



House of Representatives

File No. 791

General Assembly

January Session, 2003

(Reprint of File No. 487)

House Bill No. 6254
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 30, 2003

AN ACT CONCERNING ON-SITE WASTEWATER MANAGEMENT DISTRICTS AND ALTERNATIVE SUBSURFACE SEWAGE TREATMENT SYSTEMS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 7-245 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 For the purposes of this chapter: ["acquire"] (1) "Acquire a sewerage
4 system" means obtain title to all or any part of a sewerage system or
5 any interest therein by purchase, condemnation, grant, gift, lease,
6 rental or otherwise; (2) "alternative sewage treatment system" means a
7 sewage treatment system serving one or more buildings that utilizes a
8 method of treatment other than a subsurface sewage disposal system
9 and that involves a discharge to the ground waters of the state; (3)
10 "community sewerage system" means any sewerage system serving
11 [one] two or more residences in separate structures which is not
12 connected to a municipal sewerage system or which is connected to a
13 municipal sewerage system as a distinct and separately managed
14 district or segment of such system; (4) "construct a sewerage system"

15 means to acquire land, easements, rights-of-way or any other real or
16 personal property or any interest therein, plan, construct, reconstruct,
17 equip, extend and enlarge all or any part of a sewerage system; (5)
18 "decentralized system" means managed subsurface sewage disposal
19 systems, managed alternative sewage treatment systems or community
20 sewerage systems that discharge sewage flows of less than five
21 thousand gallons per day, are used to collect and treat domestic
22 sewage, and involve a discharge to the groundwaters of the state from
23 areas of a municipality; (6) "decentralized wastewater management
24 district" means areas of a municipality designated by the municipality
25 through a municipal ordinance when an engineering report has
26 determined that the existing subsurface sewage disposal systems may
27 be detrimental to public health or the environment and that
28 decentralized systems are required and such report is approved by the
29 Commissioner of Environmental Protection with concurring approval
30 by the Commissioner of Public Health after consultation with the local
31 director of health; (7) "municipality" means any metropolitan district,
32 town, consolidated town and city, consolidated town and borough,
33 city, borough, village, fire and sewer district, sewer district and each
34 municipal organization having authority to levy and collect taxes; (8)
35 "operate a sewerage system" means own, use, equip, reequip, repair,
36 maintain, supervise, manage, operate and perform any act pertinent to
37 the collection, transportation and disposal of sewage; (9) "person"
38 means any person, partnership, corporation, limited liability company,
39 association or public agency; (10) "remediation standards" means
40 pollutant limits, performance requirements, design parameters or
41 technical standards for application to existing sewage discharges in a
42 decentralized wastewater management district for the improvement of
43 wastewater treatment to protect public health and the environment;
44 (11) "sewage" means any substance, liquid or solid, which may
45 contaminate or pollute or affect the cleanliness or purity of any water;
46 and (12) "sewerage system" means any device, equipment,
47 appurtenance, facility and method for collecting, transporting,
48 receiving, treating, disposing of or discharging sewage, including, but
49 not limited to, decentralized systems within a decentralized

50 wastewater management district when such district is established by
51 municipal ordinance pursuant to section 7-247.

52 Sec. 2. Subsection (b) of section 7-246 of the general statutes is
53 repealed and the following is substituted in lieu thereof (*Effective*
54 *October 1, 2003*):

55 (b) Each municipal water pollution control authority designated in
56 accordance with this section may prepare and periodically update a
57 water pollution control plan for the municipality. Such plan shall
58 designate and delineate the boundary of: (1) Areas served by any
59 municipal sewerage system; (2) areas where municipal sewerage
60 facilities are planned and the schedule of design and construction
61 anticipated or proposed; (3) areas where sewers are to be avoided; (4)
62 areas served by any community sewerage system not owned by a
63 municipality; [and] (5) areas to be served by any proposed community
64 sewerage system not owned by a municipality; and (6) areas to be
65 designated as decentralized wastewater management districts. Such
66 plan shall also describe the means by which municipal programs are
67 being carried out to avoid community pollution problems and describe
68 any programs wherein the local director of health manages subsurface
69 sewage disposal systems. The authority shall file a copy of the plan
70 and any periodic updates of such plan with the Commissioner of
71 Environmental Protection and shall manage or ensure the effective
72 supervision, management, control, operation and maintenance of any
73 community sewerage system or decentralized wastewater
74 management district not owned by a municipality.

75 Sec. 3. Section 7-247 of the general statutes is repealed and the
76 following is substituted in lieu thereof (*Effective October 1, 2003*):

77 (a) Any municipality by its water pollution control authority may
78 acquire, construct and operate a sewerage system or systems; may
79 enter upon and take and hold by purchase, condemnation or otherwise
80 the whole or any part of any real property or interest therein which it
81 determines is necessary or desirable for use in connection with any

82 sewerage system; may establish and revise rules and regulations for
83 the supervision, management, control, operation and use of a sewerage
84 system, including rules and regulations prohibiting or regulating the
85 discharge into a sewerage system of any sewage or any stormwater
86 runoff which in the opinion of the water pollution control authority
87 will adversely affect any part or any process of the sewerage system
88 except that any such rule or regulation regarding decentralized
89 systems shall be approved by the local director of health before such
90 rule or regulation may be effective; may enter into and fulfill contracts,
91 including contracts for a term of years, with any person or any other
92 municipality or municipalities to provide or obtain sewerage system
93 service for any sewage, and may make arrangements for the provision
94 or exchange of staff services and equipment with any person or any
95 other municipality or municipalities, or for any other lawful services.
96 The water pollution control authority of any municipality planning to
97 acquire, construct or operate a new or additional sewerage system
98 shall consider the feasibility of using the sewage collected by such
99 system as an energy source for the generation of electricity or the
100 production of other energy sources. The water pollution control
101 authority may establish rules for the transaction of its business. It shall
102 keep a record of its proceedings and shall designate an officer or
103 employee to be the custodian of its books, papers and documents.

104 (b) Following approval of an engineering report by the
105 Commissioner of Environmental Protection that includes concurrence
106 with such approval by the Commissioner of Public Health, in
107 consultation with the local director of health, a municipality, acting in
108 conjunction with its water pollution control authority may, by
109 ordinance, establish geographical areas of decentralized wastewater
110 management districts within such municipality.

111 (1) Such ordinance may also include, following the approval of such
112 ordinance by the local director of health pursuant to such director's
113 authority under section 19a-207: (A) Remediation and technical
114 standards for the design and construction of subsurface disposal
115 systems that are more stringent than those imposed by the Public

116 Health Code; (B) authority for the local director of health to order the
117 upgrade of subsurface sewage disposal systems in accordance with
118 such remediation and technical standards; (C) authority for the local
119 director of health to establish criteria for the abandonment of
120 substandard subsurface sewage disposal systems; (D) authority for the
121 local director of health to order the property owner of a substandard
122 subsurface sewage disposal system that does not comply with such
123 remediation standards, technical standards or other criteria to abandon
124 such substandard subsurface sewage disposal system thus allowing
125 the water pollution control authority to order such owner to connect to
126 a sewerage system pursuant to section 7-256; (E) standards established
127 by the local director of health for the effective supervision,
128 management, control, operation and maintenance of managed
129 subsurface sewage disposal systems within such decentralized
130 wastewater management districts; or (F) authority for the water
131 pollution control authority to enact and amend regulations, following
132 the approval of such regulations by the local director of health, that
133 govern the supervision, management, control, operation and
134 maintenance of such decentralized systems.

135 (2) Such ordinance shall include remediation standards for the
136 design, construction and installation of alternative sewage treatment
137 systems and standards for the effective supervision, management,
138 control, operation and maintenance of alternative sewage treatment
139 systems within such decentralized wastewater management districts
140 that are consistent with any permit, order or recommendation of the
141 Commissioner of Environmental Protection.

142 (c) Notwithstanding any provision of the general statutes, an area
143 that is designated by ordinance of a municipality as a decentralized
144 wastewater management district shall not be a public sewer for
145 purposes of the Public Health Code.

146 (d) Nothing in this section shall be construed to limit the authority
147 of a local director of health, the Commissioner of Public Health or the
148 Commissioner of Environmental Protection.

149 Sec. 4. Section 7-257 of the general statutes is repealed and the
150 following is substituted in lieu thereof (*Effective October 1, 2003*):

151 The water pollution control authority may order the owner of any
152 building to which a sewerage system is available to connect such
153 building with the system or order the owner to construct and connect
154 the building to an alternative sewage treatment system. No such order
155 shall be issued until after a public hearing with respect thereto after
156 due notice in writing to such property owner. Any owner aggrieved by
157 such an order may, within twenty-one days, appeal to the superior
158 court for the judicial district wherein the municipality is located. Such
159 appeal shall be brought to a return day of said court not less than
160 twelve or more than thirty days after service thereof. The judgment of
161 the court shall be final. If any owner fails to comply with an order to
162 connect, the water pollution control authority shall cause the
163 connection to be made and shall assess the expense thereof against
164 such owner.

This act shall take effect as follows:	
Section 1	<i>October 1, 2003</i>
Sec. 2	<i>October 1, 2003</i>
Sec. 3	<i>October 1, 2003</i>
Sec. 4	<i>October 1, 2003</i>

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Type	FY 04 \$	FY 05 \$
Public Health, Dept.	GF - Cost	\$39,250	\$50,525
Comptroller Misc. Accounts (Fringe Benefits)	GF - Cost	\$7,130	\$20,320
Department of Environmental Protection	EQ - Cost/Revenue	See Below	See Below

Note: GF=General Fund; EQ=Environmental Quality Fund

Municipal Impact:

Municipalities	Effect	FY 04 \$	FY 05 \$
Various Municipalities	Revenue Impact	Potential	Potential
Various Municipalities	Cost	See Below	See Below

Explanation

This bill allows a municipality to establish geographical areas of decentralized wastewater management districts by ordinance, provided that an engineering study has been approved by the Departments of Environmental Protection (DEP) and Public Health (DPH), in consultation with the local health director.

It further authorizes a municipality that has created a decentralized wastewater management district, following the approval of its health director, to establish by ordinance various standards and regulations. Finally, the bill authorizes a municipality to perform various enforcement and permitting activities to effectively manage the operation of decentralized systems.

According to the Department of Public Health, there are currently no standards for the design, installation, maintenance or oversight of

alternative sewage treatment systems. Therefore, towns opting to pursue these activities may incur significant costs to research and develop technical standards for their design and installation. Additional local costs would be associated with review of engineering plans, monitoring installation and ongoing oversight of maintenance and performance of the alternative systems. Since the bill is permissive, it is anticipated that communities will only implement its provisions if local resources are anticipated to be available. Potentially offsetting savings would result should the alternative systems prove less costly than traditional septic or sewer systems.

To the extent that financial penalties are imposed in the course of enforcement activities, a potential revenue gain to any affected municipality may result.

Passage of this bill will result in an FY 04 cost to the state of approximately \$46,380. Included in this sum is \$39,250 to support the three-quarter year salary of one Sanitary Engineer 2 under the Department of Public Health as well as associated equipment costs. Also included are \$7,130 in fringe benefit costs, which are budgeted centrally in miscellaneous accounts administered by the Comptroller¹. This position would be required to provide technical assistance to local governments and to ensure their ongoing compliance with the state's public health code. In FY 05 the annualized cost for the position would be \$70,845 (\$50,525 DPH; \$20,320 fringe benefits).

It is anticipated that the Department of Environmental Protection would incur a minimal workload increase, offset by a minimal revenue gain to the Environmental Quality Fund. This assumes that the requirements of the legislation do not eliminate the need for a municipality to obtain a wastewater discharge permit from DEP for an

¹ The total fringe benefit reimbursement rate as a percentage of payroll is 40.21 percent, effective July 1, 2002. However, first year fringe benefit costs for new positions do not include pension costs, lowering the rate to 18.81 percent in FY 04.

alternative subsurface sewage system.

House "A" makes changes that do not materially alter the fiscal impact of the original bill.

OLR Bill Analysis

HB 6254 (as amended by House "A")*

AN ACT CONCERNING ON-SITE WASTEWATER MANAGEMENT DISTRICTS AND ALTERNATIVE SUBSURFACE SEWAGE TREATMENT SYSTEMS**SUMMARY:**

This bill allows municipalities to establish by ordinance decentralized wastewater management districts. It establishes conditions that must be met before a town can create such a district, including approval of an engineering plan by the commissioner of the Department of Environmental Protection (DEP) with concurring approval by the commissioner of the Department of Public Health (DPH). It lists standards, regulations, and criteria that a town can apply to such a district.

The bill requires a town water pollution control authority to include in its water pollution control plan the designation and boundary of any decentralized wastewater management district it establishes and to describe any programs where the local health director manages subsurface sewage disposal systems. The bill requires the authority to ensure the operation and management of any decentralized wastewater management district not owned by the municipality.

By law, municipalities, through their water pollution control authorities, can establish and revise rules and regulations governing sewerage systems; the bill requires any such rules or regulations regarding decentralized systems to be approved by the local health director before taking effect. Also by law, an authority can order a building owner to connect to an available sewerage system; the bill allows it to order an owner to construct an alternative sewage treatment system and connect the building to it.

The bill also requires a municipality to include in its ordinance remediation standards to regulate alternative sewage treatment systems.

The bill states that any area designated by municipal ordinance as a decentralized wastewater management district is not considered to be a public sewer under the Public Health Code. It also states that its provisions must not be construed to limit the authority of a local health director or the commissioners of DEP or DPH.

*House Amendment "A" makes extensive changes to the original file including (1) adding additional definitions, (2) changing the designation of the newly designated wastewater management district from an "on-site" to a "decentralized " system, (3) adds to what must be included in the water pollution control plan, (4) allows a water pollution control authority to order an owner to build and connect to a decentralized system, (5) eliminates a set of steps a municipality could take to enforce the bill's provisions, and (6) adds the two disclaimer provisions regarding whether a decentralized system is considered a public sewer and limitations on the authority of certain officials.

EFFECTIVE DATE: October 1, 2003

DEFINITIONS

The bill defines a "decentralized system" as a managed subsurface sewage disposal system, managed alternative sewage treatment system, or community sewerage system that discharges less than 5,000 gallons of sewage per day, are used to collect and treat domestic sewage, and involve discharges from a municipality into the state's ground waters.

It defines a "decentralized wastewater management district" as an area of a municipality designated through a municipal ordinance when an engineering report determines that existing subsurface sewage disposal systems may be detrimental to public health or the environment and decentralized systems are required and the report is approved by the DEP commissioner with concurring approval by the DPH commissioner after consultation with the local health director.

It defines an "alternative sewage treatment system" as one serving one or more buildings that uses treatment methods other than a subsurface sewage disposal system and discharges into the state's ground waters.

It defines "remediation standards" as pollutant limits, performance requirements, design parameters, or technical standards applying to

existing sewage discharges in a decentralized wastewater district for improving wastewater treatment to protect public health and the environment.

It changes the definition of a “community sewerage system” to a system serving two or more, rather than one or more, residences in separate structures not connected to a municipal sewerage system or connected as a distinct and separately managed part of such a system.

Finally, it includes a decentralized system in a decentralized wastewater management district established under the bill’s provisions under the definition of a sewerage system.

Other statutes and regulations in the Public Health Code, not changed by this bill, define related terms. A “subsurface sewage disposal system” is a septic tank, leaching system and the additional necessary pumps, siphons, collection sewers, and groundwater control system. An “alternative on-site sewage treatment system” is one serving one or more buildings on one property using treatment methods other than subsurface sewage treatment and discharging into state waters.

REQUIREMENTS FOR MUNICIPALITY TO ESTABLISH DISTRICT

The municipality must act after approval of the engineering report by the DEP commissioner with concurrence from the DPH commissioner in consultation with the local health director. The engineering report must have determined that existing subsurface sewage disposal systems may be detrimental to public health or the environment and that decentralized systems are required. The municipality must act in conjunction with its water pollution control authority.

PROVISIONS OF THE ORDINANCE

The bill requires the ordinance to include remediation standards for the design, construction, and installation of alternative sewage treatment systems and standards for the effective supervision, management, control, operation, and maintenance of alternative sewage treatment systems within a decentralized district that are consistent with any DEP permit, order, or recommendation.

The bill allows the ordinance to include, with the local health director’s approval:

1. remediation and technical standards for the design and construction of subsurface disposal systems that are more stringent than those imposed by the state Public Health Code;
2. authority for the local health director to order the upgrade of subsurface sewage treatment systems according to the remediation and technical standards;
3. authority for the local health director to establish criteria for the abandonment of substandard subsurface sewage disposal systems;
4. authority for the local health director to order the owner of a substandard subsurface sewage disposal system not complying with the remediation or technical standards or other criteria to abandon the substandard system so the water pollution control authority can order him to connect to a sewerage system (SEE COMMENT);
5. standards established by the local health director for effective supervision, management, control, operation, and maintenance of managed subsurface sewage disposal systems within a decentralized district; and
6. authority for the water pollution control authority to enact and amend regulations, following approval by the local health director, governing the supervision, management, control, operation, and maintenance of the decentralized system.

BACKGROUND

Legislative History

On April 30 the House referred the bill (File 487) to the Planning and Development Committee, which reported it favorably without changes on May 7. On May 13 the House referred the bill to the Appropriations Committee, which reported it favorably without changes on May 20.

COMMENT

Incorrect Statutory Reference

Section 3 (b) (1) (D) of the bill refers to a water pollution control authority's ability to order an owner to connect to a sewerage system pursuant to CGS § 7-256. The reference should be to CGS § 7-257; 7-256 concerns revisions of rates for payment of bonds.

COMMITTEE ACTION

Environment Committee

Joint Favorable Report
Yea 24 Nay 3

Planning And Development Committee

Joint Favorable Report
Yea 17 Nay 0

Appropriations Committee

Joint Favorable Report
Yea 46 Nay 0