



SPONSOR: Sen. McBride

DELAWARE STATE SENATE

140th GENERAL ASSEMBLY

SENATE BILL NO. 403

AN ACT TO AMEND CHAPTER 60, TITLE 7, OF THE DELAWARE CODE RELATING TO THE FORMULATION AND IMPLEMENTATION OF A SOURCE WATER PROTECTION PROGRAM.

1 WHEREAS, sixty percent of the residents of the State of Delaware rely on ground water and
2 forty percent rely on surface water as their sole sources of drinking water; and

3 WHEREAS, certain public drinking water supplies exceed maximum contaminant levels for
4 various chemical constituents; and

5 WHEREAS, the United States Congress has mandated the assessment of drinking water supplies
6 through the provisions of the Safe Drinking Water Act Amendments of 1996; and

7 WHEREAS, the United States Congress has encouraged the protection of drinking water supplies
8 through the provisions of the Safe Drinking Water Act Amendments of 1996; and

9 WHEREAS, the United States Environmental Protection Agency granted approval of the State of
10 Delaware's Wellhead Protection Plan on July 31, 1990 and the State of Delaware Source Water
11 Assessment Plan on October 27, 1999; and

12 WHEREAS, the State of Delaware is required to complete the delineation of source water
13 assessment areas and an assessment of their susceptibility to contamination for all public water supplies
14 by April 2003; and

15 WHEREAS, the State of Delaware will have completed mapping the areas of ground water
16 recharge potential within the state by 2001; and

17 WHEREAS, the protection of existing and proposed sources of water for public consumption is
18 critical to protection of public health and the environment.

19 NOW, THEREFORE:

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

21 Section 1. Amend §6002, Chapter 60, Title 7, Delaware Code by adding new definitions as
22 follows:

23 “(63) ‘Delineation’ shall mean the process of defining and/or mapping a boundary that
24 approximates the areas that contribute water to a particular water source used as a public water supply.

25 (64) ‘Public Drinking Water System’ shall mean a community, non-community, or non-transient
26 non-community water system, which provides piped water to the public for human consumption. The
27 system must have at least 5 service connections or regularly serve at least 25 individuals daily for at least
28 60 days.

29 (65) ‘Source Water’ shall mean any aquifer or surface water body from which water is taken
30 either periodically or continuously by a public drinking water system for drinking or food processing
31 purposes.

32 (66) ‘Source Water Assessment Area’ shall mean the delineated area which contributes water to a
33 public water supply system. This is called a wellhead protection area for a well and a watershed or basin
34 for a surface water intake.

35 A Source Water Assessment Area shall constitute a critical area as defined under Chapter 92, Title 29 of
36 the Delaware Code.

37 (67) ‘Source Water Assessment Plan’ shall mean the October 1999 U.S. EPA approved plan for
38 evaluating the sources of public drinking water in Delaware for their vulnerability and susceptibility to
39 contamination.

40 (68) ‘Source Water Assessment’ shall mean the identification and evaluation of the sources of
41 water within the state that are used by public drinking water systems in an effort to determine the
42 susceptibility of those sources to contamination.

43 (69) ‘Wellhead Protection Area’ shall mean the surface and subsurface area surrounding a water
44 well, or wellfield supplying a public water system through which contaminants are likely to reach such

45 well, or wellfield. A Wellhead Protection Area shall constitute a critical area as defined under Chapter
46 92, Title 29 of the Delaware Code.

47 (70) 'Wellhead Protection Plan' shall mean the March 1990 U.S. EPA approved plan for
48 protecting the quality of drinking water derived from public water supply wells in Delaware.

49 (71) 'Excellent Ground-Water Recharge Potential Area' shall mean any area where soils and
50 sedimentary deposits of the most coarse grained nature have the best ability to transmit water vertically
51 through the unsaturated zone to the water table as mapped by the methods described in the Delaware
52 Geological Survey Open File Report No. 34, "Methodology For Mapping Ground-Water Recharge Areas
53 in Delaware's Coastal Plain" (August 1991), and as depicted on a series of maps prepared by the
54 Delaware Geological Survey. An Excellent Ground-Water Recharge Potential Area shall constitute a
55 critical area as defined under Chapter 92, Title 29 of the Delaware Code."

56 Section 2. Amend Chapter 60, Title 7, Delaware Code by redesignating existing Subchapters VI,
57 and VII as Subchapters VII and VIII and by adding a new subchapter to read as follows:

58 "Subchapter VI. Source Water Protection

59 §6081. Reporting on Source Water Protection

60 a) The Secretary shall prepare, periodically, a report to the Governor and General
61 Assembly, beginning in 2001, of the potential threats, including contaminants
62 currently not regulated, to public drinking water systems. The report shall
63 identify actions that the Secretary proposes to control these threats.

64 b) The Secretary shall periodically prepare a report to the respective counties and
65 municipalities, beginning in 2001, that denotes the availability of source water
66 assessments completed by the Department. The Secretary shall also report on the
67 status of the Ground-Water Recharge Potential mapping project.

68 §6082. Adoption of Source Water Assessment, Wellhead Protection, and Excellent Ground-
69 Water Recharge Potential Areas by Counties and Municipalities

70 a) The Department shall develop a guidance manual for desirable land uses within
71 source water assessment areas that promote the long-term protection of public

72 drinking water supplies, consistent with “Shaping Delaware’s Future: Managing
73 Growth in 21st Century Delaware, Strategies for State Policies and Spending”
74 (December 1999).

75 b) The counties and municipalities with populations of more than 2,000 persons,
76 with the assistance of the Department, shall adopt by ordinance, the overlay maps
77 delineating, as critical areas, source water assessment, wellhead protection, and
78 excellent ground-water recharge potential areas. Furthermore, the ordinance
79 shall include regulations governing the use of land within those critical areas
80 designed to protect those critical areas from activities and substances that may
81 harm water quality and subtract from overall water quantity.

82 c) Municipalities with populations of less than 2,000 persons, with the assistance of
83 the Department, may adopt by ordinance, the overlay maps delineating, as critical
84 areas, source water assessment, wellhead protection, and excellent ground-water
85 recharge potential areas. Furthermore, the ordinance shall include regulations
86 governing the use of land within those critical areas designed to protect those
87 critical areas from activities and substances that may harm water quality and
88 subtract from overall water quantity.

89 d) The Department shall make source water assessment areas available to the public
90 as they are completed, with all systems to be completed by 2003.

91 e) The Department may, when based on sound science and factual information,
92 revise and update the overlay maps of source water assessment areas.

93 f) Counties and municipalities with populations of more than 2,000 persons shall
94 update their overlay maps in accordance with changes made by the Department
95 with respect to source water assessment, wellhead protection, and excellent
96 ground-water recharge potential areas.

97 g) Municipalities with populations of less than 2,000 persons may update their
98 overlay maps in accordance with changes made by the Department with respect

99 to source water assessment, wellhead protection, and excellent ground-water
100 recharge potential areas.

101 §6083. Adoption of Source Water Assessment, Wellhead Protection and Excellent Ground-
102 Water Recharge Potential Areas by the Governor’s Cabinet Committee on State Planning Issues.

103 The Department shall make source water assessment, wellhead protection, and
104 excellent ground-water recharge potential area delineations available for maps
105 developed as part of “Shaping Delaware’s Future: Managing Growth in 21st
106 Century Delaware, Strategies for State Policies and Spending” (December 1999).

107 §6084. Citizen and Technical Advisory Committee.

108 The Secretary shall consult a citizen and technical advisory committee, as
109 established by the Delaware Source Water Assessment Plan, on matters related to
110 the implementation of the Source Water Assessment Plan and the requirements
111 of this statute.”

SYNOPSIS

This Bill is intended to enable local governments to adopt ordinances related to source water assessment, wellhead protection, and excellent ground-water recharge potential areas which will further protect these areas for the long-term protection of public drinking water supplies. The bill obligates DNREC to provide the necessary technical assistance to local governments to adopt these measures and defines and clarifies source water and wellhead protection areas as critical areas as defined under Chapter 92, Title 29 of the Delaware Code. The bill also requires that a citizen and technical advisory committee be consulted in the implementation of the Source Water Assessment Plan and closely related matters.

Author: Sen. McBride