



# House of Representatives

General Assembly

**File No. 617**

January Session, 2009

Substitute House Bill No. 6539

*House of Representatives, April 14, 2009*

The Committee on Public Health reported through REP. RITTER of the 38th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## ***AN ACT CONCERNING ENVIRONMENTAL HEALTH.***

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

1 Section 1. Section 16-262m of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

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

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

15 supplying more than two hundred fifty service connections or one  
16 thousand persons, may begin expansion of such a water supply  
17 system, without having first obtained a certificate of public  
18 convenience and necessity.

19 (c) For systems serving twenty-five or more residents that are not  
20 the subject of proceedings under subsection (c) of section 16-262n or  
21 section 16-262o, an application for a certificate of public convenience  
22 and necessity shall be on a form prescribed by the Department of  
23 Public Utility Control, in consultation with the Department of Public  
24 Health, and accompanied by a copy of the [water company's]  
25 applicant's construction or expansion plans, a fee of one hundred  
26 dollars and when [applicable] an exclusive service area provider has  
27 been determined pursuant to section 25-33g, a copy of a signed  
28 ownership agreement between the [water company] applicant and  
29 provider for the exclusive service area, as determined pursuant to  
30 section 25-33g, detailing those terms and conditions under which the  
31 system will be constructed or expanded and for which the provider  
32 will assume service and ownership responsibilities. [The] When an  
33 exclusive service area provider has been determined pursuant to  
34 section 25-33g, the application shall also be accompanied by a written  
35 certification from the exclusive service area provider, as the entity that  
36 will own the water supply system, that such provider has reviewed  
37 and concurs with the information provided by the applicant in the  
38 application. Written certification from the exclusive service area  
39 provider shall be on a form prescribed by said departments. Said  
40 departments shall issue a certificate to an applicant upon determining,  
41 to their satisfaction, that (1) no interconnection is feasible with a water  
42 system owned by, or made available through arrangement with, the  
43 provider for the exclusive service area, as determined pursuant to  
44 section 25-33g or with another existing water system where no  
45 exclusive service area has been assigned, (2) the applicant will  
46 complete the construction or expansion in accordance with  
47 engineering standards established by regulation by the Department of  
48 Public Utility Control for water supply systems, (3) ownership of the  
49 system will be assigned to the provider for the exclusive service area,

50 [as] when an exclusive service area provider has been determined  
51 pursuant to section 25-33g, (4) the proposed construction or expansion  
52 will not result in a duplication of water service in the applicable  
53 service area, [and] (5) the applicant meets all federal and state  
54 standards for water supply systems, and (6) the entity that will own  
55 the water supply system has the financial, managerial and technical  
56 resources to (A) operate the proposed water supply system in a  
57 reliable and efficient manner, and (B) provide continuous adequate  
58 service to consumers served by the water supply system. Any  
59 construction or expansion with respect to which a certificate is  
60 required shall thereafter be built, maintained and operated in  
61 conformity with the certificate and any terms, limitations or conditions  
62 contained therein.

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

67 (e) (1) For systems serving twenty-five or more persons, but not  
68 twenty-five or more residents, at least sixty days in any one year an  
69 application for a certificate of public convenience and necessity shall  
70 be on a form prescribed by the Department of Public Health and  
71 accompanied by a copy of the construction or expansion plans. The  
72 Department of Public Health shall issue a certificate to an applicant  
73 upon determining, to its satisfaction, that (A) no interconnection is  
74 feasible with a water system owned by, or made available through  
75 arrangement with, the provider for the exclusive service area, as  
76 determined pursuant to section 25-33g or with another existing water  
77 system where no existing exclusive service area has been assigned, (B)  
78 the applicant will complete the construction or expansion in  
79 accordance with engineering standards established by regulation for  
80 water supply systems, (C) ownership of the system will be assigned to  
81 the provider for the exclusive service area, as determined pursuant to  
82 section 25-33g, if agreeable to the exclusive service area provider and  
83 the Department of Public Health, or may remain with the applicant, if

84 agreeable to the Department of Public Health, [provided the applicant  
85 has the financial, managerial and technical resources to (i) operate the  
86 proposed water supply system in a reliable and efficient manner, and  
87 (ii) provide continuous adequate service to consumers served by the  
88 system,] until such time as the water system for the exclusive service  
89 area, as determined by section 25-33g, has made an extension of the  
90 water main, after which the applicant shall obtain service from the  
91 provider for the exclusive service area, (D) the proposed construction  
92 or expansion will not result in a duplication of water service in the  
93 applicable service area, [and] (E) the applicant meets all federal and  
94 state standards for water supply systems, and (F) the entity that will  
95 own the water supply system has the financial, managerial and  
96 technical resources to (i) operate the proposed water supply system in  
97 a reliable and efficient manner, and (ii) provide continuous adequate  
98 service to consumers served by the water supply system. Any  
99 construction or expansion with respect to which a certificate is  
100 required shall thereafter be built, maintained and operated in  
101 conformity with the certificate and any terms, limitation or conditions  
102 contained therein. Properties held by the Department of  
103 Environmental Protection and used for or in support of fish culture,  
104 natural resource conservation or outdoor recreational purposes shall  
105 be exempt from the requirements of subdivisions (1), (3) and (4) of  
106 subsection (c) of this section and subparagraphs (A), (C) and (D) of  
107 subdivision (1) of subsection (e) of this section.

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

112 Sec. 2. Subsections (a) and (b) of section 25-32d of the general  
113 statutes are repealed and the following is substituted in lieu thereof  
114 (*Effective October 1, 2009*):

115 (a) Each water company, as defined in section 25-32a, and supplying  
116 water to one thousand or more persons or two hundred fifty or more

117 consumers and any other water company as defined in said section  
118 requested by the Commissioner of Public Health shall submit a water  
119 supply plan to the Commissioner of Public Health for approval with  
120 the concurrence of the Commissioner of Environmental Protection. The  
121 concurrence of the Public Utilities Control Authority shall be required  
122 for approval of a plan submitted by a water company regulated by the  
123 authority. The Commissioner of Public Health shall consider the  
124 comments of the Public Utilities Control Authority on any plan which  
125 may impact any water company regulated by the authority. The  
126 Commissioner of Public Health shall distribute a copy of the plan to  
127 the Commissioner of Environmental Protection and the Public Utilities  
128 Control Authority. A copy of the plan shall be sent to the Secretary of  
129 the Office of Policy and Management for information and comment. A  
130 previously approved plan shall be revised only to the extent necessary  
131 to provide an update of those plan elements identified in subsection  
132 (b) of this section, at such time as the water company filing the plan or  
133 the Commissioner of Public Health determines, [or] provided any such  
134 revisions are filed, except as otherwise provided in this subsection, at  
135 intervals of not [less than three years nor] more than [five] nine years  
136 after the date of [initial] the last plan approval. When any company  
137 required to file a plan has failed to maintain an adequate margin of  
138 safety, is under an order entered by either the Commissioner of Public  
139 Health or the Commissioner of Environmental Protection, or has  
140 otherwise failed to meet public water supply obligations as prescribed  
141 in state law or regulation, the Commissioner of Public Health may  
142 require that plan revisions be filed six years after the date of the last  
143 plan approval.

144 (b) Any water supply plan submitted pursuant to this section shall  
145 evaluate the water supply needs in the service area of the water  
146 company submitting the plan and propose a strategy to meet such  
147 needs. The plan shall include: (1) A description of existing water  
148 supply systems; (2) an analysis of future water supply demands; (3) an  
149 assessment of alternative water supply sources which may include  
150 sources receiving sewage and sources located on state land; (4)  
151 contingency procedures for public drinking water supply emergencies,

152 including emergencies concerning the contamination of water, the  
 153 failure of a water supply system or the shortage of water; (5) a  
 154 recommendation for new water system development; (6) a forecast of  
 155 any future land sales, an identification which includes the acreage and  
 156 location of any land proposed to be sold, sources of public water  
 157 supply to be abandoned and any land owned by the company which it  
 158 has designated, or plans to designate, as class III land; (7) provisions  
 159 for strategic groundwater monitoring; (8) an analysis of the impact of  
 160 water conservation practices and a strategy for implementing supply  
 161 and demand management measures; [and] (9) on and after January 1,  
 162 2004, an evaluation of source water protection measures for all sources  
 163 of the water supply, based on the identification of critical lands to be  
 164 protected and incompatible land use activities with the potential to  
 165 contaminate a public drinking water source; and (10) a brief summary  
 166 of the water company's underground infrastructure replacement  
 167 practices, which may include current and future infrastructure needs,  
 168 methods by which projects are identified and prioritized for  
 169 rehabilitation and replacement and funding needs.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2009	16-262m
Sec. 2	October 1, 2009	25-32d(a) and (b)

**PH**            *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

---

**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

This bill makes changes to water service provider applications and does not result in a fiscal impact.

**The Out Years**

None

*Sources: Department of Public Health, Department of Public Utility Control*

---

**OLR Bill Analysis**

**sHB 6539**

***AN ACT CONCERNING ENVIRONMENTAL HEALTH.***

**SUMMARY:**

This bill requires exclusive service area providers (ESAPs) to certify that they agree with the information applicants for public water supply certificates of need and public convenience submit to the Public Health and Public Utility Control departments. It requires the departments, when deciding whether to issue a certificate, to consider whether the system's owner has the financial, managerial, and technical resources to operate it efficiently and reliably and provide continuous, adequate service to consumers.

It requires water company supply plans to include a brief summary of the company's underground infrastructure replacement practices. It lengthens, to nine years from between three to five years, the time between required plan revisions and limits revisions to just those elements that need updating.

EFFECTIVE DATE: October 1, 2009

**CERTIFICATES OF NEED AND PUBLIC NECESSITY**

By law, anyone who owns, operates, maintains, or manages a water system that supplies 15 or more service connections or 25 or more people for at least 60 days a year is a water company. This definition can apply to residential communities, professional offices, and youth camps, for example. Any water company that wants to construct or expand a water supply system that serves 25 or more residents must obtain a certificate of need and public necessity from the Public Health (DPH) and Public Utility Control departments. Once a system is constructed, an exclusive service area provider (ESAP) must own and

operate it.

Under current law, a water company's application for a certificate must include its plans and its agreement with the ESAP detailing the terms and conditions for the construction or expansion. The bill specifies that this is necessary only when an ESAP has been determined. It also requires that, when an ESAP has been determined, (1) the applicant submit its signed ownership agreement with the ESAP and (2) the ESAP certify in writing that it has reviewed and agrees with the information the applicant is submitting. This certification must be on a form the departments prescribe.

Finally, it requires the departments, when deciding whether to issue a certificate, to consider whether the entity that will own the system (the ESAP or the water company, if no ESAP is determined) has the financial, managerial, and technical resources to operate the system efficiently and reliably and provide continuous, adequate service to the system's consumers. The same requirement already applies to applicants for certificates of need and public necessity for systems serving 25 or more people, but not 25 or more residents.

### **WATER SUPPLY PLAN REVISIONS**

By law, water companies supplying water to 1,000 or more people or 250 or more consumers (and any other water companies at DPH's request) must file a water supply plan that, among other elements, analyses future needs, assesses alternative supply sources, recommends new system development, and evaluates water source protection. The bill adds a new element that plans must include: a brief summary of the company's underground infrastructure replacement practices. These may include current and future infrastructure needs, methods for identifying and ranking rehabilitation and replacement projects, and funding needs.

Once approved, current law requires these plans to be revised every three to five years or as DPH or the water company determines. The bill requires a revision only every nine years, in most cases, and then

only for those plan elements that need to be updated. But, if a water company (1) fails to maintain an adequate safety margin, (2) is under an order issued by DPH or the Environmental Protection Department, or (3) otherwise fails to meet its lawful water supply obligations, the DPH commissioner can require the plan revisions every six years.

**BACKGROUND**

***Designating ESAPs***

Water Utility Control Committees convened by DPH designate exclusive service areas, which are then approved by the DPH commissioner. An exclusive service area is an area where public water is supplied by one system. Currently, four committees have been convened covering about 110 towns, mostly in central and southeastern portions of the state and the Houstonian region.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute

Yea 30 Nay 0 (03/26/2009)