



# Senate

General Assembly

**File No. 433**

February Session, 2004

Substitute Senate Bill No. 465

*Senate, April 5, 2004*

The Committee on Public Health reported through SEN. MURPHY of the 16th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING WATER SUPPLY ABANDONMENT.***

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

1 Section 1. Section 25-33k of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2004*):

3 (a) No groundwater or surface water source of [water] supply shall  
4 be abandoned by a water company without a permit from the  
5 Commissioner of Public Health. A water company shall apply for such  
6 permit in the manner prescribed by the commissioner. Thirty days  
7 before filing an application for such permit, a water company shall  
8 notify the chief elected official of any municipality in which the land  
9 containing such source of supply is located. Not later than sixty days  
10 after receipt of such notification, the municipality or municipalities  
11 may submit comments on such application to the commissioner. The  
12 commissioner shall take such comments into consideration when  
13 reviewing the application.

14       **(b)** In [his] the commissioner's decision, the commissioner shall  
15 consider the water supply needs of the water company and any  
16 comments submitted pursuant to subsection (a) of this section, and  
17 shall consult with the Commissioner of Environmental Protection, the  
18 Secretary of the Office of Policy and Management and the Department  
19 of Public Utility Control. The Commissioner of Public Health shall  
20 grant a permit upon a finding that the groundwater source [shall] will  
21 not be needed by such water company for present or future water  
22 supply and, in the case of a water company required to file a water  
23 supply plan under section 25-32d, as amended, that such  
24 abandonment is consistent with a water supply plan filed and  
25 approved pursuant to said section. No permit shall be granted if the  
26 commissioner determines that the groundwater source would be  
27 necessary for water supply by the company in an emergency or the  
28 proposed abandonment would impair the ability of the company to  
29 provide a pure, adequate and reliable water supply for present and  
30 projected future customers. As used in this section, a future source of  
31 water supply shall be considered to be any groundwater source of  
32 water supply necessary to serve areas reasonably expected to require  
33 service by the water company for a period of not more than fifty years  
34 after the date of the application for a permit under this section.

35       **(c)** No surface water source of supply shall be abandoned by a water  
36 company unless the Commissioner of Public Health determines that  
37 the source is not needed for present or future use as a drinking water  
38 supply. If such determination is made, and after consideration of any  
39 comments submitted pursuant to subsection (a) of this section, the  
40 commissioner shall grant a permit for such abandonment. If the  
41 commissioner grants an abandonment permit for a surface water  
42 source of supply, all rights of use of water from such surface water  
43 source of supply that were previously chartered or granted to the  
44 applicant water company, including any valid registration or permit  
45 granted pursuant to section 22a-368 or 22a-373 shall revert to the state.

46       Sec. 2. Section 25-33l of the general statutes is repealed and the  
47 following is substituted in lieu thereof (*Effective October 1, 2004*):

48 (a) Whenever any water company intends to sell a source, potential  
49 source or abandoned source of water supply, it shall notify the  
50 Commissioner of Public Health. The commissioner shall order such  
51 company to notify, in writing, by certified mail, return receipt  
52 requested, other water companies that may reasonably be expected to  
53 utilize the source, potential source or abandoned source of its intention  
54 and the price at which it intends to sell such source. The commissioner  
55 shall determine the water companies that shall receive notice after  
56 consideration of public water supply plans filed and approved  
57 pursuant to [section 25-32d] sections 25-32d, as amended, and 25-33h,  
58 and any other water system plan approved by the commissioner. No  
59 agreement to sell such source may be entered into by the water  
60 company except as hereinafter provided.

61 (b) Within ninety days after notice has been mailed pursuant to  
62 subsection (a) of this section, a water company receiving notice of the  
63 sale pursuant to said subsection shall give notice to the water company  
64 selling the source, potential source or abandoned source of water  
65 supply by certified mail, return receipt requested, of a desire to acquire  
66 such source and such water company shall have the right to acquire  
67 the interest in such source for water supply purposes. If two or more  
68 water companies seek to acquire such source, potential source or  
69 abandoned source at the price at which it is offered, the Commissioner  
70 of Public Health shall hold a hearing to determine which company  
71 shall be allowed to acquire such source. In making [his] the  
72 determination, the commissioner shall consider any public water  
73 supply plans filed and approved pursuant to [section 25-32d] sections  
74 25-32d, as amended, and 25-33h, any other water system plans  
75 approved by the commissioner, the needs of each company and the  
76 efficient and effective development of public water supply in the state.  
77 The decision of the commissioner shall be subject to appeal pursuant to  
78 section 4-183 and shall have precedence in the order of trial as  
79 provided in section 52-191.

80 (c) If a water company fails to give notice pursuant to subsection (b)  
81 of this section by certified mail, return receipt requested, of its desire to

82 acquire such source, potential source or abandoned source of water  
 83 supply, such water company shall have waived its right to acquire the  
 84 source or potential source of water supply in accordance with the  
 85 terms of this section.

86 (d) The water company desiring to acquire the interest in the source,  
 87 potential source or abandoned source of water supply shall acquire  
 88 such interest within twelve months of the determination by the  
 89 commissioner of which water company shall be allowed to acquire  
 90 such source. If the rates of the water company acquiring such source  
 91 are regulated by the Department of Public Utility Control, the source  
 92 acquired may be included in the rate base of such company at the  
 93 acquisition price.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>

**PH**            *Joint Favorable Subst.*

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-Effect	FY 05 \$	FY 06 \$
Public Health, Dept.	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:**

Municipalities	Effect
Various Municipalities	See Below

**Explanation**

The bill makes the test for abandonment of a surface water supply more stringent. This may preclude changes in use (for example, sale or development) of certain land owned by water companies that might otherwise have occurred and, correspondingly, preclude associated financial implications for municipally-affiliated water companies and/or municipalities where the land is located.

Provisions in the bill are not anticipated to materially alter the responsibilities of the Department of Public Health, thus no fiscal impact is anticipated for the agency.

**OLR Bill Analysis**

sSB 465

**AN ACT CONCERNING WATER SUPPLY ABANDONMENT****SUMMARY:**

This bill makes it more difficult for a water company to abandon a surface water source (i.e., a reservoir, pond, or lake). It allows the public health commissioner to permit this only if he determines that the surface source is not needed for any, not just the company's, present or future use as a drinking water supply. Under current law, which the bill continues to apply to abandoning groundwater sources, he must determine that the company does not need the source to supply water now or during the next 50 years and would not need it in an emergency.

Under the bill, if the commissioner allows a company to abandon a surface water source, the company's rights to use or divert water from it revert to the state.

The bill requires a water company seeking to abandon any water supply source to notify the chief elected official of the town (or towns) where the source is located, allows towns to submit comments to the commissioner, and requires him to consider the comments when reviewing the permit application.

Finally, it requires the commissioner to consider water utility coordinating committee supply plans in determining (1) which water companies must be notified about another company's intent to sell a water source and (2) which company should be permitted to buy the source if more than one wishes to.

EFFECTIVE DATE: October 1, 2004

**ABANDONING WATER SOURCES*****Criteria***

The bill prohibits the public health commissioner from permitting a

water company to abandon a surface water supply source unless he determines it is not needed for present or future use as a drinking water supply, apparently anywhere in the state and for any period of time. It makes this criterion the sole factor in determining whether to grant a permit.

Under current law, the commissioner must determine that a company does not need the source for its present or future water supply services (which the law defines as the supply needed to serve areas reasonably expected to require service by the company for up to 50 years after it applies for the abandonment permit). If the company is required to file a water supply plan (i.e., it supplies water to 1,000 or more people or 250 or more consumers), the commissioner must also find that abandonment is consistent with that plan. The law prohibits the commissioner from granting an abandonment permit if he determines that the company would need the source in an emergency or that abandonment would impair its ability to provide a pure, adequate, and reliable water supply for current and future customers.

Under the bill, the current criteria for determining whether to grant an abandonment permit continue to apply to groundwater sources.

In making his decision about abandoning ground or surface water supply sources, current law requires the commissioner to consider the company's water supply needs and consult with the environmental protection commissioner, the Office of Policy and Management secretary, and the Department of Public Utility Control. The bill limits these requirements to decisions concerning groundwater sources.

### **Notice**

The bill requires water companies to apply for any abandonment permit in the manner the commissioner prescribes. It requires a company, 30 days before filing an application, to notify the chief elected official in each town in which the land containing the water supply is located. It permits the towns to submit comments on the application to the commissioner. They must do this within 60 days of receiving notice from the company. The bill requires the commissioner to consider these comments as he reviews the application.

### **SELLING A WATER SUPPLY**

When a water company intends to sell an existing, potential, or abandoned water supply source, it must notify other water companies that the commissioner believes might be expected to use the source. Under current law, in determining which companies must be notified the commissioner must consider the water supply plans that companies supplying water to 1,000 or more people or 250 or more consumers must file. The bill requires him also to consider plans water utility coordinating committees must file. And it requires him to consider these latter plans if he has to choose between two companies that want to purchase the water source.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 22    Nay 0