



House of Representatives

File No. 772

General Assembly

January Session, 2003

(Reprint of File No. 342)

House Bill No. 6551
As Amended by House
Amendment Schedule "A"

Approved by the Legislative Commissioner
May 23, 2003

AN ACT CONCERNING EXEMPTIONS FROM THE WATER DIVERSION PERMITTING PROCESS.

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

1 Section 1. Subsection (a) of section 22a-377 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July*
3 *1, 2003*):

4 (a) The following diversions are exempt from the provisions of
5 sections 22a-365 to [22a-378] 22a-378a, inclusive: (1) One or more wells
6 joined in one system whose combined maximum withdrawal will not
7 exceed fifty thousand gallons of water during any twenty-four-hour
8 period; (2) the maximum withdrawal of fifty thousand gallons of
9 surface water during any twenty-four-hour period; (3) discharges
10 permitted under the provisions of section 22a-430; (4) a storm drainage
11 system which collects the surface water runoff of an area of less than
12 one hundred acres; (5) water for fire emergency purposes; (6)
13 diversions within, extensions and relocation of water supply system
14 distribution mains; (7) roadway crossings or culverts which allow for
15 continuous flow or passage of an existing watercourse; [and] (8)

16 diversions directly related to routine maintenance and emergency
17 repairs of dams; and (9) diversions by a water company, as defined in
18 section 25-32a, that are necessary to protect the security of public water
19 supplies, including: (A) A diversion from a back-up well where a
20 primary well is out of service, provided (i) the back-up well is located
21 within two hundred fifty feet of such primary well, (ii) the total
22 quantity of water withdrawn does not result in an increase in the rate
23 or quantity of a diversion registered or permitted by the commissioner
24 pursuant to section 22a-368 or 22a-378a, and (iii) not later than January
25 thirtieth of each year, the commissioner is supplied a written annual
26 report, for the prior year, that identifies the location of each back-up
27 well, the construction type of each back-up well, the date of
28 installation and the daily water use from each primary well and each
29 back-up well for those days on which the back-up well operated; or (B)
30 a transfer of water from one distribution system to another during a
31 water supply emergency declared pursuant to section 22a-378 or 25-
32 32b or otherwise declared according to law, provided the transfer (i) is
33 limited to the period during which the emergency exists, (ii) does not
34 result in an increase in the rate or quantity of a diversion registered or
35 permitted by the commissioner pursuant to section 22a-368 or 22a-
36 378a, (iii) is accomplished through existing, authorized, installed
37 capacity to transfer or through temporary equipment that is removed
38 within thirty days after the last day of the water supply emergency,
39 and (iv) the commissioner is notified, in writing, of any such transfer
40 and its location within three days of the transfer and the commissioner
41 is provided a written report of the daily transfer of water that occurred
42 during the emergency and any other related information the
43 commissioner may request.

44 Sec. 2. Subsection (d) of section 22a-378a of the general statutes is
45 repealed and the following is substituted in lieu thereof (*Effective July*
46 *1, 2003*):

47 (d) Any general permit issued under [this] subsection (a) of this
48 section [shall] may require that any person or municipality intending
49 to conduct an activity covered by such general permit [shall, at least

50 sixty days before initiating such activity,] give written notice of such
 51 intention to the inland wetlands agency, zoning commission, planning
 52 commission or combined planning and zoning commission, and
 53 conservation commission of any municipality which will or may be
 54 affected by such activity. [, and to the department which shall make
 55 such notices available to the public.] The general permit shall specify
 56 the information which must be contained in the notice. [An inland
 57 wetlands agency, planning and zoning commission, conservation
 58 commission or any person may submit written comments to the
 59 commissioner concerning such activity no later than twenty-five days
 60 before the date that the activity is proposed to begin.]

61 Sec. 3. Subsection (c) of section 25-33o of the general statutes is
 62 repealed and the following is substituted in lieu thereof (*Effective July*
 63 *1, 2003*):

64 (c) The council shall, not later than January 1, 2002, and annually
 65 thereafter, report its preliminary findings and any proposed legislative
 66 changes to the joint standing committees of the General Assembly
 67 having cognizance of matters relating to public health, the
 68 environment and public utilities in accordance with section 11-4a,
 69 except that not later than February 1, 2004, the council shall report its
 70 recommendations in accordance with this subsection with regard to (1)
 71 a water allocation plan based on water budgets for each watershed, (2)
 72 funding for water budget planning, giving priority to the most highly
 73 stressed watersheds, and (3) the feasibility of merging the data
 74 collection and regulatory functions of the Department of
 75 Environmental Protection's Inland Water Resources Program and the
 76 Department of Public Health's Water Supplies Section.

This act shall take effect as follows:	
Section 1	July 1, 2003
Sec. 2	July 1, 2003
Sec. 3	July 1, 2003

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 \$
Department of Environmental Protection	Environmental Quality - Cost/Revenue Loss	None	None

Municipal Impact: None

Explanation

It is anticipated that the reduction in fees to the Department of Environmental Protection’s (DEP) Environmental Quality (EQ) Fund from exempting additional water diversions from obtaining permits will be offset by a decrease in workload. The general permit application fee and annual fee are \$500. Less than 10 exemptions per year are expected. No net impact is anticipated.

Setting a deadline of February 1, 2004 for the Water Planning Council to issue its final report is not anticipated to have a fiscal impact. The Council was created in 2001 and must report findings and proposed legislation annually to legislative committees.

House “A” makes changes concerning water diversion permits that do not change the overall fiscal impact associated with the original bill.

It removes a provision of the bill that authorized the DEP to adopt regulations concerning information submittal. It had been anticipated that the department would have adopted regulations, if deemed necessary, when resources permitted.

The amendment also sets the reporting deadline for the Water

Planning Council, which results in no fiscal impact.

OLR Bill Analysis

HB 6551 (as amended by House "A")*

AN ACT CONCERNING EXEMPTIONS FROM THE WATER DIVERSION PERMITTING PROCESS**SUMMARY:**

This bill adds water diversions necessary for the security of public water supplies to the list of diversions exempt from permit and notification provisions of the Connecticut Water Diversion Policy Act (CWDPA) and makes these and other diversions exempt from general permit for minor activity requirements.

The bill allows, instead of requires, a general permit for minor activities under CWDPA to contain a provision requiring any person or town intending to undertake an activity covered by the permit to give written notice to certain local agencies and it eliminates the requirement that the person or town that plans to conduct an activity covered by the general permit give at least 60 days written notice before the action. It also eliminates (1) the requirement that the Department of Environmental Protection (DEP) receive and make the notice publicly available and (2) authorizations for agencies or people to submit comments about the action to the commissioner 25 days before the activity's proposed start.

The bill requires the Water Planning Council, by February 1, 2004, to issue recommendations for (1) a water allocation plan, based on water budgets for each watershed; (2) funding for water budget planning, giving priority to the most highly stressed watersheds; and (3) the feasibility of merging the data collection and regulatory functions of the DEP Inland Water Resources program and the public health department's water supplies section. The council was created in 2001 to address issues involving water companies, water resources, and state policies regarding the future of the state's drinking water supply. By law, it must report its preliminary findings and any proposed legislative changes annually to the Environment, Public Health, and Energy and Technology committees.

The bill also makes technical changes.

*House Amendment "A" (1) extends the requirements from which certain diversions and diversions necessary to protect the security of public water supplies are exempt and adds restrictions and reporting requirements for the latter, (2) adds reporting requirements for the Water Planning Council, (3) changes notice and reporting requirements for general permits, and (4) eliminates (a) authorization for the DEP commissioner to make exemption qualification regulations and (b) certain emergency water supply intake modifications.

EFFECTIVE DATE: July 1, 2003

DIVERSIONS FOR THE SECURITY OF PUBLIC WATER SUPPLIES AND THEIR REPORTING REQUIREMENTS

Under the bill, diversions that are necessary to protect the security of public water supplies are exempt from the CWDPA's permitting process and include:

1. a diversion from a back-up well where a primary well is out of service, as long as (a) the back-up well is located within 250 feet of the primary well and the total quantity of water withdrawn does not increase the rate or quantity of a diversion registered or permitted by the DEP commissioner under provisions of the CWDPA and (b) the commissioner is annually given a written report by January 30, for the previous year, that details the location and construction type of each back-up well and the date of installation and daily water use for each primary and back-up well for the days that the back-up well operated, and
2. a water transfer from one distribution system to another during a water supply emergency declared by the governor or otherwise according to law, when the transfer is (a) limited to the time of the emergency; (b) does not increase the rate or quantity of a diversion registered or permitted by the commissioner under provisions of the CWDPA; (c) uses existing, authorized, installed capacity or temporary equipment that is removed within 30 days after the last day of the water supply emergency; and (d) noted to the commissioner in writing within three days of the transfer, including its location, with daily written reports during the emergency and any other related information he requests.

By law, a diversion is any activity that causes, allows, or results in the withdrawal from, or alteration of, the flow of water in the state (wells, reservoirs, watercourses, and other bodies of water).

BACKGROUND

Related Bill

sSB 1157 (File 744), AAC Minor Revisions to the Environmental Protection Provisions, contains an identical provision concerning the Water Planning Council.

COMMITTEE ACTION

Environment Committee

Joint Favorable Report
Yea 25 Nay 0