



General Assembly

January Session, 2011

Substitute Bill No. 1020

* SB01020CE 030911 *

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 Section 26-141b of the general statutes is repealed and the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 of Environmental Protection, in consultation
63 with the Commissioner of Public Health, shall conduct an analysis of
64 all basins in Connecticut using existing data and resources to classify
65 rivers and streams, or segments thereof, according to their current and
66 proposed future use, and establish priorities for compliance with flow
67 regulations for any dam or other structure that impounds or
68 instantaneously diverts a river or stream. In establishing such priorities
69 for compliance, said commissioners shall solicit input from
70 appropriate state agencies and stakeholders and consider the potential
71 impacts of compliance with the flow regulations on economic
72 development, brownfields remediation, the adequacy of public water
73 supplies to meet the current and future public health and safety needs
74 of the communities served, the ability of water companies to maintain
75 an adequate margin of safety, as determined by the Department of
76 Public Health, the impact on water rates and the anticipated
77 environmental benefits from compliance. For purposes of this section,
78 rivers and streams adjacent to or immediately downstream of public
79 water supply sources, or located in areas of significance for economic
80 development shall not be classified in a manner that would prevent
81 human alteration of the natural stream flow consistent with the
82 continued use of such public water supply sources, or economic
83 development.

84 Sec. 2. (NEW) (*Effective July 1, 2011*) The Department of Public
85 Utility Control shall provide ratemaking mechanisms that allow for the
86 timely recovery of costs of compliance with the flow regulations
87 proposed pursuant to section 26-141b of the general statutes, as
88 amended by this act, and shall amend existing regulations to allow a
89 water company to include in such company's rate base new facilities
90 and improvements to facilities necessary to comply with the flow

91 regulations and to allow the affected water company to implement a
92 rate surcharge for such costs of compliance until such time as the
93 company files its next general rate case.

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

Statement of Legislative Commissioners:

In section 1(b) the phrase "in consultation with the Commissioner of Public Health" in the first sentence was moved to the beginning of the sentence for consistency and to conform with the intent of the committee, and the word "screening" was changed to "analysis" for clarity. In section 2, after "26-141b" the phrase "of the general statutes" was added for consistency with drafting conventions.

CE *Joint Favorable Subst.-LCO*