



House of Representatives

File No. 978

General Assembly

January Session, 2009

(Reprint of File No. 617)

Substitute House Bill No. 6539
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 18, 2009

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 Section 16-262m of the general statutes is repealed and the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 confirmation from the exclusive service area provider, as the person
36 that will own the water supply system, that such exclusive service area
37 provider has received the application and is prepared to assume
38 responsibility for the water supply system subject to the terms and
39 conditions of the ownership agreement. Written confirmation from the
40 exclusive service area provider shall be on a form prescribed by said
41 departments. Said departments shall issue a certificate to an applicant
42 upon determining, to their satisfaction, that (1) no interconnection is
43 feasible with a water system owned by, or made available through
44 arrangement with, the provider for the exclusive service area, as
45 determined pursuant to section 25-33g or with another existing water
46 system where no exclusive service area has been assigned, (2) the
47 applicant will complete the construction or expansion in accordance
48 with engineering standards established by regulation by the
49 Department of Public Utility Control for water supply systems, (3)

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

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

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

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

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

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

116 (a) Each water company, as defined in section 25-32a, and supplying

117 water to one thousand or more persons or two hundred fifty or more
118 consumers and any other water company as defined in said section
119 requested by the Commissioner of Public Health shall submit a water
120 supply plan to the Commissioner of Public Health for approval in
121 accordance with the requirements of this section and with the
122 concurrence of the Commissioner of Environmental Protection. The
123 concurrence of the Public Utilities Control Authority shall be required
124 for approval of a plan submitted by a water company regulated by the
125 authority. The Commissioner of Public Health shall consider the
126 comments of the Public Utilities Control Authority on any plan which
127 may impact any water company regulated by the authority. The
128 Commissioner of Public Health shall distribute a copy of the plan to
129 the Commissioner of Environmental Protection and the Public Utilities
130 Control Authority. A copy of the plan shall be sent to the Secretary of
131 the Office of Policy and Management for information and comment. A
132 plan shall be revised at such time as the water company filing the plan
133 or the Commissioner of Public Health determines, or at intervals of not
134 less than [three] six years nor more than [five] nine years after the date
135 of [initial approval] the most recently approved plan. Unless the
136 Commissioner of Public Health requests otherwise, any water
137 company that fails to meet public drinking water supply quality and
138 quantity obligations, as prescribed in state law or regulation, shall be
139 required to file plan revisions six years after the date of the most
140 recently approved plan. On and after October 1, 2009, upon the
141 approval of a water supply plan, any subsequent revisions to such
142 plan shall minimally consist of updates to those elements described in
143 subsection (b) of this section that have changed after the date of the
144 most recently approved plan provided the Commissioner of Public
145 Health has not otherwise requested submission of an entire water
146 supply plan.

147 (b) Any water supply plan submitted pursuant to this section shall
148 evaluate the water supply needs in the service area of the water
149 company submitting the plan and propose a strategy to meet such
150 needs. The plan shall include: (1) A description of existing water

151 supply systems; (2) an analysis of future water supply demands; (3) an
152 assessment of alternative water supply sources which may include
153 sources receiving sewage and sources located on state land; (4)
154 contingency procedures for public drinking water supply emergencies,
155 including emergencies concerning the contamination of water, the
156 failure of a water supply system or the shortage of water; (5) a
157 recommendation for new water system development; (6) a forecast of
158 any future land sales, an identification which includes the acreage and
159 location of any land proposed to be sold, sources of public water
160 supply to be abandoned and any land owned by the company which it
161 has designated, or plans to designate, as class III land; (7) provisions
162 for strategic groundwater monitoring; (8) an analysis of the impact of
163 water conservation practices and a strategy for implementing supply
164 and demand management measures; [and] (9) on and after January 1,
165 2004, an evaluation of source water protection measures for all sources
166 of the water supply, based on the identification of critical lands to be
167 protected and incompatible land use activities with the potential to
168 contaminate a public drinking water source; and (10) a brief summary
169 of the water company's underground infrastructure replacement
170 practices, which may include current and future infrastructure needs,
171 methods by which projects are identified and prioritized for
172 rehabilitation and replacement and funding needs.

173 Sec. 3. Subsection (a) of section 19a-35a of the general statutes is
174 repealed and the following is substituted in lieu thereof (*Effective from*
175 *passage*):

176 (a) Notwithstanding the provisions of chapter 439 and sections 22a-
177 430 and 22a-430b, the Commissioner of Public Health shall, [not later
178 than December 31, 2008, and] within available appropriations,
179 pursuant to section 19a-36, establish and define categories of discharge
180 that constitute alternative on-site sewage treatment systems with
181 capacities of five thousand gallons or less per day. After the
182 establishment of such categories, said commissioner shall have
183 jurisdiction, within available appropriations, to issue or deny permits
184 and approvals for such systems and for all discharges of domestic

185 sewage to the groundwaters of the state from such systems. Said
186 commissioner shall, pursuant to section 19a-36, and within available
187 appropriations, establish minimum requirements for alternative on-
188 site sewage treatment systems under said commissioner's jurisdiction,
189 including, but not limited to: (1) Requirements related to activities that
190 may occur on the property; (2) changes that may occur to the property
191 or to buildings on the property that may affect the installation or
192 operation of such systems; and (3) procedures for the issuance of
193 permits or approvals by said commissioner, a local director of health,
194 or a sanitarian licensed pursuant to chapter 395. A permit or approval
195 granted by said commissioner, such local director of health or such
196 sanitarian for an alternative on-site sewage treatment system pursuant
197 to this section shall: (A) Not be inconsistent with the requirements of
198 the federal Water Pollution Control Act, 33 USC 1251 et seq., the
199 federal Safe Drinking Water Act, 42 USC 300f et seq., and the
200 standards of water quality adopted pursuant to section 22a-426, as
201 such laws and standards may be amended from time to time, (B) not
202 be construed or deemed to be an approval for any other purpose,
203 including, but not limited to, any planning and zoning or municipal
204 inland wetlands and watercourses requirement, and (C) be in lieu of a
205 permit issued under section 22a-430 or 22a-430b. For purposes of this
206 section, "alternative on-site sewage treatment system" means a sewage
207 treatment system serving one or more buildings on a single parcel of
208 property that utilizes a method of treatment other than a subsurface
209 sewage disposal system and that involves a discharge of domestic
210 sewage to the groundwaters of the state.

211 Sec. 4. Subsection (c) of section 19a-14b of the general statutes is
212 repealed and the following is substituted in lieu thereof (*Effective*
213 *October 1, 2009*):

214 (c) The Department of Public Health shall adopt regulations, in
215 accordance with chapter 54, [establishing safe levels of radon in
216 potable water] concerning radon in drinking water that are consistent
217 with the provisions contained in 40 CFR 141 and 142.

218 Sec. 5. Section 19a-37b of the general statutes is repealed and the
219 following is substituted in lieu thereof (*Effective October 1, 2009*):

220 [Not later than January 1, 1991, the] The Department of Public
221 Health shall adopt regulations pursuant to chapter 54 to establish
222 [acceptable levels of radon in ambient air and drinking water in
223 schools] radon measurement requirements and procedures for
224 evaluating radon in indoor air and reducing elevated radon gas levels
225 when detected in public schools.

226 Sec. 6. Subsection (d) of section 10-220 of the general statutes is
227 repealed and the following is substituted in lieu thereof (*Effective*
228 *October 1, 2009*):

229 (d) Prior to January 1, 2008, and every five years thereafter, for
230 every school building that is or has been constructed, extended,
231 renovated or replaced on or after January 1, 2003, a local or regional
232 board of education shall provide for a uniform inspection and
233 evaluation program of the indoor air quality within such buildings,
234 such as the Environmental Protection Agency's Indoor Air Quality
235 Tools for Schools Program. The inspection and evaluation program
236 shall include, but not be limited to, a review, inspection or evaluation
237 of the following: (1) The heating, ventilation and air conditioning
238 systems; (2) radon levels in [the water and] the air; (3) potential for
239 exposure to microbiological airborne particles, including, but not
240 limited to, fungi, mold and bacteria; (4) chemical compounds of
241 concern to indoor air quality including, but not limited to, volatile
242 organic compounds; (5) the degree of pest infestation, including, but
243 not limited to, insects and rodents; (6) the degree of pesticide usage; (7)
244 the presence of and the plans for removal of any hazardous substances
245 that are contained on the list prepared pursuant to Section 302 of the
246 federal Emergency Planning and Community Right-to-Know Act, 42
247 USC 9601 et seq.; (8) ventilation systems; (9) plumbing, including
248 water distribution systems, drainage systems and fixtures; (10)
249 moisture incursion; (11) the overall cleanliness of the facilities; (12)
250 building structural elements, including, but not limited to, roofing,

251 basements or slabs; (13) the use of space, particularly areas that were
252 designed to be unoccupied; and (14) the provision of indoor air quality
253 maintenance training for building staff. Local and regional boards of
254 education conducting evaluations pursuant to this subsection shall
255 make available for public inspection the results of the inspection and
256 evaluation at a regularly scheduled board of education meeting.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	16-262m
Sec. 2	<i>October 1, 2009</i>	25-32d(a) and (b)
Sec. 3	<i>from passage</i>	19a-35a(a)
Sec. 4	<i>October 1, 2009</i>	19a-14b(c)
Sec. 5	<i>October 1, 2009</i>	19a-37b
Sec. 6	<i>October 1, 2009</i>	10-220(d)

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 10 \$	FY 11 \$
Higher Education Constituent Units	GF - Potential Savings	See Below	See Below

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 10 \$	FY 11 \$
Various Municipalities	Savings	Potential	Potential

Explanation

The bill results in a potential cost savings to various municipalities and public universities. It extends the date of water supply plan submittal to the Department of Public Health (DPH) from no more than five years after the date of the last plan approval to no more than nine years. Depending on the scope of the water supply plan, its cost may range from \$20,000 to \$150,000. Under the bill, various municipalities and public universities could incur this cost once every nine years, instead of once every five. In addition, it allows for water supply plan revisions to consist of updates every six years, unless DPH requests otherwise. This contributes to the potential savings, the magnitude of which being dependent upon the number of municipalities and public universities permitted to submit revision updates.

DPH is also required by the bill to adopt regulations consistent with federal Environmental Protection Agency regulations concerning radon in drinking water. The department can accommodate this within its normally budgeted resources.

House "A" allows for water supply plan revisions to consist of updates every six years, unless DPH requests otherwise. This results in a potential savings to various municipalities and public universities. Per this amendment, DPH is also tasked with adopting regulations consistent with federal Environmental Protection Agency regulations concerning radon in drinking water. The department can accommodate this within its normally budgeted resources.

The Out Years

The fiscal impact identified above would continue into the future subject to the number of municipalities and public universities that experience a decrease in the submittal of water supply plans to DPH.

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

OLR Bill Analysis**sHB 6539 (as amended by House "A")******AN ACT CONCERNING ENVIRONMENTAL HEALTH.*****SUMMARY:**

This bill requires exclusive service area providers (ESAPs) to confirm in writing that they (1) have received the applications for public water supply certificates of need and public convenience submitted to the Public Health (DPH) and Public Utility Control (DPUC) departments and (2) are prepared to assume responsibility for the system. 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 between six and nine years, from between three to five years, the time between required plan revisions, in most cases.

The bill extends the time for DPH to establish and define discharge categories for certain alternative on-site sewage treatment systems.

Finally, it updates DPH's responsibilities concerning safe levels of radon.

*House Amendment "A" (1) requires the ESAP's written confirmation concerning the receipt of the applications and assumption of responsibility for the system; (2) requires plan revisions between six and nine years; (3) adds the provision on alternative on-site sewage treatment systems; (4) adds the provisions on radon; and (5) makes technical changes.

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, the applicant submit its signed ownership agreement with the ESAP.

The bill also requires ESAPs to confirm in writing that they (1) have received the applications for public water supply certificates of public convenience and necessity submitted to the DPH and DPUC and (2) are prepared to assume responsibility for the system subject to the terms and conditions of the ownership agreement. The ESAP's written confirmation must be on forms prescribed by the departments.

Finally, it requires the departments, when deciding whether to issue a certificate, to consider whether the person 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 every six to nine years after the date of the most recently approved plan. But, if a water company fails to meet public drinking water supply and quantity obligations, it must file plan revisions six years after the date of the most recently approved plan, unless DPH requests otherwise. Beginning October 1, 2009, the bill requires that upon approval of a water supply plan, any subsequent revisions must minimally have updates to the elements described above that have changed since the date of the most recently approved plan, unless DPH has not otherwise requested an entire water supply plan submission.

ALTERNATIVE ON-SITE SEWAGE SYSTEMS

The law required the DPH commissioner, by December 31, 2008, to establish and define discharge categories for alternative on-site sewage treatment systems that have a daily capacity of 5,000 gallons or less. The law gives the DPH commissioner jurisdiction over these systems once he has done so and requires him to establish minimum requirements for the systems. The bill extends the time for the commissioner to establish and define these discharge categories by removing the deadline.

RADON

Current law requires DPH to adopt regulations establishing safe levels of radon in potable water. The bill instead requires DPH to adopt regulations concerning radon in drinking water consistent with federal drinking water regulations.

By law, DPH must adopt regulations establishing acceptable levels of radon in ambient air and drinking water in schools. The bill instead requires DPH to adopt regulations establishing radon measurement requirements and procedures for evaluating radon in indoor air and reducing elevated radon gas levels when detected in public schools.

Before January 1, 2008 and every five years afterward, the law requires local and regional boards of education to provide for a uniform inspection and evaluation program for the indoor air quality for every school building constructed, extended, renovated, or replaced on or after January 1, 2003. Among other things, the program must include a review, inspection, or evaluation of radon levels in the air and water. Under the bill, only radon levels in the air must be inspected and evaluated.

BACKGROUND

Designating ESAPs

Water Utility Control Committees convened by DPH designate exclusive service areas, which are the 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 Housatonic region.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute
Yea 30 Nay 0 (03/26/2009)

Energy and Technology Committee

Joint Favorable

Yea 20 Nay 0 (04/28/2009)