



Substitute House Bill No. 7121

Public Act No. 07-85

AN ACT CONCERNING THE AQUIFER PROTECTION AREA PROGRAM.

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

Section 1. Section 8-7d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) In all matters wherein a formal petition, application, request or appeal must be submitted to a zoning commission, planning and zoning commission or zoning board of appeals under this chapter, a planning commission under chapter 126 or an inland wetlands agency under chapter 440 or an aquifer protection agency under chapter 446i and a hearing is required or otherwise held on such petition, application, request or appeal, such hearing shall commence within sixty-five days after receipt of such petition, application, request or appeal and shall be completed within thirty-five days after such hearing commences, unless a shorter period of time is required under this chapter, chapter 126, [or] chapter 440 or chapter 446i. Notice of the hearing shall be published in a newspaper having a general circulation in such municipality where the land that is the subject of the hearing is located at least twice, at intervals of not less than two days, the first not more than fifteen days or less than ten days and the last not less than two days before the date set for the hearing. In addition to such notice,

Substitute House Bill No. 7121

such commission, board or agency may, by regulation, provide for additional notice. Such regulations shall include provisions that the notice be mailed to persons who own land that is adjacent to the land that is the subject of the hearing or be provided by posting a sign on the land that is the subject of the hearing, or both. For purposes of such additional notice, (1) proof of mailing shall be evidenced by a certificate of mailing, and (2) the person who owns land shall be the owner indicated on the property tax map or on the last-completed grand list as of the date such notice is mailed. All applications and maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard and may be represented by agent or by attorney. All decisions on such matters shall be rendered [within] not later than sixty-five days after completion of such hearing, unless a shorter period of time is required under this chapter, chapter 126, [or] chapter 440 or chapter 446i. The petitioner or applicant may consent to one or more extensions of any period specified in this subsection, provided the total extension of all such periods shall not be for longer than sixty-five days, or may withdraw such petition, application, request or appeal.

(b) Notwithstanding the provisions of subsection (a) of this section, whenever the approval of a site plan is the only requirement to be met or remaining to be met under the zoning regulations for any building, use or structure, a decision on an application for approval of such site plan shall be rendered [within] not later than sixty-five days after receipt of such site plan. Whenever a decision is to be made on an application for subdivision approval under chapter 126 on which no hearing is held, such decision shall be rendered [within] not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an inland wetlands and watercourses application under chapter 440 on which no hearing is held, such decision shall be rendered [within] not later than sixty-five days after receipt of such application. Whenever a decision is to be made on an aquifer

Substitute House Bill No. 7121

protection area application under chapter 446i on which no hearing is held, such decision shall be rendered not later than sixty-five days after receipt of such application. The applicant may consent to one or more extensions of such period, provided the total period of any such extension or extensions shall not exceed sixty-five days or may withdraw such plan or application.

(c) For purposes of subsection (a) or (b) of this section and section 7-246a, the date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such commission, board or agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner. If the commission, board or agency does not maintain an office with regular office hours, the office of the clerk of the municipality shall act as the agent of such commission, board or agency for the receipt of any petition, application, request or appeal.

(d) The provisions of subsection (a) of this section shall not apply to any action initiated by any zoning commission, planning commission or planning and zoning commission regarding adoption or change of any zoning regulation or boundary or any subdivision regulation.

(e) Notwithstanding the provisions of this section, if an application involves an activity regulated pursuant to sections 22a-36 to 22a-45, inclusive, and the time for a decision by a zoning commission or planning and zoning commission established pursuant to this section would elapse prior to the thirty-fifth day after a decision by the inland wetlands agency, the time period for a decision shall be extended to thirty-five days after the decision of such agency. The provisions of this subsection shall not be construed to apply to any extension consented to by an applicant or petitioner.

Substitute House Bill No. 7121

(f) The zoning commission, planning commission, zoning and planning commission, zoning board of appeals, [or] inland wetlands agency or aquifer protection agency shall notify the clerk of any adjoining municipality of the pendency of any application, petition, appeal, request or plan concerning any project on any site in which: (1) Any portion of the property affected by a decision of such commission, board or agency is within five hundred feet of the boundary of the adjoining municipality; (2) a significant portion of the traffic to the completed project on the site will use streets within the adjoining municipality to enter or exit the site; (3) a significant portion of the sewer or water drainage from the project on the site will flow through and significantly impact the drainage or sewerage system within the adjoining municipality; or (4) water runoff from the improved site will impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven days of the date of receipt of the application, petition, request or plan. Such adjoining municipality may, through a representative, appear and be heard at any hearing on any such application, petition, appeal, request or plan.

(g) (1) Any zoning commission, planning commission or planning and zoning commission initiating any action regarding adoption or change of any zoning regulation or boundary or any subdivision regulation or regarding the preparation or amendment of the plan of conservation and development shall provide notice of such action in accordance with this subsection in addition to any other notice required under any provision of the general statutes.

(2) A zoning commission, planning commission or planning and zoning commission shall establish a public notice registry of landowners, electors and nonprofit organizations qualified as tax-exempt organizations under the provisions of Section 501(c) of the

Substitute House Bill No. 7121

Internal Revenue Code of 1986, or any subsequent corresponding internal revenue code of the United States, as from time to time amended, requesting notice under this subsection. Each municipality shall notify residents of such registry and the process for registering for notice under this subsection. The zoning commission, planning commission or planning and zoning commission shall place on such registry the names and addresses of any such landowner, elector or organization upon written request of such landowner, elector or organization. A landowner, elector or organization may request such notice be sent by mail or by electronic mail. The name and address of a landowner, elector or organization who requests to be placed on the public notice registry shall remain on such registry for a period of three years after the establishment of such registry. Thereafter any land owner, elector or organization may request to be placed on such registry for additional periods of three years.

(3) Any notice under this subsection shall be mailed to all landowners, electors and organizations in the public notice registry not later than seven days prior to the commencement of the public hearing on such action, if feasible. Such notice may be mailed by electronic mail if the zoning commission, planning commission or planning and zoning commission or the municipality has an electronic mail service provider.

(4) No zoning commission, planning commission or planning and zoning commission shall be civilly liable to any landowner, elector or nonprofit organization requesting notice under this subsection with respect to any act done or omitted in good faith or through a bona fide error that occurred despite reasonable procedures maintained by the zoning commission, planning commission or planning and zoning commission to prevent such errors in complying with the provisions of this section.

Sec. 2. Section 22a-354a of the general statutes is repealed and the

Substitute House Bill No. 7121

following is substituted in lieu thereof (*Effective October 1, 2007*):

As used in sections 22a-354b to 22a-354f, inclusive, "existing well fields" means well fields in use by a public water supply system when mapping is required pursuant to section 22a-354c, as amended by this act, or 22a-354z, as amended by this act, and "potential well fields" means those well fields identified as future sources of supply in the water supply plan of the public water supply system approved pursuant to section 25-32d.

Sec. 3. Section 22a-354c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) On or before July 1, 1990, each public or private water company serving one thousand or more persons shall map at level B all areas of contribution and recharge areas for its existing wells located in stratified drift aquifers. Not later than three years after the adoption by the Commissioner of Environmental Protection of a model municipal aquifer protection ordinance under section 22a-354l, each public and private water company serving ten thousand or more persons shall map at level A all areas of contribution and recharge areas for its existing wells located in stratified drift aquifers. Any public or private water company that creates a new well field serving one thousand or more persons that has not been mapped previously as an existing well shall map areas of contribution and recharge areas for the new well field. Any map of such a new well field shall be submitted not later than one year after the issuance of a diversion permit in accordance with section 22a-368 at level B, and not later than three years after the issuance of a diversion permit in accordance with section 22a-368 at level A. The Commissioner of Environmental Protection may map at level A and at level B all areas of contribution and recharge areas for existing wells located in stratified drift aquifers that are used by any public or private water company serving less than one thousand persons.

Substitute House Bill No. 7121

(b) Each public or private water company serving ten thousand or more persons shall map all areas of contribution and recharge areas for potential wells that are located within stratified drift aquifers identified as future sources of water supply to meet their needs in accordance with the plan submitted pursuant to section 25-33h [, (1)] at level B not more than two years after [approval of such plan and (2) at level A four years after approval of such plan] the Commissioner of Environmental Protection requests such mapping. The Commissioner of Environmental Protection shall identify and make recommendations for mapping, or shall map, all remaining significant areas of contribution and recharge areas for potential wells located in stratified drift aquifers not identified by a public or private water company as a potential source of water supply within the region of an approved plan. Mapping of any other area of contribution and recharge areas for potential wells located in stratified drift aquifers by the commissioner shall be completed at a time determined by the commissioner.

Sec. 4. Section 22a-354d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

The mapping of aquifers by a public or private water company at level B and level A required pursuant to [section] sections 22a-354c, as amended by this act, and 22a-354z, as amended by this act, shall not be deemed to be complete unless approved by the Commissioner of Environmental Protection.

Sec. 5. Section 22a-354o of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Each municipality in which an aquifer protection area is located shall authorize by ordinance an existing board or commission to act as such agency not later than three months after adoption by the commissioner of regulations for aquifer protection areas pursuant to section 22a-354i and approval by the commissioner of mapping of

Substitute House Bill No. 7121

areas of contribution and recharge areas for wells located in stratified drift aquifers in the municipality at level B pursuant to section 22a-354d, as amended by this act. The ordinance authorizing the agency shall determine the number of members and alternate members, the length of their terms, the method of selection and removal and the manner for filling vacancies. No member or alternate member of such agency shall participate in any hearing or decision of such agency of which he is a member upon any matter in which he is directly or indirectly interested in a personal or financial sense. In the event of disqualification, such fact shall be entered on the records of the agency and replacement shall be made from alternate members of an alternate to act as a member of such commission in the hearing and determination of the particular matter or matters in which the disqualification arose.

(b) Not more than six months after approval by the commissioner of mapping at level A, pursuant to section 22a-354d, as amended by this act, the aquifer protection agency of the municipality in which such aquifer protection area is located shall adopt regulations for aquifer protection.

(c) At least one member of the agency or staff of the agency shall be a person who has completed the course in technical training formulated by the commissioner pursuant to section 22a-354v. Failure to have a member of the agency or staff with training shall not affect the validity of any action of the agency and shall be grounds for revocation of the authority of the agency under section 22a-354t.

(d) Any municipality may establish, by ordinance, a fine for violations of regulations adopted pursuant to section 22a-354p, as amended by this act, provided the amount of any such fine shall not be more than one thousand dollars and further provided no such fine may be levied against the state or any employee of the state acting within the scope of his employment. Any police officer or other person

Substitute House Bill No. 7121

authorized by the chief executive officer of the municipality may issue a citation to any person who commits such a violation. Any municipality that adopts an ordinance pursuant to this subsection shall also adopt a citation hearing procedure pursuant to section 7-152c. Any fine collected by a municipality pursuant to this section shall be deposited into the general fund of the municipality or in any special fund designated by the municipality. The provisions of this subsection shall not apply to agricultural uses, provided such uses are following best management practices.

Sec. 6. Section 22a-354p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) The aquifer protection agency authorized by section 22a-354o, as amended by this act, shall, by regulation, provide for (1) the manner in which the boundaries of aquifer protection areas shall be established and amended or changed, (2) the form for an application to conduct regulated activities within the area, (3) notice and publication requirements, (4) criteria and procedures for the review of applications, and (5) administration and enforcement.

(b) No regulations of an aquifer protection agency shall become effective or be established until after a public hearing in relation thereto is held by the agency at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing at least twice in a newspaper having a substantial circulation in the municipality at intervals of not less than two days, the first not more than twenty-five days nor less than fifteen days, and the last not less than two days, before such hearing, and a copy of such proposed regulation shall be filed in the office of the town, city or borough clerk, as the case may be, in such municipality, for public inspection at least ten days before such hearing, and may be published in full in such paper. A copy of the notice and the proposed

Substitute House Bill No. 7121

regulations or amendments thereto shall be provided to the Commissioner of Environmental Protection, the town clerk and any affected water company at least thirty-five days before such hearing. Such regulations may be from time to time amended, changed or repealed after a public hearing in relation thereto is held by the agency at which parties in interest and citizens shall have an opportunity to be heard and for which notice shall be published in the manner specified in this subsection. Regulations or changes therein shall become effective at such time as is fixed by the agency, provided a copy of such regulation or change shall be filed in the office of the town, city or borough clerk, as the case may be. Whenever an agency makes a change in regulations, it shall state upon its records the reason why the change was made. All petitions submitted in writing and in a form prescribed by the agency requesting a change in the regulations shall be considered at a public hearing in the manner provided for establishment of such regulations within ninety days after receipt of such petition. The agency shall act upon the changes requested in the petition within sixty days after the hearing. The petitioner may consent to extension of the periods provided for a hearing and for adoption or denial or may withdraw such petition.

(c) Pursuant to municipal regulations adopted under subsection (b) of this section, no regulated activity shall be conducted within any aquifer protection area without a permit. Any person proposing to conduct or cause to be conducted a regulated activity within an aquifer protection area shall file an application with the aquifer protection agency of each municipality wherein the aquifer in question is located. The application shall be in such form and contain such information as the agency may prescribe. [The day of receipt of an application shall be the day of the next regularly scheduled meeting of such agency, immediately following the day of submission to such agency or its agent of such application, provided such meeting is no earlier than three business days after receipt, or within thirty-five days after such

Substitute House Bill No. 7121

submission, whichever is sooner. No later than sixty-five days after the receipt of such application, the] The date of receipt of an application shall be determined in accordance with the provisions of subsection (c) of section 8-7d, as amended by this act. The agency may hold a public hearing on such application. [Notice of the hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected aquifer, or any part thereof, is located. The] Such hearing shall be held in accordance with the provisions of section 8-7d, as amended by this act. In addition to the requirements of section 8-7d, as amended by this act, the agency shall send to any affected water company, at least ten days before the hearing, a copy of the notice by certified mail, return receipt requested. [All applications, maps and documents relating thereto shall be open for public inspection. At such hearing any person or persons may appear and be heard. The hearing shall be completed within forty-five days of its commencement. Action shall be taken on applications within thirty-five days after the completion of a public hearing or in the absence of a public hearing within sixty-five days from the date of receipt of the application.]

(d) In granting, denying or limiting any permit for a regulated activity the aquifer protection agency shall state upon the record the reason for its decision. In granting a permit the agency may grant the application as filed or grant it upon such terms, conditions, limitations or modifications of the activity intended to carry out the policies of section 22a-354g. No person shall conduct any regulated activity within an aquifer protection area which requires zoning or subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception or variance, or other documentation establishing that the proposal complies with the zoning or subdivision requirements adopted by the municipality

Substitute House Bill No. 7121

pursuant to chapters 124 to 126, inclusive, or any special act. The agency may suspend or revoke a permit if it finds, after giving notice to the permittee of the facts or conduct which warrants the intended action and after a hearing at which the permittee is given an opportunity to show compliance with the requirements for retention of the permit, that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The agency shall send to any affected water company a copy of the notice at least ten days before the hearing by certified mail, return receipt requested. Any affected water company may, through a representative, appear and be heard at any such hearing. The applicant or permittee shall be notified of the agency's decision by certified mail, return receipt requested, within fifteen days of the date of the decision and the agency shall cause notice of its order in issuance, denial, revocation or suspension of a permit to be published in a newspaper having a general circulation in the municipality in which the aquifer protection area is located.

(e) The aquifer protection agency may require a filing fee to be deposited with the agency. The amount of such fee shall be sufficient to cover the reasonable cost of reviewing and acting on applications and petitions, including, but not limited to, the costs of certified mailings, publications of notices and decisions, and monitoring compliance with permit conditions, regulations adopted pursuant to sections 19a-37, 22-6c, 22a-354c, as amended by this act, 22a-354e, 22a-354g to 22a-354bb, inclusive, as amended by this act, 25-32d, 25-33h, 25-33n and subsection (a) of section 25-84, or agency orders.

(f) Any regulations adopted by an agency under this section shall not be effective unless the Commissioner of Environmental Protection determines that such regulations are reasonably related to the purpose of groundwater protection and not inconsistent with the regulations adopted pursuant to section 22a-354i. A regulation adopted by a

Substitute House Bill No. 7121

municipality shall not be deemed inconsistent if such regulation establishes a greater level of protection. The commissioner shall provide written notification to the agency of approval or the reasons such regulations cannot be approved within sixty days of receipt by the commissioner of the regulations adopted by the agency.

(g) (1) Notwithstanding any other provision of the general statutes, the commissioner shall have sole authority to grant, deny, limit or modify, in accordance with regulations adopted by him, a permit for any regulated activity in an aquifer protection area proposed by (A) any person to whom the commissioner has issued an individual permit for the subject site under the national pollutant discharge elimination system of the federal Clean Water Act (33 USC 1251 et seq.) or under the state pollutant discharge elimination system pursuant to section 22a-430 or any person to whom the commissioner has issued a permit for the subject site under the provisions of the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) for a treatment, storage or disposal facility, (B) any public service company, as defined in section 16-1, providing gas, electric, pipeline, water or telephone service, (C) any large quantity generator, as defined in regulations adopted by the commissioner under section 22a-449, or (D) any state department, agency or instrumentality, except any local or regional board of education. Such authority may be exercised only after an advisory decision on such permit has been rendered to the commissioner by the aquifer protection agency of the municipality within which such aquifer protection area is located or thirty-five days after receipt by the commissioner of the application for such permit, whichever occurs first. The commissioner shall provide prompt notice of receipt of an application to the municipal aquifer protection agency.

(2) If the commissioner requires the submission of a registration or other document under regulations adopted pursuant to section 22a-354i, such submission shall be made to the commissioner by any

Substitute House Bill No. 7121

person to whom the commissioner has issued an individual permit under the national pollutant discharge elimination system of the federal Clean Water Act, or an individual permit under the state pollutant discharge elimination system pursuant to section 22a-430, or by any person to whom the commissioner has issued a permit under the provisions of the federal Resource Conservation and Recovery Act for a treatment, storage or disposal facility, or any public service company, as defined in section 16-1, providing gas, electric, pipeline, water or telephone service, or a large quantity generator, as defined in regulations adopted by the commissioner under section 22a-449, or any state department, agency or instrumentality, except any local or regional board of education.

Sec. 7. Section 22a-354x of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) The Commissioner of Environmental Protection, in consultation with the Commissioner of Public Health and water companies, shall provide, within available appropriations, technical, coordinating and research services to promote the effective administration of sections 19a-37, 22-6c, 22a-354c, as amended by this act, 22a-354e, 22a-354g to 22a-354bb, inclusive, as amended by this act, 25-32d, 25-33h and 25-33n and subsection (a) of section 25-84 at the federal, state and local levels.

(b) The commissioner shall have the overall responsibility for general supervision of the implementation of sections 19a-37, 22-6c, 22a-354c, as amended by this act, 22a-354e, 22a-354g to 22a-354bb, inclusive, as amended by this act, 25-32d, 25-33h and 25-33n, and subsection (a) of section 25-84 and shall monitor and evaluate the activities of federal and state agencies and the activities of municipalities to assure continuing, effective, coordinated and consistent administration of the requirements and purposes of said sections.

Substitute House Bill No. 7121

(c) The commissioner shall exercise all incidental powers, including, but not limited to, the issuance of orders necessary to enforce rules and regulations adopted in accordance with sections 22a-354i to 22a-354m, inclusive, to carry out the purposes of sections 22a-354a to 22a-354bb, inclusive, as amended by this act.

[(c)] (d) The commissioner shall prepare and submit to the General Assembly and the Governor, on or before December first of each year, a written report summarizing the activities of the department concerning the development and implementation of sections 19a-37, 22-6c, 22a-354c, as amended by this act, 22a-354e, 22a-354g to 22a-354bb, inclusive, as amended by this act, 25-32d, 25-33h and 25-33n and subsection (a) of section 25-84 during the previous year. Such report shall include, but not be limited to: (1) The department's accomplishments and actions in achieving the goals and policies of said sections including, but not limited to, coordination with other state, regional, federal and municipal programs established to achieve the purposes of said sections; (2) recommendations for any statutory or regulatory amendments necessary to achieve such purposes; (3) a summary of municipal and federal programs and actions which affect aquifer protection areas; (4) recommendations for any programs or plans to achieve such purposes; (5) any aspects of the program or said sections which are proving difficult to accomplish, suggested reasons for such difficulties and proposed solutions to such difficulties; (6) a summary of the expenditure of federal and state funds under said sections; and (7) a request for an appropriation of funds necessary to match federal funds and provide continuing financial support for the program. Such report shall comply with the provisions of section 46a-78. On and after October 1, 1996, the report shall be submitted to the Governor, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and budgets of state agencies and relating to the environment and, upon request, to any member of the General Assembly. A summary of the report shall

Substitute House Bill No. 7121

be submitted to each member of the General Assembly if the summary is two pages or less and a notification of the report shall be submitted to each member if the summary is more than two pages. Submission shall be by mailing the report, summary or notification to the legislative address of each member of the committee or the General Assembly, as applicable.

Sec. 8. Section 22a-354z of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) Not later than three years after the adoption by the Commissioner of Environmental Protection of a model municipal aquifer protection ordinance under section 22a-354l, each public or private water company serving at least one thousand persons but not more than ten thousand persons shall map areas of contribution and recharge areas at level A for each existing stratified drift well located within its water supply area.

(b) Each public or private water supply company serving at least one thousand but not more than ten thousand persons shall map areas of contribution and recharge areas for all of the potential wells located in stratified drift aquifers identified as future sources of water supply in accordance with the plan submitted pursuant to section 25-33h at level B not more than two years after [approval of the plan and at level A not more than five years after approval] the Commissioner of Environmental Protection requests such mapping.

(c) For the purpose of this section, any community water system which is part of an existing water company but which is not physically connected to such existing water company shall be considered a separate water company for purposes of determining the number of persons served by the existing water company's system and any of its separate systems.

Substitute House Bill No. 7121

Approved June 1, 2007