



House of Representatives

General Assembly

File No. 777

January Session, 2007

Substitute House Bill No. 7183

House of Representatives, May 7, 2007

The Committee on Appropriations reported through REP. MERRILL of the 54th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING WATER RESOURCE PLANNING.

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

1 Section 1. Section 21a-86a of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) [On or before October 1, 1990, the] The Commissioner of
4 Consumer Protection, in consultation with the Secretary of the Office
5 of Policy and Management, the chairperson of the Public Utilities
6 Control Authority, the State Building Inspector and the
7 Commissioners of Public Health and Environmental Protection, shall
8 adopt regulations in accordance with the provisions of chapter 54
9 establishing minimum efficiency standards for plumbing fixtures [and
10 other water-using devices, as appropriate] and automatic lawn
11 sprinkler systems in accordance with subsection (b) of this section.

12 (b) The maximum water use allowed [in the regulations adopted
13 under subsection (a) of this section] for showerheads, urinals, faucets
14 and replacement aerators manufactured or sold on or after October 1,

15 1990, shall be as follows: For showerheads, 2.5 gallons per minute; for
16 urinals, 1.0 gallons per flush; for bathroom sinks, lavatory and kitchen
17 faucets and replacement aerators, 2.5 gallons per minute, except that
18 lavatories in restrooms of public facilities shall be equipped with outlet
19 devices which limit the flow rate to a maximum of 0.5 gallons per
20 minute. The maximum water use allowed [in the regulations adopted
21 under subsection (a) of this section] for tank-type toilets, flushometer-
22 valve toilets, flushometer-tank toilets and electromechanical hydraulic
23 toilets manufactured or sold on or after January 1, 1992, shall be 1.6
24 gallons per flush, unless and until equivalent standards for similar
25 types of toilets are adopted by the American National Standards
26 Institute, Inc. Any automatic lawn sprinkler system installed on or
27 after October 1, 2007, shall be equipped with a rain sensor device or
28 switch that will automatically override the irrigation cycle of such
29 sprinkler system when adequate rainfall has occurred.

30 (c) Notwithstanding the provisions of subsection (b) of this section,
31 the Commissioner of Consumer Protection, after consultation with the
32 Secretary of the Office of Policy and Management, the chairperson of
33 the Public Utilities Control Authority, the State Building Inspector and
34 the Commissioners of Public Health and Environmental Protection,
35 may increase the level of efficiency for plumbing fixtures upon
36 determination that such increase would promote the conservation of
37 water and energy and be cost-effective for consumers who purchase
38 and use such fixtures. Any increased efficiency standard shall be
39 effective one year after its adoption.

40 (d) The Commissioner of Consumer Protection, in consultation with
41 the Secretary of the Office of Policy and Management, the chairperson
42 of the Public Utilities Control Authority, the State Building Inspector
43 and the Commissioners of Public Health and Environmental
44 Protection, shall adopt regulations in accordance with the provisions of
45 chapter 54 necessary to implement the provisions of sections 21a-86 to
46 21a-86g, inclusive. Such regulations shall provide for (1) the sale of
47 plumbing fixtures which do not meet the standards if the
48 commissioner determines that compliance is not feasible or an

49 unnecessary hardship exists, and (2) the sale of plumbing fixtures,
50 including, but not limited to, antique reproduction plumbing fixtures,
51 which do not meet the standards, provided such plumbing fixtures
52 were in stock in a store located in the state before October 1, 1990, if a
53 showerhead, urinal, faucet or replacement aerator or before January 1,
54 1992, if a tank-type toilet, flushometer-valve toilet, flushometer-tank
55 toilet or electromechanical hydraulic toilet.

56 Sec. 2. Section 21a-86b of the general statutes is repealed and the
57 following is substituted in lieu thereof (*Effective October 1, 2007*):

58 No person may sell, offer for sale or install any new showerhead,
59 urinal, faucet or replacement aerator on and after October 1, 1990, [or]
60 any new tank-type toilet, flushometer-valve toilet, flushometer-tank
61 toilet or electromechanical hydraulic toilet on and after January 1,
62 1992, or any new automatic lawn sprinkler system on and after
63 October 1, 2007, unless such showerhead, urinal, faucet, replacement
64 aerator, tank-type toilet, flushometer-valve toilet, flushometer-tank
65 toilet, [or] electromechanical hydraulic toilet or automatic lawn
66 sprinkler system meets or exceeds the efficiency standards set forth in
67 regulations adopted by the Commissioner of Consumer Protection
68 pursuant to subsection (a) of section 21a-86a, as amended by this act,
69 or is authorized under the regulations adopted by the commissioner
70 pursuant to subsection (d) of said section 21a-86a.

71 Sec. 3. Section 25-33o of the general statutes is repealed and the
72 following is substituted in lieu thereof (*Effective July 1, 2007*):

73 (a) The chairperson of the Public Utility Control Authority, or the
74 chairperson's designee, the Commissioner of Environmental
75 Protection, or the commissioner's designee, the Secretary of the Office
76 of Policy and Management, or the secretary's designee, and the
77 Commissioner of Public Health, or the commissioner's designee, shall
78 constitute a Water Planning Council to address issues involving the
79 water companies, water resources and state policies regarding the
80 future of the state's drinking water supply. [The chairperson of the
81 Public Utility Control Authority shall convene the first meeting of the

82 council.] On or after October 1, 2007, and each year thereafter, the
83 chairperson of the Water Planning Council shall be elected by the
84 members of the Water Planning Council.

85 (b) The Water Planning Council shall conduct a study, in
86 consultation with representatives of water companies, municipalities,
87 agricultural groups, environmental groups and other water users, that
88 shall include the following issues: (1) The financial viability, market
89 structure, reliability of customer service and managerial competence of
90 water companies; (2) fair and reasonable water rates; (3) protection and
91 appropriate allocation of the state's water resources while providing
92 for public water supply needs; (4) the adequacy and quality of the
93 state's drinking water supplies to meet current and future needs; (5) an
94 inventory of land and land use by water companies; (6) the status of
95 current withdrawals, projected withdrawals, river flows and the future
96 needs of water users; (7) methods for measurement and estimations of
97 natural flows in Connecticut waterways in order to determine
98 standards for stream flows that will protect the ecology of the state's
99 rivers and streams; (8) the status of river flows and available data for
100 measuring river flows; (9) the streamlining of the water diversion
101 permit process; (10) coordination between the Departments of
102 Environmental Protection, Public Health and Public Utility Control in
103 review of applications for water diversion; and (11) the procedure for
104 coordination of planning of public water supply systems established in
105 sections 25-33c to 25-33j, inclusive. Such study shall be conducted on
106 both a regional and state-wide level.

107 (c) The council may establish an advisory group that shall serve at
108 the pleasure of the council. The advisory group shall be balanced
109 between consumptive and nonconsumptive interests. The advisory
110 group may include representatives of (1) regional and municipal water
111 utilities, (2) investor-owned water utilities, (3) a wastewater system, (4)
112 agricultural interests, (5) electric power generation interests, (6)
113 business and industry interests, (7) environmental land protection
114 interests, (8) environmental river protection interests, (9) boating
115 interests, (10) fisheries interests, (11) recreational interests, (12)

116 endangered species protection interests, and (13) members of academia
117 with expertise in stream flow, public health and ecology.

118 [(c)] (d) The council shall, not later than January 1, 2002, and
119 annually thereafter, report its preliminary findings and any proposed
120 legislative changes to the joint standing committees of the General
121 Assembly having cognizance of matters relating to public health, the
122 environment and public utilities in accordance with section 11-4a,
123 except that not later than February 1, 2004, the council shall report its
124 recommendations in accordance with this subsection with regard to (1)
125 a water allocation plan based on water budgets for each watershed, (2)
126 funding for water budget planning, giving priority to the most highly
127 stressed watersheds, and (3) the feasibility of merging the data
128 collection and regulatory functions of the Department of
129 Environmental Protection's inland water resources program and the
130 Department of Public Health's water supplies section.

131 Sec. 4. (NEW) (*Effective October 1, 2007*) (a) The Office of Policy and
132 Management shall conduct a study to:

133 (1) Review and prioritize the recommendations and the goals of the
134 Water Planning Council developed prior to October 1, 2007;

135 (2) Compile information from other reports or studies regarding
136 water resources planning in the state;

137 (3) Establish a mechanism to perform an in-depth analysis of
138 existing statutes and regulations of the Department of Environmental
139 Protection, the Department of Public Health and the Department of
140 Public Utility Control for areas of overlapping and conflicting or
141 inefficient procedures;

142 (4) Review and summarize other states' regulatory programs and
143 structures, relating to water resource planning, including, but not
144 limited to, their approaches to water allocation;

145 (5) Identify processes and funding needs for the evaluation of
146 existing water diversion data and approaches to basin planning

147 projects and coordinate water data collection from, and analysis
148 among, the Department of Environmental Protection, the Department
149 of Public Health, the Department of Public Utility Control, the Office
150 of Policy and Management and the United States Geological Survey,
151 and recommend supplemental data collection, as appropriate;

152 (6) Evaluate existing water conservation programs and make
153 recommendations to enhance water conservation programs to promote
154 a water conservation ethic and to provide for appropriate drought
155 response and enforcement capabilities; and

156 (7) Identify funding requirements and mechanisms for ongoing
157 efforts in water resources planning in the state.

158 (b) The Office of Policy and Management shall transfer sufficient
159 funds to the Department of Environmental Protection for data
160 collection and analysis conducted by said department for the purposes
161 of this section.

162 (c) Not later than February 1, 2008, and annually thereafter, the
163 Secretary of the Office of Policy and Management shall submit a
164 report, in accordance with the provisions of section 11-4a of the general
165 statutes, on its findings pursuant to the study in subsection (a) of this
166 section, along with any recommended legislative revisions, to the joint
167 standing committees of the General Assembly having cognizance of
168 matters relating to public utilities and appropriations and to the Water
169 Planning Council.

170 Sec. 5. Subsection (a) of section 16-43 of the general statutes is
171 repealed and the following is substituted in lieu thereof (*Effective from*
172 *passage*):

173 (a) A public service company shall obtain the approval of the
174 Department of Public Utility Control to directly or indirectly (1) merge,
175 consolidate or make common stock with any other company, or (2)
176 sell, lease, assign, mortgage, except by supplemental indenture in
177 accord with the terms of a mortgage outstanding May 29, 1935, or

178 otherwise dispose of any essential part of its franchise, plant,
179 equipment or other property necessary or useful in the performance of
180 its duty to the public. Any such disposition of an essential part of such
181 other real property of a public service company shall be by public
182 auction or other procedure for public sale, provided such auction or
183 public sale shall be conducted upon notice of auction or sale published
184 at least once each week for two weeks preceding the date of such
185 auction or sale in a newspaper having a substantial circulation in the
186 county in which such property is located. The public service company
187 shall submit evidence to the department of the notice given. On a
188 showing of good cause by such company to use a means of disposal
189 other than by public auction or other procedure for public sale, the
190 department may, on a finding of such good cause, authorize the use of
191 an alternative sales process. No public auction or public sale procedure
192 shall be required for the sale or other disposition of real property by a
193 water company to a municipality, the state or a land conservation
194 organization if at least seventy per cent of the area of the real property
195 sold or disposed of is to be used for open space or recreational
196 purposes, as defined in subsection (f) of section 16-50d, and if the
197 consideration received for such sale or disposition is not less than the
198 appraised value of such property. A public service company other than
199 a water company may sell, lease, assign, mortgage or otherwise
200 dispose of improved real property with an appraised value of two
201 hundred fifty thousand dollars or less or unimproved real property
202 with an appraised value of fifty thousand dollars or less without such
203 approval. The department shall follow the procedures in section 16-50c
204 for transactions involving unimproved land owned by a public service
205 company other than a water company. A water company supplying
206 water to more than five hundred consumers may sell, lease, assign,
207 mortgage, or otherwise dispose of real property, other than public
208 watershed or water supply lands, with an appraised value of fifty
209 thousand dollars or less without such approval. The department shall
210 not accept an application to sell watershed or water supply lands until
211 the Commissioner of Public Health issues a permit pursuant to section
212 25-32. The condemnation by a state department, institution or agency

213 of any land owned by a public service company shall be subject to the
 214 provisions of this subsection. On February 1, 1996, and annually
 215 thereafter, each public service company shall submit a report to the
 216 Department of Public Utility Control of all real property sold, leased,
 217 assigned, mortgaged, or otherwise disposed of without the approval of
 218 said department during the previous calendar year. Such report shall
 219 include for each transaction involving such property, without
 220 limitation, the appraised value of the real property, the actual value of
 221 the transaction and the accounting journal entry which recorded the
 222 transaction.

223 Sec. 6. Section 29-265b of the general statutes is repealed. (*Effective*
 224 *October 1, 2007*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	21a-86a
Sec. 2	<i>October 1, 2007</i>	21a-86b
Sec. 3	<i>July 1, 2007</i>	25-33o
Sec. 4	<i>October 1, 2007</i>	New section
Sec. 5	<i>from passage</i>	16-43(a)
Sec. 6	<i>October 1, 2007</i>	Repealer section

APP *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 chamber thereof for any purpose:

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 08 \$	FY 09 \$
Policy & Mgmt., Off.	GF - Implements the Budget	67,000	67,000
Department of Environmental Protection	GF - Implements the Budget	32,000	32,000
Public Health, Dept.	GF - None	None	None
Consumer Protection, Dept.	GF - None	None	None
Comptroller Misc. Accounts (Fringe Benefits)	GF - Implements the Budget	24,510	57,190

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill requires the Office of Policy and Management (OPM) to perform a variety of reviews and specific analysis and report such findings by February 1, 2008 and annually thereafter. This will require one additional analyst with associated salary of \$65,000¹ and related expenses of \$2,000. Additional resources may be needed for a consultant to assist with analysis and prepare the report, these costs could be significant. It is anticipated that the Department of Environmental Protection will require half of a full time analyst at a cost of \$30,000 plus fringe benefits and associated expenses of \$2,000 for analysis required, and to gather data concerning water planning. No costs are anticipated to the Department of Public Health. The

¹ The fringe benefit costs for state employees are budgeted centrally in the Miscellaneous Accounts administered by the Comptroller. The estimated first year fringe benefit rate for a new employee as a percentage of average salary is 25.8%, effective July 1, 2006. The first year fringe benefit costs for new positions do not include pension costs. The state's pension contribution is based upon the prior year's certification by the actuary for the State Employees Retirement System (SERS). The SERS 2006-07 fringe benefit rate is 34.4%, which when combined with the non pension fringe benefit rate totals 60.2%.

budget, sHB 7077 as favorably reported by the Appropriations Committee, contains \$200,000 in each year of the biennium, and two staff positions in the Office of Policy and Management (OPM) for the Water Planning Council. The bill directs OPM to transfer funds as necessary to the Department of Environmental Protection for costs incurred by the agency to implement the bill. Funding provided in the budget is sufficient to cover these costs.

There are no costs to the Department of Consumer Protection to adopt implementing regulations for new automatic lawn sprinkler systems.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sHB 7183*****AN ACT CONCERNING WATER RESOURCE PLANNING.*****SUMMARY:**

This bill expands the requirement that lawn sprinkler systems have an automatic shut off switch when there has been enough rain to eliminate the need to use the system's irrigation cycle. Under current law, such switches are required at a state agency or business that installs an automatic lawn sprinkler system on or after October 1, 2003. The bill instead requires all automatic lawn sprinkler systems installed on or after October 1, 2007 to have such a switch. It bars the sale or installation of any new automatic lawn sprinkler systems not equipped with such switches starting October 1, 2007.

The bill requires the Department of Consumer Protection (DCP), in consultation with various agencies, to adopt implementing regulations. The agencies are the Office of Policy and Management (OPM); the state building inspector; and the departments of Public Health (DPH), Public Utility Control (DPUC), and Environmental Protection (DEP). It repeals the authority for municipalities to adopt ordinances requiring installation of such switches in all sprinkler systems. It also repeals the authority for DCP, in consultation with these agencies, to establish efficiency standards for water-using devices other than sprinkler systems and plumbing fixtures.

The bill requires OPM to review and prioritize the recommendations of the Water Planning Council, among other things. It requires OPM to submit an annual report on these issues to the council and the Appropriations and Energy and Technology committees. It requires the members of the Water Planning Council,

starting October 1, 2007, and annually thereafter, to elect a chairperson from among themselves. It also allows the council to establish an advisory council.

The bill creates an exception to the law that requires a utility to use an auction or other public sale method to dispose of an essential part of its real property. The exception is for the sale or other disposition of a water company's real property to a municipality, the state, or a land conservation organization if at least 70% of the property's area will be used for open space or recreational purposes and the sale or disposition is for at least the property's appraised value.

EFFECTIVE DATE: Upon passage for the water company land sales provisions, July 1, 2007 for the Water Planning Council provisions, and October 1, 2007 for the remaining provisions.

WATER PLANNING COUNCIL

By law, the Water Planning Council is required to address issues involving water companies, water resources, and state drinking water policies. Currently, the council consists of the Public Utility Control Authority chairperson (i.e., the DPUC head), the DEP and DPH commissioners, and the OPM secretary, or their designees.

OPM RESPONSIBILITIES

The bill requires OPM to:

1. review and prioritize the recommendations and goals the Water Planning Council developed before October 1, 2007;
2. compile information from other reports or studies on water resources planning in the state;
3. establish a mechanism to perform an in-depth analysis of existing DEP, DPH, and DPUC statutes and regulations in areas of overlapping and conflicting or inefficient procedures;
4. review and summarize other states' regulatory programs and structure relating to water resource planning, including their

approaches to water allocation;

5. identify processes and funding needs for the evaluation of existing water diversion data and approaches to basin planning projects, and coordinate water data collection from, and analysis among, the DEP, DPH, DPUC, OPM, and the U.S. Geological Survey, and recommend supplemental data collection, as appropriate;
6. evaluate existing water conservation programs and recommend ways to enhance them to promote a water conservation ethic and to provide for appropriate drought response and enforcement capabilities;
7. identify funding requirements and mechanisms for ongoing efforts in water resources planning in the state; and
8. transfer sufficient funds to DEP for data collection and analysis.

The bill requires OPM, by February 1 annually, to report the findings of this study, together with proposed legislative changes, to the council and the Appropriations and Energy and Technology committees.

ADVISORY COUNCIL

The bill allows the council to establish an advisory group to serve at its pleasure. The group must be balanced between water consumers and other interests. The group can include representatives of:

1. regional and municipal water utilities;
2. investor-owned water utilities;
3. a wastewater system;
4. agricultural interests;
5. electric power generation interests;

6. business and industry interests;
7. environmental land protection interests;
8. environmental river protection interests;
9. boating interests;
10. fisheries interests;
11. recreational interests;
12. endangered species protection interests; and
13. academics with expertise in stream flow, public health, and ecology.

BACKGROUND

Legislative History

The House referred the bill (File 136) to the Appropriations Committee. The committee reported a substitute that added the provision requiring OPM to transfer sufficient funds to DEP for data collection and analysis.

COMMITTEE ACTION

Energy and Technology Committee

Joint Favorable Substitute

Yea 21 Nay 0 (03/08/2007)

Appropriations Committee

Joint Favorable Substitute

Yea 48 Nay 0 (04/19/2007)