



Senate

General Assembly

File No. 336

February Session, 2012

Substitute Senate Bill No. 348

Senate, April 10, 2012

The Committee on Environment reported through SEN. MEYER of the 12th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING WATER CONSERVATION.

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

1 Section 1. (NEW) (*Effective from passage*) (a) The Public Utilities
2 Regulatory Authority shall authorize rates upon application by any
3 water company, as defined in section 16-1 of the general statutes, that
4 promote water conservation. Such rates may include: (1) Rate designs
5 that promote conservation including, but not limited to, inclining block
6 rates, seasonal rates, peak period rates and drought rates, to reduce
7 outside or other discretionary water use, (2) the implementation of
8 measures to provide timely price signals for consumers, (3) multiyear
9 rate plans, (4) measures to reduce system water losses, and (5) funds
10 for consumer programs that promote conservation through education
11 and incentives or rebates for the retrofit of fixtures and appliances with
12 water-efficient fixtures and appliances.

13 (b) The authority shall initiate a generic docket to identify water and
14 energy conservation programs that, if implemented by water
15 companies pursuant to subsection (a) of this section, would be eligible

16 for recovery in a water company general rate case, provided the water
17 company demonstrates that the expenses for such programs are
18 reasonable and prudent. On or before July 1, 2012, the Water Planning
19 Council, established pursuant to section 25-33o of the general statutes,
20 shall submit a report to the authority and the Energy Efficiency Board
21 within the Department of Energy and Environmental Protection that
22 identifies recommended conservation programs and measures for
23 consideration by the authority during such generic docket and for
24 possible inclusion in the comprehensive conservation and load
25 management plan prepared pursuant to section 16-245m of the general
26 statutes. The measures to be considered by the Water Planning Council
27 in making such recommendations shall include, but not be limited to:
28 (1) The use of renewable energy supplies, (2) meter equipment and
29 technology designed to promote timely price signals, and (3) programs
30 for consumers such as monthly billing, customer water audits, leak
31 detection programs, and rebates for the retrofit of fixtures and
32 appliances with water-efficient fixtures and appliances.

33 Sec. 2. (NEW) (*Effective from passage*) (a) The Public Utilities
34 Regulatory Authority shall authorize a water conservation and
35 sustainability adjustment charge or credit, in accordance with
36 subsections (b) and (c) of this section, whenever any water company,
37 as defined in section 16-1 of the general statutes, demonstrates that
38 during the twelve-month period that is the subject of such adjustment
39 such water company: (1) Did not recover the revenues authorized by
40 the authority pursuant to sections 16-19 and 16-262w of the general
41 statutes, as amended by this act, and (2) did not exceed such water
42 company's authorized rate of return by more than one hundred basis
43 points for any calendar year.

44 (b) (1) Any water company that intends to seek a water conservation
45 and sustainability adjustment charge or credit pursuant to subsection
46 (a) of this section shall indicate in such water company's rate
47 application filed pursuant to section 16-19 of the general statutes that
48 such water company will seek a water conservation and sustainability
49 adjustment charge or credit.

50 (2) Any water conservation and sustainability adjustment charge or
51 credit approved pursuant to subsection (a) of this section may be
52 assessed as a rate adjustment charge or credit on customer bills. Such
53 water conservation and sustainability adjustment charge or credit shall
54 be: (A) Calculated as a percentage based on the difference between the
55 actual revenues such water company collected during the subject
56 twelve-month period and the revenues authorized pursuant to the last
57 general rate case of such water company, (B) applied as a charge or
58 credit rate to customer bills for the twelve-month period following
59 approval by the authority pursuant to this section, (C) applied to all
60 customer classes, except public fire accounts, (D) applied on customer
61 bills rendered on or after April first of the calendar year in which such
62 adjustment is approved, and (E) in effect at the rate authorized each
63 year until new base rates are approved by the authority during the
64 next general rate case of such water company. The amount of such
65 conservation and sustainability adjustment shall be reset to zero as of
66 the effective date of any new base rates approved for such water
67 company pursuant to section 16-19 of the general statutes and shall be
68 reset to zero if such water company exceeds the authorized rate of
69 return by more than one hundred basis points for any calendar year.
70 Such water company shall include in new base rates any remaining
71 amounts due for any surcharge or credit authorized pursuant to this
72 section for the calendar year in which such new rates are approved.
73 For the purposes of this section, the revenues authorized for such
74 water company shall not be adjusted for customer growth, except that
75 the revenues authorized for such water company shall include
76 authorized revenues for any customers acquired by such water
77 company through an acquisition approved by the authority pursuant
78 to section 16-262n of the general statutes.

79 (c) No proposed water conservation and sustainability adjustment
80 charge or credit shall become effective until the authority approves
81 such charge or credit pursuant to an administrative proceeding that
82 shall not be deemed a contested case pursuant to chapter 54 of the
83 general statutes. The authority may receive and consider comments
84 from interested persons and members of the public at such

85 administrative proceeding. Such administrative proceeding shall be
86 completed not later than thirty days after the filing of an application by
87 a water company for such adjustment charge or credit. In the event the
88 authority fails to render a decision on any such application at the
89 conclusion of such thirty-day period, such proposed water
90 conservation and sustainability adjustment charge or credit may be
91 applied by such water company until the authority renders a decision
92 on such application, provided such water company shall refund to
93 customers any such amounts collected from such customers in excess
94 of any charges approved by the authority. Any approval or denial of
95 such application by the authority pursuant to this subsection shall not
96 be deemed an order, authorization or decision of the authority for the
97 purpose of section 16-35 of the general statutes.

98 Sec. 3. Subsection (a) of section 7-239 of the general statutes is
99 repealed and the following is substituted in lieu thereof (*Effective from*
100 *passage*):

101 (a) The legislative body shall establish just and equitable rates or
102 charges for the use of the waterworks system authorized herein, to be
103 paid by the owner of each lot or building which is connected with and
104 uses such system, and may change such rates or charges from time to
105 time. Such rates or charges shall be sufficient in each year for the
106 payment of the expense of operation, repair, replacements and
107 maintenance of such system and for the payment of the sums herein
108 required to be paid into the sinking fund. In establishing such rates or
109 charges, the legislative body may consider measures that promote
110 water conservation and reduce the demand on the state's water and
111 energy resources. Such rates or charges may include: (1) Rate designs
112 that promote conservation, including, but not limited to, inclining
113 block rates, seasonal rates, peak period rates and drought rates, (2)
114 implementation of measures to provide timely price signals for
115 consumers, (3) multiyear rate plans, (4) measures to reduce system
116 water losses, and (5) funds for consumer programs that promote
117 conservation through education and incentives or rebates for the
118 retrofit of fixtures and appliances with water-efficient fixtures and

119 appliances. No such rate or charge shall be established until after a
120 public hearing at which all the users of the waterworks system and the
121 owners of property served or to be served and others interested shall
122 have an opportunity to be heard concerning such proposed rate or
123 charge. Notice of such hearing shall be given, at least ten days before
124 the date set therefor, in a newspaper having a circulation in such
125 municipality. Such notice shall set forth a schedule of rates or charges,
126 and a copy of the schedule of rates or charges established shall be kept
127 on file in the office of the legislative body and in the office of the clerk
128 of the municipality, and shall be open to inspection by the public. The
129 rates or charges so established for any class of users or property served
130 shall be extended to cover any additional premises thereafter served
131 which are within the same class, without the necessity of a hearing
132 thereon. Any change in such rates or charges may be made in the same
133 manner in which they were established, provided, if any change is
134 made substantially pro rata as to all classes of service, no hearing shall
135 be required. The provisions of this section shall not apply to the sale of
136 bottled water.

137 Sec. 4. Subdivision (1) of section 16-262v of the general statutes is
138 repealed and the following is substituted in lieu thereof (*Effective from*
139 *passage*):

140 (1) "Eligible projects" means those water company plant projects not
141 previously included in the water company's rate base in its most recent
142 general rate case and that are intended to improve or protect the
143 quality and reliability of service to customers, including (A) renewal or
144 replacement of existing infrastructure, including mains, valves,
145 services, meters and hydrants that have either reached the end of their
146 useful life, are worn out, are in deteriorated condition, are or will be
147 contributing to unacceptable levels of unaccounted for water, or are
148 negatively impacting water quality or reliability of service if not
149 replaced; (B) main cleaning and relining projects; (C) relocation of
150 facilities as a result of government actions, the capital costs of which
151 are not otherwise eligible for reimbursement; [and] (D) purchase of
152 leak detection equipment or installation of production meters, and

153 pressure reducing valves; (E) purchase of energy-efficient equipment
 154 or investments in renewable energy supplies; and (F) capital
 155 improvements necessary to achieve compliance with flow standards
 156 for rivers and streams established in regulations adopted pursuant to
 157 section 26-141b.

158 Sec. 5. Subsection (i) of section 16-262w of the general statutes is
 159 repealed and the following is substituted in lieu thereof (*Effective from*
 160 *passage*):

161 (i) The amount of the WICA applied between general rate case
 162 filings shall not exceed [seven and one-half] ten per cent of the water
 163 company's annual retail water revenues approved in its most recent
 164 rate filing, and shall not exceed five per cent of such revenues for any
 165 twelve-month period. The amount of the adjustment shall be reset to
 166 zero as of the effective date of new base rates approved pursuant to
 167 section 16-19 and shall be reset to zero if the company exceeds the
 168 allowable rate of return by more than one hundred basis points for any
 169 calendar year.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	7-239(a)
Sec. 4	<i>from passage</i>	16-262v(1)
Sec. 5	<i>from passage</i>	16-262w(i)

Statement of Legislative Commissioners:

In section 2(a)(1), "revenues authorized" was substituted for "allowed revenues approved", in section 2(a)(2), "by more" was substituted for "of greater", in section 2(b)(2), "reset" was substituted for "set" and "more" was substituted for "greater", and in section 2(a) and (b), "authorized" was substituted for "allowed", for clarity and statutory consistency.

ENV Joint Favorable Subst.

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 13 \$	FY 14 \$
Various State Agencies	All Funds - Potential Cost	See Below	See Below

Municipal Impact:

Municipalities	Effect	FY 13 \$	FY 14 \$
Various Municipalities	Potential Cost	See Below	See Below

Explanation

The bill requires the Public Utilities Regulatory Authority (PURA) to authorize certain water company rates that promote water conservation. The bill also requires PURA to approve a water conservation and sustainability rate adjustment to allow the companies to achieve their approved revenue regardless of customer water usage. To the extent that any state agencies and municipalities are customers of investor-owned water companies, increased costs may occur.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**sSB 348*****AN ACT CONCERNING WATER CONSERVATION.*****SUMMARY:**

This bill requires the Public Utilities Regulatory Authority (PURA) to authorize investor-owned water company rates that promote water conservation. It also requires PURA, under certain circumstances, to approve a water conservation and sustainability rate adjustment to allow the companies to meet their approved revenues regardless of customer water usage. The adjustment can be a charge or credit on the company's rates.

The law allows PURA to authorize a water infrastructure and conservation adjustment (WICA) to enable an investor-owned water company to recover the cost of certain infrastructure projects. The bill expands the types of projects for which PURA can grant a WICA to include (1) the purchase of energy efficient equipment or investments in renewable energy supplies and (2) capital improvements needed to comply with state stream flow regulations. It also increases the maximum amount of the adjustment from 7.5% to 10% of the water company's approved annual retail water revenues.

The bill also:

1. allows municipal legislative bodies to consider measures to promote water conservation when setting rates for municipal water companies;
2. requires the Water Planning Council to recommend water conservation measures and programs to PURA and the Department of Energy and Environmental Protection (DEEP); and

3. requires PURA to initiate a generic docket to identify water and energy conservation programs for which a water company could recover implementation costs through rates, if the expenses are reasonable and prudent.

EFFECTIVE DATE: Upon passage

WATER CONSERVATION RATES

The bill requires PURA to authorize investor-owned water company rates that promote water conservation whenever a company applies for them. It allows these rates to include:

1. rate designs to promote conservation such as inclining block (higher rates for increased consumption), seasonal, peak period, and drought rates to reduce outside or other discretionary water usage;
2. measures to provide timely price signals;
3. multi-year plans;
4. measures to reduce system water loss; and
5. funds for consumer programs to promote conservation through education and incentives or rebates for water-efficient retrofits.

WATER CONSERVATION AND SUSTAINABILITY ADJUSTMENT

The bill requires PURA to authorize a water conservation and sustainability rate adjustment charge or credit whenever an investor-owned water company shows that, during the 12-month period subject to the adjustment, it did not (1) recover its allowed revenues and (2) exceed its allowed rate of return by more than 1% in any calendar year. (Presumably, these requirements would only apply when a company sought a rate adjustment charge, however the bill requires that they also be met for a rate adjustment credit.)

Under the bill, a water company must indicate that it is seeking such a charge or credit in its rate amendment application and PURA

must decide on the application within 30 days. PURA must hold an uncontested administrative proceeding in which it can consider comments from interested persons and the public. Its final determination cannot be appealed.

Although it specifies that no rate adjustment charge or credit can become effective until PURA approves it, the bill also allows a water company to begin applying an adjusted charge or credit if PURA has not issued its decision within the 30-day deadline, as long as the company refunds any additional collections that exceed the amount PURA eventually approves. The bill does not specify any conditions for rate adjustment credits.

The bill requires an approved rate adjustment charge or credit to be calculated as a percentage based on the difference between the actual revenues the company collected over the past 12 months and the revenues it was authorized to collect in its last general rate case. (The bill does not specify, but presumably if a company collected 98% of its approved revenues, it could apply a 2% rate adjustment charge. If it collected 102% of its approved revenues it would issue a 2% rate credit.)

Under the bill, the approved adjustment must also be:

1. applied to customer bills for the 12-month period following PURA approval;
2. applied on customer bills on or after the April 1st of the calendar year in which it was approved;
3. in effect at the rate authorized each year until PURA authorizes new base rates in a general rate case; and
4. applied to all customer classes, except public fire accounts.

(It is unclear if these time frames would be applied evenly, i.e., if PURA approved an adjustment in January it would apply for the next 12 months, but only be on customers' bills starting in April. However,

if PURA approved an adjustment in June it would appear on customers' bills for the next 12 months.)

Under the bill, the adjustment ends when a water company's new base rates become effective. It requires the water company to incorporate any remaining amounts due from the adjustments into its new base rate. (By law, PURA, not the water company, sets rates.)

The adjustment also ends if the company exceeds its allowed rate of return by more than 1% in a calendar year. (This provision would end rate charges if the company was earning extra revenue, but it would also cause the company to stop issuing rate credits when it was earning this extra revenue.)

In calculating the adjustment, the bill also specifies that a company's authorized revenues cannot be adjusted to reflect customer growth unless it occurs because DEEP ordered the company to acquire another economically non-viable or statutorily non-compliant water company.

MUNICIPAL WATER COMPANIES

The bill allows municipal legislative bodies that set rates for municipal water systems to consider measures to promote water conservation that include (1) rate designs to promote conservation such as inclining block, seasonal, peak period, and drought rates; (2) measures to provide timely price signals; (3) multi-year plans; (4) measures to reduce system water loss; and (5) funds for consumer programs to promote conservation through education and incentives or rebates for water efficient retrofits.

WATER PLANNING COUNCIL RECOMMENDATIONS

The bill requires the Water Planning Council, by July 1, 2012, to recommend to PURA and DEEP's Energy Efficiency Board conservation measures and programs for PURA to consider in its generic docket that could also be included in DEEP's comprehensive conservation and load management plan. The council must consider the use of renewable energy supplies; meter equipment and technology designed to promote timely price signals; and consumer

programs like monthly billing, water audits, leak detection, and rebates for water-efficient retrofits on fixtures and appliances.

BACKGROUND

Related Bill

sSB 415, favorably reported by the Energy and Technology Committee, also expands WICA eligibility to include (1) the purchase of energy efficient equipment or investments in renewable energy supplies and (2) capital improvements needed to comply with state stream flow regulations. It also increases the maximum amount of the adjustment from 7.5% to 10% of the water company's approved annual retail water revenues.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 22 Nay 6 (03/21/2012)