section:

24 “(1) ADMINISTRATOR.—The term ‘Adminis-
25 trator’ means the Administrator of the Environ-

1 mental Protection Agency, acting in consultation
2 with appropriate State agencies.

3 “(2) AREA OF CONCERN.—The term ‘area of
4 concern’ means a geographic area in a State the
5 groundwater of which may, as determined by the
6 State—

7 “(A) be contaminated or threatened by a
8 release of 1 or more substances of concern; and

9 “(B) present a serious threat to human
10 health.

11 “(3) HAZARDOUS SUBSTANCE.—The term ‘haz-
12 ardous substance’ has the meaning given the term in
13 section 101 of the Comprehensive Environmental
14 Response, Compensation, and Liability Act of 1980
15 (42 U.S.C. 9601).

16 “(4) POLLUTANT OR CONTAMINANT.—The term
17 ‘pollutant or contaminant’ has the meaning given
18 the term in section 101 of the Comprehensive Envi-
19 ronmental Response, Compensation, and Liability
20 Act of 1980 (42 U.S.C. 9601).

21 “(5) SUBSTANCE OF CONCERN.—The term
22 ‘substance of concern’ means—

23 “(A) a hazardous substance;

24 “(B) a pollutant or contaminant;

1 “(C) petroleum (including crude oil and
2 any fraction of crude oil);

3 “(D) methyl tertiary butyl ether; and

4 “(E) such other naturally-occurring or
5 other substances (including arsenic, beryllium,
6 and chloroform) as the Administrator, in con-
7 sultation with appropriate State agencies, may
8 identify by regulation.

9 “(c) ESTABLISHMENT OF PROGRAM.—Not later than
10 90 days after the date of enactment of this section, the
11 Administrator shall establish a program to provide funds
12 to each State for use in testing private wells in the State.

13 “(d) DETERMINATION OF AREAS OF CONCERN.—Not
14 later than 30 days after the date of enactment of this sec-
15 tion, the Administrator shall promulgate regulations that
16 describe criteria to be used by a State in determining
17 whether an area in the State is an area of concern, includ-
18 ing a definition of the term ‘threat to human health’.

19 “(e) APPLICATION PROCESS.—

20 “(1) IN GENERAL.—A State that seeks to re-
21 ceive funds under this section shall submit to the
22 Administrator, in such form and containing such in-
23 formation as the Administrator may prescribe, an
24 application for the funds.

1 “(2) CERTIFICATION.—A State application de-
2 scribed in paragraph (1) shall include a certification
3 by the Governor of the State of the potential threat
4 to human health posed by groundwater in each area
5 of concern in the State, as determined in accordance
6 with the regulations promulgated by the Adminis-
7 trator under subsection (d).

8 “(3) PROCESSING.—Not later than 15 days
9 after the Administrator receives an application
10 under this subsection, the Administrator shall ap-
11 prove or disapprove the application.

12 “(f) PROVISION OF FUNDING.—

13 “(1) IN GENERAL.—If the Administrator ap-
14 proves an application of a State under subsection
15 (e)(3), the Administrator shall provide to the State
16 an amount of funds to be used to test private wells
17 in the State that—

18 “(A) is determined by the Administrator
19 based on—

20 “(i) the number of private wells to be
21 tested;

22 “(ii) the prevailing local cost of test-
23 ing a well in each area of concern in the
24 State; and

1 “(iii) the types of substances of con-
2 cern for which each well is to be tested;
3 and

4 “(B) consists of not more than \$500 per
5 well, unless the Administrator determines that
6 1 or more wells to be tested warrant the provi-
7 sion of a greater amount.

8 “(2) COST SHARING.—

9 “(A) IN GENERAL.—The Federal share of
10 the cost of any test described in paragraph (1)
11 shall not exceed 80 percent.

12 “(B) NON-FEDERAL SHARE.—The non-
13 Federal share of the cost of any test described
14 in paragraph (1) may be provided in cash or in
15 kind.

16 “(g) NUMBER AND FREQUENCY OF TESTS.—

17 “(1) IN GENERAL.—Subject to paragraph (2),
18 in determining the number and frequency of tests to
19 be conducted under this section with respect to any
20 private well in an area of concern, a State shall take
21 into consideration—

22 “(A) typical and potential seasonal vari-
23 ations in groundwater levels; and

24 “(B) resulting fluctuations in contamina-
25 tion levels.

1 “(2) LIMITATION.—Except in a case in which
2 at least 2 years have elapsed since the last date on
3 which a private well was tested using funds provided
4 under this section, no funds provided under this sec-
5 tion may be used to test any private well—

6 “(A) more than 4 times; or

7 “(B) on or after the date that is 1 year
8 after the date on which the well is first tested.

9 “(h) OTHER ASSISTANCE.—Assistance provided to
10 test private wells under this section shall be in addition
11 to any assistance provided for a similar purpose under this
12 Act or any other Federal law.

13 “(i) REPORT.—Not later than 1 year after the date
14 of enactment of this section, the Administrator, in co-
15 operation with the National Ground Water Association,
16 shall submit to Congress a report that describes the
17 progress made in carrying out this section.

18 “(j) AUTHORIZATION OF APPROPRIATIONS.—

19 “(1) IN GENERAL.—There is authorized to be
20 appropriated to carry out this section \$20,000,000
21 for each of fiscal years 2003 through 2006, to re-
22 main available until expended.

23 “(2) MINIMUM ALLOCATION.—The Adminis-
24 trator shall ensure that, for each fiscal year, each
25 State receives not less than 0.25 percent of the

1 amount made available under paragraph (1) for the
2 fiscal year.”.

○