



General Assembly

January Session, 2011

**Raised Bill No. 1020**

LCO No. 3469

\*03469\_\_\_\_\_CE\_\*

Referred to Committee on Commerce

Introduced by:

(CE)

**AN ACT CONCERNING WATER RESOURCES AND ECONOMIC DEVELOPMENT.**

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

1 Section 1. Section 26-141b of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective July 1, 2011*):

3 (a) The Commissioner of Environmental Protection shall, on or  
4 before December 31, [2006] 2012, [and after consultation and  
5 cooperation] in concurrence with the Department of Public Health, the  
6 Department of Economic and Community Development, the  
7 Department of Agriculture and the Department of Public Utility  
8 Control, and after consultation and cooperation with an advisory  
9 group convened by the Commissioner of Environmental Protection,  
10 and any other agency, board or commission of the state with which  
11 said commissioner shall deem it advisable to consult and after  
12 recognizing and providing for the needs and requirements of public  
13 health, flood control, industry, public utilities, water supply, public  
14 safety, agriculture and other lawful uses of such waters and further  
15 recognizing and providing for stream and river ecology, the  
16 requirements of natural aquatic life, natural wildlife and public

17 recreation, and after considering the natural flow of water into an  
18 impoundment or diversion, and being reasonably consistent therewith,  
19 shall adopt regulations, in accordance with the provisions of chapter  
20 54, establishing flow regulations for all river and stream systems. Such  
21 flow regulations shall: (1) Apply to all river and stream systems within  
22 this state; (2) preserve and protect the natural aquatic life, including  
23 anadromous fish, contained within such waters; (3) preserve and  
24 protect the natural and stocked wildlife dependent upon the flow of  
25 such water; (4) promote and protect the usage of such water for public  
26 recreation; (5) be based, to the maximum extent practicable, on natural  
27 variation of flows and water levels while providing for the needs and  
28 requirements of public health, flood control, industry, public utilities,  
29 water supply, public safety, agriculture and other lawful uses of such  
30 waters; and (6) be based on the best available science, including, but  
31 not limited to, natural aquatic habitat, biota, subregional basin  
32 boundaries, areas of stratified drift, stream gages and flow data,  
33 locations of registered, permitted, and proposed diversions and  
34 withdrawal data reported pursuant to section 22a-368a, locations  
35 where any dams or other structures impound or divert the waters of a  
36 river or stream and any release made therefrom, and any other data for  
37 developing such regulations or individual management plans. Such  
38 flow regulations [may] shall not require any public water system, as  
39 defined in subsection (a) of section 25-33d, to comply with reservoir  
40 release requirements that will cause a reduction in safe yield, available  
41 supply or margin of safety to levels that are not sufficient to meet the  
42 public health, safety, agricultural and economic development needs of  
43 the state and shall provide special conditions or exemptions including,  
44 but not limited to, an extreme economic hardship or other  
45 circumstance, an agricultural diversion, a water quality certification  
46 related to a license issued by the Federal Energy Regulatory  
47 Commission, [or] as necessary to allow a public water system, as  
48 defined in subsection (a) of section 25-33d, to comply with the  
49 obligations of such system as set forth in the regulations of Connecticut  
50 state agencies or where compliance requires the expenditure of

51 resources for the development of new sources of water supplies or  
52 storage which is not technically feasible or financially viable. Any flow  
53 management plan contained in a resolution, agreement or stipulated  
54 judgment to which the state, acting through the Commissioner of  
55 Environmental Protection, is a party, or the management plan  
56 developed pursuant to section 3 of public act 00-152\*, is exempt from  
57 any such flow regulations. Flow regulations that were adopted  
58 pursuant to this section and sections 26-141a and 26-141c prior to  
59 October 1, 2005, shall remain in effect until the Commissioner of  
60 Environmental Protection adopts new regulations pursuant to this  
61 section.

62 (b) The commissioner shall conduct a screening of all basins in  
63 Connecticut, in consultation with the commissioner of Public Health,  
64 using existing data and resources to classify rivers and streams, or  
65 segments thereof, according to their current and proposed future use,  
66 and establish priorities for compliance with flow regulations for any  
67 dam or other structure that impounds or instantaneously diverts a  
68 river or stream. In establishing such priorities for compliance, said  
69 commissioners shall solicit input from appropriate state agencies and  
70 stakeholders and consider the potential impacts of compliance with the  
71 flow regulations on economic development, brownfields remediation,  
72 the adequacy of public water supplies to meet the current and future  
73 public health and safety needs of the communities served, the ability of  
74 water companies to maintain an adequate margin of safety, as  
75 determined by the Department of Public Health, the impact on water  
76 rates and the anticipated environmental benefits from compliance. For  
77 purposes of this section, rivers and streams adjacent to or immediately  
78 downstream of public water supply sources, or located in areas of  
79 significance for economic development shall not be classified in a  
80 manner that would prevent human alteration of the natural stream  
81 flow consistent with the continued use of such public water supply  
82 sources, or the economic development.

83 Sec. 2. (NEW) (*Effective July 1, 2011*) The Department of Public

84 Utility Control shall provide ratemaking mechanisms that allow for the  
85 timely recovery of costs of compliance with the flow regulations  
86 proposed pursuant to section 26-141b, as amended by this act, and  
87 shall amend existing regulations to allow a water company to include  
88 in such company's rate base new facilities and improvements to  
89 facilities necessary to comply with the flow regulations and to allow  
90 the affected water company to implement a rate surcharge for such  
91 costs of compliance until such time as the company files its next  
92 general rate case.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2011</i>	26-141b
Sec. 2	<i>July 1, 2011</i>	New section

***Statement of Purpose:***

To require that the Commissioner of Environmental Protection adopt certain regulations in concurrence with the Departments of Public Health, Economic and Community Development and Agriculture and to prevent certain economic development efforts from being affected by regulations concerning public water supplies.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*