



**Substitute Senate Bill No. 1341**

**Public Act No. 07-244**

**AN ACT CONCERNING APPLICATION FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY, PROTECTING PUBLIC AND PRIVATE WATER SUPPLIES FROM CONTAMINATION AND AUTHORIZING THE LEASE OF CERTAIN WATER COMPANY OWNED CLASS I AND CLASS II LANDS.**

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

Section 1. Section 16-262m of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(a) As used in this section and section 8-25a, "water company" means a corporation, company, association, joint stock association, partnership, municipality, state agency, other entity or person, or lessee thereof, owning, leasing, maintaining, operating, managing or controlling any pond, lake, reservoir, stream, well or distributing plant or system employed for the purpose of supplying water to fifteen or more service connections or twenty-five or more persons [on a regular basis] for at least sixty days in any one year.

(b) No water company may begin the construction of a water supply system for the purpose of supplying water to fifteen or more service connections or twenty-five or more persons for at least sixty days in any one year, and no [water company] person or entity, except a water company supplying more than two hundred fifty service connections

**Substitute Senate Bill No. 1341**

or one thousand persons, may begin expansion of such a water supply system, without having first obtained a certificate of public convenience and necessity. [for the construction or expansion from the Department of Public Utility Control and the Department of Public Health. An]

(c) For systems serving twenty-five or more residents that are not the subject of proceedings under subsection (c) of section 16-262n or section 16-262o, an application for a certificate of public convenience and necessity shall be on a form prescribed by the Department of Public Utility Control, in consultation with the Department of Public Health, and accompanied by a copy of the water company's construction or expansion plans, [and] a fee of one hundred dollars and when applicable, a copy of a signed agreement between the water company and provider for the exclusive service area, as determined pursuant to section 25-33g, detailing those terms and conditions under which the system will be constructed or expanded and for which the provider will assume service and ownership responsibilities. The departments shall issue a certificate to an applicant upon determining, to their satisfaction, that (1) no [feasible] interconnection is feasible with [an existing system is available to the applicant] a water system owned by, or made available through arrangement with, the provider for the exclusive service area, as determined pursuant to section 25-33g or with another existing water system where no exclusive service area has been assigned, (2) the applicant will complete the construction or expansion in accordance with engineering standards established by regulation by the Department of Public Utility Control for water supply systems, (3) [the applicant has the financial, managerial and technical resources to operate the proposed water supply system in a reliable and efficient manner and to provide continuous adequate service to consumers served by the system] ownership of the system will be assigned to the provider for the exclusive service area, as determined pursuant to section 25-33g, (4) the proposed construction

**Substitute Senate Bill No. 1341**

or expansion will not result in a duplication of water service in the applicable service area, and (5) the applicant meets all federal and state standards for water supply systems. [, provided subdivisions (1) and (4) of this subsection shall not apply to any water supply system (A) owned and operated or proposed to be owned and operated, by a municipality, municipal district or regional water authority, (B) owned by a municipality, municipal district or regional water authority and operated, or proposed to be operated, on its behalf by an operator that has obtained all required certifications from the Department of Public Health, including but not limited to certifications required by regulations established pursuant to section 25-32, or (C) owned or operated by a nonprofit corporation on behalf of one or more municipalities for the purpose of providing water service to an elderly housing project which has obtained all required certifications from the Department of Public Health, including but not limited to certifications required by regulations established pursuant to section 25-32. Nothing in this section shall prevent a municipality, municipal district or regional water authority from voluntarily transferring ownership of a water supply system to another water company, a municipal public service company or regional water authority.] Any construction or expansion with respect to which a certificate is required shall thereafter be built, maintained and operated in conformity with the certificate and any terms, limitations or conditions contained therein.

[(c)] (d) The Department of Public Utility Control [, in consultation with] and the Department of Public Health, shall each adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of subsections (a) to (c), inclusive, of this section.

(e) (1) For systems serving twenty-five or more persons, but not twenty-five or more residents, at least sixty days in any one year an application for a certificate of public convenience and necessity shall be on a form prescribed by the Department of Public Health and

***Substitute Senate Bill No. 1341***

accompanied by a copy of the construction or expansion plans. The Department of Public Health shall issue a certificate to an applicant upon determining, to its satisfaction, that (A) no interconnection is feasible with a water system owned by, or made available through arrangement with, the provider for the exclusive service area, as determined pursuant to section 25-33g or with another existing water system where no existing exclusive service area has been assigned, (B) the applicant will complete the construction or expansion in accordance with engineering standards established by regulation for water supply systems, (C) ownership of the system will be assigned to the provider for the exclusive service area, as determined pursuant to section 25-33g, if agreeable to the exclusive service area provider and the Department of Public Health, or may remain with the applicant, if agreeable to the Department of Public Health, provided the applicant has the financial, managerial and technical resources to (i) operate the proposed water supply system in a reliable and efficient manner, and (ii) provide continuous adequate service to consumers served by the system, until such time as the water system for the exclusive service area, as determined by section 25-33g, has made an extension of the water main, after which the applicant shall obtain service from the provider for the exclusive service area, (D) the proposed construction or expansion will not result in a duplication of water service in the applicable service area, and (E) the applicant meets all federal and state standards for water supply systems. Any construction or expansion with respect to which a certificate is required shall thereafter be built, maintained and operated in conformity with the certificate and any terms, limitation or conditions contained therein. Properties held by the Department of Environmental Protection and used for or in support of fish culture, natural resource conservation or outdoor recreational purposes shall be exempt from the requirements of subdivisions (1), (3) and (4) of subsection (c) of this section and subparagraphs (A), (C) and (D) of subdivision (1) of subsection (e) of this section.

**Substitute Senate Bill No. 1341**

(2) The Department of Public Health shall adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this subsection. Such regulations may include measures that encourage water conservation and proper maintenance.

Sec. 2. Subsection (d) of section 19a-36 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(d) [Notwithstanding any regulation adopted by the Commissioner of Public Health for purposes of the Public Health Code, the] The local director of health may authorize the use of an existing private well, [or] consistent with all applicable sections of the regulations of Connecticut state agencies, the installation of a replacement well at a single-family residential premises [that] on property whose boundary is located within two hundred feet of an approved community water supply system, measured along a street, alley or easement, where (1) a premises that is not connected to the public water supply may replace a well used for domestic purposes if water quality testing is performed at the time of the installation, and for at least every ten years thereafter, or for such time as requested by the local director of health, that demonstrates that the replacement well meets the water quality standards for private wells established in the Public Health Code, and provided there is no [connection between the residential water supply well and the] service to the premises by a public water supply, [and all other applicable sections of the regulations of Connecticut state agencies are met,] or (2) a premises served by a public water supply may utilize or replace an existing well or install a new well solely for irrigation purposes or other outdoor water uses provided such well is permanently and physically separated from the internal plumbing system of the premises and a reduced pressure device is installed to protect against a cross connection with the public water supply. Upon a determination by the local director of health that an irrigation well

**Substitute Senate Bill No. 1341**

creates an unacceptable risk of injury to the health or safety of persons using the water, to the general public, or to any public water supply, the local director of health may issue an order requiring the immediate implementation of mitigation measures, up to and including permanent abandonment of the well, in accordance with the provisions of the Connecticut Well Drilling Code adopted pursuant to section 25-128. In the event a cross connection with the public water system is found, the owner of the system may terminate service to the premises.

Sec. 3. Section 19a-209a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

The director of health of a town, city, or borough or of a district health department may issue a permit for the installation or replacement of a water supply well [on] at residential premises [that are] on property whose boundary is located within two hundred feet of an approved community water supply system, measured along a street, alley or easement, where (1) the water from the water supply well is only used for irrigation or other outside use and is not used for human consumption, [provided] (2) a reduced pressure device is installed to protect against a cross connection with the public water supply, [(2) the well replaces an existing well that was used at the premises for domestic purposes, or (3) the Department of Public Utility Control has ordered the community water supply system to reduce the demand on its system, provided (A)] (3) no connection exists between the water supply well and the community water system, and [(B)] (4) the use of the water supply well will not affect the purity or adequacy of the supply or service to the customers of the community water supply system. Any well installed pursuant to [subdivision (2) of] this subsection, except a well used for irrigation, shall be subject to water quality testing that demonstrates the supply meets the water quality standards established in section 19a-37 at the time of installation and at

**Substitute Senate Bill No. 1341**

least every ten years thereafter or as requested by the local director of health. Upon a determination by the local director of health that an irrigation well creates an unacceptable risk of injury to the health or safety of persons using the water, to the general public, or to any public water supply, the local director of health may issue an order requiring the immediate implementation of mitigation measures, up to and including permanent abandonment of the well, in accordance with the provisions of the Connecticut Well Drilling Code adopted pursuant to section 25-128. In the event a cross connection with the public water system is found, the owner of the system may terminate service to the premises.

Sec. 4. Subsection (c) of section 19a-37 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2007*):

(c) The Commissioner of Public Health shall adopt regulations, in accordance with chapter 54, to clarify the criteria under which a well permit exception may be granted and describe the terms and conditions that shall be imposed when a well is allowed at a premise (1) that is connected to a public water supply system, or (2) whose boundary is located within two hundred feet of an approved community water supply system, measured along a street, alley or easement. Such regulations shall [(1)] (A) provide for notification of the permit to the public water supplier, [(2)] (B) address the quality of the water supplied from the well, the means and extent to which the well shall not be interconnected with the public water supply, the need for a physical separation, and the installation of a reduced pressure device for backflow prevention, the inspection and testing requirements of any such reduced pressure device, and [(3)] (C) identify the extent and frequency of water quality testing required for the well supply.

Sec. 5. (NEW) (*Effective from passage*) No person who owns a private residential well that (1) currently supplies or previously supplied

**Substitute Senate Bill No. 1341**

water to another household, and (2) provides or previously provided continuous water service to such household for a period of at least fifty years, may discontinue such water service in the absence of an alternative, available source of water for such household. Each household to whom the private residential well supplies water shall contribute equally to the costs associated with maintaining the well.

Sec. 6. (*Effective from passage*) (a) Notwithstanding any provision of chapter 474 of the general statutes or the regulations of Connecticut state agencies, the city of New Britain may change the use of its water company owned class I and class II lands to allow for the lease of approximately 131.4 acres, more specifically described as 0 Biddle Pass in the town of Plainville, provided such lease is part of a contract to which the city of New Britain is a party and the contract includes provisions to accomplish the following:

(1) The lease and subsequent use of such land effectuates an increase in the future safe yield of a pure and adequate supply of drinking water for the city of New Britain and the surrounding area served by the city.

(2) By the conclusion of the lease, the person or entity to which such land is leased prepares the site for a public drinking water reservoir that is capable of supplying an adequate safe yield of public drinking water consistent with the most recently approved water supply plan, and the surrounding land for reforestation, including the planting of a sufficient number of trees on the portions of the site that are not to be used as a public drinking water reservoir in order to facilitate reforestation.

(3) The extraction of stone or other material from such land or any adjacent land is a sufficient distance from residential homes as to prevent unreasonable disruption of residential use.

**Substitute Senate Bill No. 1341**

(4) Such lease is for a term of forty years or less.

(5) Any conveyance of land immediately adjacent to the 131.4 acres, more specifically described as 0 Biddle Pass in the town of Plainville, shall contain appropriate deed restrictions sufficient to maintain a forested buffer of not less than 1000 feet measured from the quarry zone line.

(b) The contract authorized by subsection (a) of this section shall not be executed by the city of New Britain until the following have occurred:

(1) An environmental evaluation has been conducted by an independent third party approved by the Department of Public Health for the purpose of evaluating the potential impact on the purity and adequacy of the existing and future public water supply, and the Department of Public Health has reviewed such evaluation for the purpose of providing the New Britain Water Department with guidance concerning the suitability of the best management practices identified in the environmental evaluation for the protection of the public water supply and the public health. Such evaluation shall include, but not be limited to, an analysis of the (A) likely environmental impacts of such change of use on local hydrology, forest ecology and wetlands systems; (B) long term water supply needs for the city of New Britain as well as interconnected and reasonably feasibly interconnected water companies in the general geographic region surrounding the areas supplied by the city of New Britain's water reservoir system; (C) likely safe yield increase to the city of New Britain's water reservoir system that could be supplied by such change of use; (D) impact on raw reservoir water quality that is likely to occur from such change of use; (E) procedures and steps that are available to minimize environmental impacts from the proposed change of use, including offsets attributed to the conveyance of land immediately adjacent to the 131.4 acres, more specifically described as 0 Biddle Pass

***Substitute Senate Bill No. 1341***

in the town of Plainville; and (F) a summary conclusion comparing the environmental impacts as well as potential water supply benefits from such change of use.

(2) The Departments of Environmental Protection and Public Utility Control have had ninety days from the date of completion of the environmental evaluation to provide comments on such evaluation to the Department of Public Health.

(3) The Department of Public Health has approved the provisions in the lease relating to said department's jurisdiction over and duties concerning water supplies, water companies and operators of water treatment plants and water distribution systems. The Department of Public Health shall not approve such lease provisions unless the city of New Britain has demonstrated, to the satisfaction of the department, through the environmental evaluation conducted in accordance with subdivision (1) of this subsection, that such contract and lease will not have a significant adverse impact upon the present and future purity and adequacy of the public drinking water supply and will provide for an additional source of water consistent with the water supply plan of the city of New Britain and projected future water supply needs of the region served by said city.

(4) The Commissioner of Public Health has held a public hearing to solicit public comment on the environmental evaluation conducted in accordance with subdivision (1) of this subsection not later than thirty calendar days after receiving the environmental evaluation. Said commissioner shall give at least fifteen days' notice by publication in the Connecticut Law Journal of its intended action and shall accept public comments for not less than fifteen days after the conclusion of the public hearing.

(5) The mayor of the city of New Britain has proposed said lease and contract to the Common Council of said city.

***Substitute Senate Bill No. 1341***

(A) No later than thirty days prior to the submission of such lease and contract proposal to the Common Council, the mayor of the city of New Britain has conducted a public hearing at which said mayor hears the opinion of any person wishing to speak on the merits of the proposed lease and contract. No later than thirty days prior to said hearing, said mayor has caused a notice of such hearing to be published in a newspaper of general distribution in the city of New Britain and mailed notice to all persons residing within one mile of any part of the land to be conveyed. Said public hearing shall be held in the city of New Britain at a location within one mile of any part of the land to be conveyed.

(B) After such public hearing said mayor shall recommend to the Common Council of said city approval or disapproval of the lease and contract.

(C) Said mayor has submitted the lease and contract proposal to the legislative bodies of the city of New Britain and the town of Plainville, the inland wetland commissions of the city of New Britain and the town of Plainville, the City Plan Commission of the city of New Britain and the Planning and Zoning Commission of the town of Plainville.

(6) All appropriate authorities in the town of Plainville have approved the proposed use of said land.

(7) The inland wetland commission and the City Plan Commission of the city of New Britain have conducted a public hearing in accordance with procedures applicable in said city after receiving the proposal of the mayor of the city of New Britain in accordance with subdivision (5) of this subsection, and has voted to approve or reject the proposal of the mayor of New Britain within sixty days after receiving it.

(8) The Common Council of the city of New Britain has approved

***Substitute Senate Bill No. 1341***

the proposal of the mayor of the city of New Britain which was submitted in accordance with subdivision (5) of this subsection, including the lease and contract contained in such proposal. Said Common Council shall not consider such proposal until the inland wetland commission and the City Plan Commission of the city have approved such proposal in accordance with subdivision (7) of this subsection, and shall not approve said lease and contract after April 1, 2008.

(c) Prior to the commencement of any activities on the approximately 131.4 acres, more specifically described as 0 Biddle Pass in the town of Plainville, and subsequent to the lessee receiving all necessary federal, state and municipal approvals to commence extraction or reservoir development activities on such site, the lessee shall obtain deed restrictions for a minimum of twice the acreage that has been approved for extraction activities, which restrictions (1) prohibit the use and development of such acreage adjacent to such site for anything other than open space purposes, (2) permanently dedicate such acreage for land uses such as public parks or forests or natural areas, including, but not limited to, reservoirs, (3) require such acreage to be preserved predominantly in its natural scenic and open space condition that may allow for camping, hiking, forestry, fishing, wildlife or natural resource conservation, and (4) prohibit all other building or development except as may be required for source protection and to meet water quality standards, if used as a public water supply. In the event that the maximum amount of acreage on the site is approved for mineral extraction, such acreage restricted under this section shall include a minimum of seventy-five acres adjacent to the site and located in the town of Southington and, if requested by the town of Southington, shall be deeded to the town at no cost to the town; a minimum of ninety-four acres adjacent to the site and located in the town of Plainville and, if requested by the town of Plainville, shall be deeded to the town at no cost to the town; and a minimum of

***Substitute Senate Bill No. 1341***

ninety-four acres adjacent to the site and located in the city of New Britain, inclusive of the reservoir and, if requested by the city of New Britain, shall be deeded to the city at no cost to the city.

Sec. 7. (NEW) (*Effective from passage*) (a) Any person who applies to the Department of Public Health for authorization relating to the repair or new construction of a subsurface sewage disposal system that involves the waiver of the proximity requirement of a subsurface sewage disposal system in relation to a private residential well, shall notify all owners of abutting properties of such application by certified mail, return receipt requested. The notice shall include a copy of the application. A decision by the Department of Public Health concerning such application shall constitute a final decision for purposes of section 4-183 of the general statutes.

(b) A decision approving such an application shall not be an affirmative defense for the owner of the subsurface sewage disposal system to any claim of liability for damages relating to contamination caused by the proximity of a subsurface sewage disposal system to a private residential well.

Approved July 11, 2007