



SPONSOR: Rep. D. Short & Rep. Schwartzkopf & Sen. Sokola  
Reps. Hensley, Q. Johnson, Kenton, Wilson; Sen. Hocker

HOUSE OF REPRESENTATIVES  
149th GENERAL ASSEMBLY

HOUSE BILL NO. 38

AN ACT TO AMEND TITLE 7 OF THE DELAWARE CODE RELATING TO NONUTILITY WELLS AND PERMITS  
FOR NONUTILITY WELLS WITHIN SERVICE TERRITORY SERVED BY A WATER UTILITY UNDER A  
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1           Section 1. Amend § 6075, Title 7 of the Delaware Code by making deletions as shown by strikethrough and  
2     insertions as shown by underline as follows:

3           § 6075. Nonutility wells and permits for nonutility wells within a service territory served by a water utility under a  
4     certificate of public convenience and necessity.

5           (a) The Department may not withhold a permit for a potable water well within the service territory served by a  
6     water utility under a certificate of public convenience and necessity, or require an applicant for a potable water well permit  
7     in an area served by a water utility to utilize the services of the utility, unless:

8                 (1) The Delaware Geological Survey or the Department of Health and Social Services certifies that the ground  
9     water supply is inadequate or unsuitable for the intended use for which the permit is being sought;

10                (2) The water utility demonstrates to the satisfaction of the Department that it can provide service of equal or  
11     better quality at lower cost; or

12                (3) The permit applicant is a resident of a municipality, a county water district authority, or a recorded  
13     development where public water is available.

14           (b) Notwithstanding paragraphs (a)(2) and (3) of this section, following the issuance of a certificate of public  
15     convenience and necessity to a water utility, the Department shall not withhold a potable water well permit from any person  
16     seeking to construct or extend a well on a farm, farmland or the lands of any existing mobile home community, or an  
17     addition, modification or extension of that mobile home community, which as of April 11, 2000, self-supplied potable  
18     water under existing permits in an area served by a water utility, nor shall it require that the person utilize the services of  
19     the utility. However, this subsection shall not authorize or require the issuance of a potable well permit that would enable a  
20     person or entity to act as a water utility without a duly issued certificate of public convenience and necessity.

(c) Notwithstanding any other provision of this section, following the issuance of a certificate of public convenience and necessity to a water utility, the Department shall not withhold a nonpotable water well permit from any person seeking to construct or extend a nonpotable water well in an area serviced by a water utility, subject to the provisions of subsection (d) of this section; unless:-

(1) The Delaware Geological Survey or the Department of Health and Social Services certifies that the ground water supply is inadequate or unsuitable for the intended use for which the permit is being sought;

(2) The water utility demonstrates to the satisfaction of the Department that it can provide service of equal or better quality at lower cost; or

(3) The permit applicant is a resident of a municipality, a county water district authority, or a recorded development where public water is available.

(d) Following the issuance of a nonpotable water well permit in an area for which a certificate of public convenience and necessity has been issued, the Secretary shall send a copy of the permit, with conditions, to the water utility providing water to that area. This notification requirement shall not apply to permits issued for monitor, observation, recovery and dewatering wells. All nonpotable water well permits issued in such an area shall include the following conditions:

(1) Water taken from the well is not to be used for human consumption;

(2) The well shall not, at anytime, be interconnected with any portion of any building's plumbing and/or any water utility's service connection;

(3) Representatives of the Secretary and the water utility that services the certificated area may inspect the well at any reasonable time to insure that there are not interconnections; and

(4) That the permit is subject to revocation upon any violation of its permit conditions, and upon revocation, the Secretary shall order that the well will be abandoned.

(e) The Secretary may enforce this section under § 6005 of this title. Violations of this section may be sanctioned under the provisions of §§ 6005 and 6013 of this title.

#### SYNOPSIS

This bill places the same requirements for the issuance of non-potable well permits within existing areas where a water utility has been granted a Certificate of Public Convenience and Necessity as those that currently apply to the issuance of a potable well permit.