



February 1, 2022

The Honorable Kumar P. Barve
House Environment and Transportation Committee
House Office Building, Room 251
Annapolis, Maryland 21401

Re: House Bill 11 – Private Well Safety Act of 2023

Dear Chair Barve and Members of the Committee:

The Maryland Department of the Environment (MDE or the Department) has reviewed HB 11, entitled *Private Well Safety Act of 2023* and would like to share some information regarding this legislation.

HB 11 would require MDE to expand the existing Private Well Safety Program and set up a Private Well Safety Fund to make grants to households available to help cover the costs of well testing and well remediation. Additionally, HB 11 requires records of certificates of potability and water quality testing results to be uploaded to a portal accessible by the public. Finally, HB 11 requires MDE to annually report to the General Assembly the information and data collected pursuant to the Program.

While the purpose is consistent with MDE's mission, the bill as proposed would have a significant fiscal impact for the Department. MDE would need to create a new program, which has not been accounted for in the proposed budget. Given the significant constraints within the Department, existing staff can not absorb the workload associated with this legislation. It would cost the Department approximately \$500,000 to create and maintain a new program, hire and train staff, and develop the publicly accessible portal. Additionally, money would have to be allocated for the grant fund, which also has not been accounted for in the budget. The Department has no way of estimating how many individuals would apply for a grant to test their well, or how many wells would need to be remediated if contaminants were found.

Additionally, during the review of the legislation, the Department noted a couple technical concerns with the language. However, MDE is willing to work with the sponsor to address these issues. The Department would like to note the following concerns:

- "Contaminant of concern" is referred to several times; however, the term is not defined. Also, there is no definition for this term in the Environment Article.
- A well may test positive for a contaminant but it is not indicative of a problem that needs to be remediated. When a new well is drilled, several contractors may be involved installing different components and this may introduce "contaminants." After a well is drilled, it should be treated and given time to settle before it is tested. If it is tested too soon, there may be a

positive test result for a contaminant. The same situation may occur in a household that is vacant for a period of time before being sold. If the lines are not properly flushed before testing, it could lead to a positive test result. Both of these situations are easily rectified without “remediation.” Under this bill, both of these test results would be entered into the publicly available portal and could give the false impression that there is a contamination issue with water in that area.

- The bill requires the creation of a public database that includes certificates of potability, water quality test results, and other information. This required reporting would make public the location of wells, in some cases, specifically by address (presumably the address of a person's home). No provision is made for shielding or redacting the names of individuals or the location of the well, which again, is likely someone’s home. New Jersey has had a Private Well Testing Act since 2001, which offers similar protections to owners, buyers, and tenants, but maintains confidentiality of individual well records.
- There is no specification in the bill to where the application fees should be deposited. If the statute fails to mention where the fees go, they will automatically be deposited in the General Fund, not the Private Well Safety Fund.

The Department agrees that enhancements could be made to provide for more robust testing of private wells in the State. The Department has broad statutory authority to protect drinking water and would be willing to work with the sponsor and other interested parties on some changes to the existing private well regulations over the interim.

Thank you for considering the Department’s information regarding this legislation. We will continue to monitor House Bill 11 during the Committee’s deliberations, and I am available to answer any questions you may have. Please feel free to contact me at 410-453-3235 or by e-mail at Gabrielle.Leach@maryland.gov.

Sincerely,



Gabrielle Leach
Deputy Director
Legislative and Intergovernmental Affairs