



General Assembly

Substitute Bill No. 1357

January Session, 2007

* SB01357ENV__032007__ *

AN ACT CONCERNING MUNICIPAL WATER POLLUTION CONTROL SYSTEMS.

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

1 Section 1. Section 22a-478 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective July 1, 2007*):

3 (a) The commissioner shall maintain a priority list of eligible water
4 quality projects and shall establish a system setting the priority for
5 making project grants, grant account loans and project loans. In
6 establishing such priority list and ranking system, the commissioner
7 shall consider all factors he deems relevant, including, but not limited
8 to, the following: (1) The public health and safety; (2) protection of
9 environmental resources; (3) population affected; (4) attainment of
10 state water quality goals and standards; (5) consistency with the state
11 plan of conservation and development; (6) state and federal
12 regulations; [and] (7) regionalized water pollution control systems; and
13 (8) the formation in municipalities of local housing partnerships
14 pursuant to the provisions of section 8-336f. The priority list of eligible
15 water quality projects shall include a description of each project and its
16 purpose, impact, cost and construction schedule, and an explanation of
17 the manner in which priorities were established. The commissioner
18 shall adopt an interim priority list of eligible water quality projects for
19 the purpose of making project grants, grant account loans and project

20 loans prior to adoption of final regulations, which priority list shall be
21 the priority list currently in effect under subsection (c) of section 22a-
22 439.

23 (b) In each fiscal year the commissioner may make project grants,
24 grant account loans and project loans to municipalities in the order of
25 the priority list of eligible water quality projects to the extent of
26 moneys available therefor in the appropriate accounts of the Clean
27 Water Fund. Each municipality undertaking an eligible water quality
28 project may apply for and receive a project grant and loan or project
29 grants and loans in an amount equal to one hundred per cent of the
30 eligible water quality project costs.

31 (c) The funding of an eligible water quality project shall be pursuant
32 to a project funding agreement between the state, acting by and
33 through the commissioner, and the municipality undertaking such
34 project and shall be evidenced by a project fund obligation or grant
35 account loan obligation, or both, or an interim funding obligation of
36 such municipality issued in accordance with section 22a-479. A project
37 funding agreement shall be in a form prescribed by the commissioner.
38 Eligible water quality projects shall be funded as follows:

39 (1) A nonpoint source pollution abatement project shall receive a
40 project grant of seventy-five per cent of the cost of the project
41 determined to be eligible by the commissioner.

42 (2) A combined sewer project shall receive (A) a project grant of fifty
43 per cent of the cost of the project, and (B) a loan for the remainder of
44 the costs of the project, not exceeding one hundred per cent of the
45 eligible water quality project costs.

46 (3) A construction contract eligible for financing awarded by a
47 municipality on or after July 1, 1999, as a project undertaken for
48 nitrogen removal shall receive a project grant of thirty per cent of the
49 cost of the project associated with nitrogen removal, a twenty per cent
50 grant for the balance of the cost of the project not related to nitrogen

51 removal, and a loan for the remainder of the costs of the project, not
52 exceeding one hundred per cent of the eligible water quality project
53 costs. Nitrogen removal projects under design or construction on July
54 1, 1999, and projects that have been constructed but have not received
55 permanent, Clean Water Fund financing, on July 1, 1999, shall be
56 eligible to receive a project grant of thirty per cent of the cost of the
57 project associated with nitrogen removal, a twenty per cent grant for
58 the balance of the cost of the project not related to nitrogen removal,
59 and a loan for the remainder of the costs of the project, not exceeding
60 one hundred per cent of the eligible water quality project costs.

61 (4) If supplemental federal grant funds are available for Clean Water
62 Fund projects specifically related to the clean-up of Long Island Sound
63 that are funded on or after July 1, 2003, a distressed municipality, as
64 defined in section 32-9p, may receive a combination of state and
65 federal grants in an amount not to exceed fifty per cent of the cost of
66 the project associated with nitrogen removal, a twenty per cent grant
67 for the balance of the cost of the project not related to nitrogen
68 removal, and a loan for the remainder of the costs of the project, not
69 exceeding one hundred per cent of the allowable water quality project
70 costs.

71 (5) A municipality with a water pollution control project, the
72 construction of which began on or after July 1, 2003, which has (A) a
73 population of five thousand or less, or (B) a population of greater than
74 five thousand which has a discrete area containing a population of less
75 than five thousand that is not contiguous with the existing sewerage
76 system, shall be eligible to receive a grant in the amount of twenty-five
77 per cent of the design and construction phase of eligible project costs,
78 and a loan for the remainder of the costs of the project, not exceeding
79 one hundred per cent of the eligible water quality project costs.

80 (6) Any eligible water quality project undertaken jointly by two or
81 more municipalities for the purpose of creating a regionalized water
82 pollution control system shall receive: (A) A project grant of thirty per
83 cent of the eligible cost of such project; and (B) an interest free loan for

84 the remainder of the costs of such project. Such loan shall not exceed
85 one hundred per cent of the eligible cost of such project.

86 [(6)] (7) Any other eligible water quality project shall receive (A) a
87 project grant of twenty per cent of the eligible cost, and (B) a loan for
88 the remainder of the costs of the project, not exceeding one hundred
89 per cent of the eligible project cost.

90 [(7)] (8) Project agreements to fund eligible project costs with grants
91 from the Clean Water Fund that were executed during or after the
92 fiscal year beginning July 1, 2003, shall not be reduced according to the
93 provisions of the regulations adopted under section 22a-482.

94 [(8)] (9) On or after July 1, 2002, an eligible water quality project that
95 exclusively addresses sewer collection and conveyance system
96 improvements may receive a loan for one hundred per cent of the
97 eligible costs provided such project does not receive a project grant.
98 Any such sewer collection and conveyance system improvement
99 project shall be rated, ranked, and funded separately from other water
100 pollution control projects and shall be considered only if it is highly
101 consistent with the state's conservation and development plan, or is
102 primarily needed as the most cost effective solution to an existing area-
103 wide pollution problem and incorporates minimal capacity for growth.

104 [(9)] (10) All loans made in accordance with the provisions of this
105 section for an eligible water quality project shall bear an interest rate of
106 two per cent per annum. The commissioner may allow any project
107 fund obligation, grant account loan obligation or interim funding
108 obligation for an eligible water quality project to be repaid by a
109 borrowing municipality prior to maturity without penalty.

110 (d) Each project loan and grant account loan for an eligible water
111 quality project shall be made pursuant to a project funding agreement
112 between the state, acting by and through the commissioner, and such
113 municipality, and each project loan for an eligible water quality project
114 shall be evidenced by a project loan obligation, each grant account loan

115 for an eligible water quality project shall be evidenced by a grant
116 account loan obligation, or either may be evidenced by an interim
117 funding obligation of such municipality issued in accordance with
118 sections 22a-475 to 22a-483, inclusive. Except as otherwise provided in
119 said sections, each project funding agreement shall contain such terms
120 and conditions, including provisions for default which shall be
121 enforceable against a municipality, as shall be approved by the
122 commissioner. Each project loan obligation, grant account loan
123 obligation or interim funding obligation issued pursuant to a project
124 funding agreement for an eligible water quality project shall bear
125 interest at a rate of two per cent per annum. Except as otherwise
126 provided in sections 22a-475 to 22a-483, inclusive, each project loan
127 obligation, grant account loan obligation and interim funding
128 obligation shall be issued in accordance with the terms and conditions
129 set forth in the project funding agreement. Notwithstanding any other
130 provision of the general statutes, public act or special act to the
131 contrary, each project loan obligation and grant account loan
132 obligation for an eligible water quality project shall mature no later
133 than twenty years from the date of completion of the construction of
134 the project, except each project loan obligation and grant account loan
135 obligation shall mature not later than thirty years from the date of
136 completion of the construction of a regional water pollution control
137 project, and shall be paid in monthly installments of principal and
138 interest, if applicable, or in monthly installments of principal unless a
139 finding is otherwise made by the Treasurer of the state requiring a
140 different payment schedule. Interest on each project loan obligation
141 and grant account loan obligation for an eligible water quality project
142 shall be payable monthly unless a finding is otherwise made by the
143 Treasurer of the state requiring a different payment schedule. Principal
144 and interest on interim funding obligations issued under a project
145 funding agreement for an eligible water quality project shall be
146 payable at such time or times as provided in the project funding
147 agreement, not exceeding six months after the date of completion of
148 the planning and design phase or the construction phase, as applicable,
149 of the eligible water quality project, as determined by the

150 commissioner, and may be paid from the proceeds of a renewal note or
151 notes or from the proceeds of a project loan obligation or grant account
152 loan obligation. The commissioner may allow any project loan
153 obligation, grant account loan obligation or interim funding obligation
154 for an eligible water quality project to be repaid by the borrowing
155 municipality prior to maturity without penalty.

156 (e) (1) The commissioner may make a project grant or a grant
157 account loan or both to a municipality pursuant to a project funding
158 agreement for the planning and design phase of an eligible water
159 quality project. Principal and interest on a grant account loan for the
160 planning and design phases of an eligible water quality project may be
161 paid from and included in the principal amount of a loan for the
162 construction phase of an eligible water quality project.

163 (2) In lieu of a grant and loan pursuant to subsection (b) of this
164 section, the commissioner, upon written request by a municipality,
165 may make a project grant to such municipality in the amount of fifty-
166 five per cent of the cost approved by the commissioner for the
167 planning phase of an eligible water quality project.

168 (3) If supplemental federal grant funds are available for Clean Water
169 Fund projects specifically related to the clean-up of Long Island Sound
170 that are funded on or after July 1, 2003, a distressed municipality, as
171 defined in section 32-9p, may receive a combination of state and
172 federal grants in an amount not to exceed one hundred per cent of the
173 cost, approved by the commissioner, for the planning phase of an
174 eligible water quality project for nitrogen removal.

175 (f) A project grant, a grant account loan and a project loan for an
176 eligible water quality project shall not be made to a municipality
177 unless:

178 (1) In the case of a project grant, grant account loan and project loan
179 for the construction phase, final plans and specifications for such
180 project are approved by the commissioner;

181 (2) Each municipality undertaking such project provides assurances
182 satisfactory to the commissioner that the municipality shall undertake
183 and complete such project with due diligence and, in the case of a
184 project loan for the construction phase, that it shall own such project
185 and shall operate and maintain the eligible water quality project for a
186 period and in a manner satisfactory to the commissioner after
187 completion of such project;

188 (3) Each municipality undertaking such project has filed with the
189 commissioner all applications and other documents prescribed by the
190 commissioner within time periods prescribed by the commissioner;

191 (4) Each municipality undertaking such project has established
192 separate accounts for the receipt and disbursement of the proceeds of
193 such project grant, grant account loan and project loan and has agreed
194 to maintain project accounts in accordance with generally accepted
195 government accounting standards;

196 (5) In any case in which an eligible water quality project shall be
197 owned or maintained by more than one municipality, the
198 commissioner has received evidence satisfactory to the commissioner
199 that all such municipalities are legally required to complete their
200 respective portions of such project;

201 (6) Each municipality undertaking such project has agreed to
202 comply with such audit requirements as may be imposed by the
203 commissioner;

204 (7) In the case of a project grant, grant account loan and project loan
205 for the construction phase, each municipality shall assure the
206 commissioner that it has adequate legal, institutional, managerial and
207 financial capability to construct and operate the pollution abatement
208 facility for the design life of the facility; and

209 (8) In the case of a project grant, grant account loan and project loan
210 for the construction phase awarded after July 1, 1991, each
211 municipality shall demonstrate, to the satisfaction of the commissioner,

212 that it has implemented an adequate operation and maintenance
213 program for the municipal sewerage system for the design life of the
214 facility.

215 (g) Notwithstanding any provision of sections 22a-475 to 22a-483,
216 inclusive, to the contrary, the commissioner may make a project grant
217 or project grants and a grant account loan or loans in accordance with
218 the provisions of subsection (c) of this section with respect to an
219 eligible water quality project without regard to the priority list of
220 eligible water quality projects if a public emergency exists which
221 requires that the eligible water quality project be undertaken to protect
222 the public health and safety or the natural and environmental
223 resources of the state.

224 (h) The Department of Public Health shall establish and maintain a
225 priority list of eligible drinking water projects and shall establish a
226 system setting the priority for making project loans to eligible public
227 water systems. In establishing such priority list and ranking system,
228 the Commissioner of Public Health shall consider all factors which he
229 deems relevant, including but not limited to the following: (1) The
230 public health and safety; (2) protection of environmental resources; (3)
231 population affected; (4) risk to human health; (5) public water systems
232 most in need on a per household basis according to applicable state
233 affordability criteria; (6) compliance with the applicable requirements
234 of the federal Safe Drinking Water Act and other related federal acts;
235 (7) applicable state and federal regulations. The priority list of eligible
236 drinking water projects shall include a description of each project and
237 its purpose, impact, cost and construction schedule, and an
238 explanation of the manner in which priorities were established. The
239 Commissioner of Public Health shall adopt an interim priority list of
240 eligible drinking water projects for the purpose of making project
241 loans prior to adoption of final regulations, and in so doing may utilize
242 existing rules and regulations of the department relating to the
243 program. To the extent required by applicable federal law, the
244 Department of Public Health and the Commissioner of Environmental

245 Protection shall prepare any required intended use plan with respect
246 to eligible drinking water projects; (8) consistency with the plan of
247 conservation and development; (9) consistency with the policies
248 delineated in section 22a-380; and (10) consistency with the
249 coordinated water system plan in accordance with subsection (f) of
250 section 25-33d.

251 (i) In each fiscal year the commissioner may make project loans to
252 recipients in the order of the priority list of eligible drinking water
253 projects to the extent of moneys available therefor in the appropriate
254 accounts of the Clean Water Fund. Each recipient undertaking an
255 eligible drinking water project may apply for and receive a project loan
256 or loans in an amount equal to one hundred per cent of the eligible
257 project costs.

258 (j) The funding of an eligible drinking water project shall be
259 pursuant to a project funding agreement between the state, acting by
260 and through the Commissioner of Environmental Protection and the
261 Commissioner of Public Health, and the recipient undertaking such
262 project and shall be evidenced by a project fund obligation or an
263 interim funding obligation of such recipient issued in accordance with
264 section 22a-479. A project funding agreement shall be in a form
265 prescribed by the Commissioner of Environmental Protection and the
266 Commissioner of Public Health. Any eligible drinking water project
267 shall receive a project loan for the costs of the project. All loans made
268 in accordance with the provisions of this section for an eligible
269 drinking water project shall bear an interest rate not exceeding one-
270 half the rate of the average net interest cost as determined by the last
271 previous similar bond issue by the state of Connecticut as determined
272 by the State Bond Commission in accordance with subsection (t) of
273 section 3-20. The commissioner may allow any project fund obligation
274 or interim funding obligation for an eligible drinking water project to
275 be repaid by a borrowing recipient prior to maturity without penalty.

276 (k) Each project loan for an eligible drinking water project shall be
277 made pursuant to a project funding agreement between the state,

278 acting by and through the Commissioner of Environmental Protection
279 and the Department of Public Health, and such recipient, and each
280 project loan for an eligible drinking water project shall be evidenced by
281 a project loan obligation or by an interim funding obligation of such
282 recipient issued in accordance with sections 22a-475 to 22a-483,
283 inclusive. Except as otherwise provided in said sections 22a-475 to 22a-
284 483, inclusive, each project funding agreement shall contain such terms
285 and conditions, including provisions for default which shall be
286 enforceable against a recipient, as shall be approved by the
287 Commissioner of Environmental Protection and the Commissioner of
288 Public Health. Each project loan obligation or interim funding
289 obligation issued pursuant to a project funding agreement for an
290 eligible drinking water project shall bear an interest rate not exceeding
291 one-half the rate of the average net interest cost as determined by the
292 last previous similar bond issue by the state of Connecticut as
293 determined by the State Bond Commission in accordance with
294 subsection (t) of section 3-20. Except as otherwise provided in said
295 sections 22a-475 to 22a-483, inclusive, each project loan obligation and
296 interim funding obligation shall be issued in accordance with the terms
297 and conditions set forth in the project funding agreement.
298 Notwithstanding any other provision of the general statutes, public act
299 or special act to the contrary, each project loan obligation for an
300 eligible drinking water project shall mature no later than twenty years
301 from the date of completion of the construction of the project and shall
302 be paid in monthly installments of principal and interest or in monthly
303 installments of principal unless a finding is otherwise made by the
304 State Treasurer requiring a different payment schedule. Interest on
305 each project loan obligation for an eligible drinking water project shall
306 be payable monthly unless a finding is otherwise made by the State
307 Treasurer requiring a different payment schedule. Principal and
308 interest on interim funding obligations issued under a project funding
309 agreement for an eligible drinking water project shall be payable at
310 such time or times as provided in the project funding agreement, not
311 exceeding six months after the date of completion of the planning and
312 design phase or the construction phase, as applicable, of the eligible

313 drinking water project, as determined by the Commissioner of
314 Environmental Protection and the Commissioner of Public Health, and
315 may be paid from the proceeds of a renewal note or notes or from the
316 proceeds of a project loan obligation. The commissioner may allow any
317 project loan obligation or interim funding obligation for an eligible
318 drinking water project to be repaid by the borrowing recipient prior to
319 maturity without penalty with the concurrence of the Commissioner of
320 Public Health.

321 (l) The Commissioner of Environmental Protection and the
322 Commissioner of Public Health may make a project loan to a recipient
323 pursuant to a project funding agreement for an eligible drinking water
324 project for the planning and design phase of an eligible project, to the
325 extent provided by the federal Safe Drinking Water Act, as amended.
326 Principal and interest on a project loan for the planning and design
327 phases of an eligible drinking water project may be paid from and
328 included in the principal amount of a loan for the construction phase
329 of an eligible drinking water project.

330 (m) A project loan for an eligible drinking water project shall not be
331 made to a recipient unless: (1) In the case of a project loan for the
332 construction phase, final plans and specifications for such project are
333 approved by the Commissioner of Public Health, and when the
334 recipient is a water company, as defined in section 16-1, with the
335 concurrence of the Department of Public Utility Control, and with the
336 approval of the Commissioner of Environmental Protection for
337 consistency with financial requirements of the general statutes,
338 regulations and resolutions; (2) each recipient undertaking such project
339 provides assurances satisfactory to the Commissioner of Public Health
340 and the Commissioner of Environmental Protection that the recipient
341 shall undertake and complete such project with due diligence and, in
342 the case of a project loan for the construction phase, that it shall own
343 such project and shall operate and maintain the eligible drinking water
344 project for a period and in a manner satisfactory to the Department of
345 Public Health after completion of such project; (3) each recipient

346 undertaking such project has filed with the Commissioner of Public
347 Health all applications and other documents prescribed by the
348 Commissioner of Environmental Protection, the Department of Public
349 Utility Control and the Commissioner of Public Health within time
350 periods prescribed by the Commissioner of Public Health; (4) each
351 recipient undertaking such project has established separate accounts
352 for the receipt and disbursement of the proceeds of such project loan
353 and has agreed to maintain project accounts in accordance with
354 generally accepted government accounting standards or uniform
355 system of accounts, as applicable; (5) in any case in which an eligible
356 drinking water project shall be owned or maintained by more than one
357 recipient, the commissioner has received evidence satisfactory to him
358 that all such recipients are legally required to complete their respective
359 portions of such project; (6) each recipient undertaking such project
360 has agreed to comply with such audit requirements as may be
361 imposed by the commissioner; and (7) in the case of a project loan for
362 the construction phase, each recipient shall assure the Commissioner
363 of Environmental Protection, the Department of Public Utility Control,
364 as required, and the Commissioner of Public Health that it has
365 adequate legal, institutional, technical, managerial and financial
366 capability to ensure compliance with the requirements of applicable
367 federal law, except to the extent otherwise permitted by federal law.

368 (n) Notwithstanding any provision of sections 22a-475 to 22a-483,
369 inclusive, to the contrary, the Commissioner of Public Health with the
370 concurrence of the Commissioner of Environmental Protection may
371 make a project loan or loans in accordance with the provisions of
372 subsection (j) of this section with respect to an eligible drinking water
373 project without regard to the priority list of eligible drinking water
374 projects if a public drinking water supply emergency exists, pursuant
375 to section 25-32b, which requires that the eligible drinking water
376 project be undertaken to protect the public health and safety.

377 (o) The commissioner shall prepare an annual report to the
378 Governor within ninety days after the completion of each fiscal year

379 which includes a list of project funding agreements entered into during
380 the fiscal year then ended, the estimated year that funding will be
381 available for specific projects listed on each priority list of eligible
382 projects and a financial report on the condition of the Clean Water
383 Fund for the fiscal year then ended, which shall include a certification
384 by the commissioner of any amounts to become available for payment
385 of debt service or for the purchase or redemption of bonds during the
386 next succeeding fiscal year.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2007</i>	22a-478

Statement of Legislative Commissioners:

In subsection (a), new subdivision (10) was renumbered as subsection (6) and the remaining subdivisions were renumbered accordingly for clarity.

ENV *Joint Favorable Subst.-LCO*