
OLR Bill Analysis

sHB 5424 (as amended by House "A")*

AN ACT CONCERNING THE RESPONSIBILITIES OF THE WATER PLANNING COUNCIL.

SUMMARY:

This bill requires the state's Water Planning Council (WPC) to, within available appropriations, prepare a state water plan by July 1, 2017, replacing the state's long-range water resources management plan, which was never developed. It (1) prescribes the WPC's tasks in developing the plan, (2) establishes the plan's required content, (3) creates a procedure for public notice and comment, and (4) requires the plan to be submitted to the General Assembly for review and approval (see BACKGROUND).

The bill requires the WPC to (1) oversee the plan's implementation and periodic updates and (2) annually report on its development and implementation and any updates to it. It allows the Office of Policy and Management (OPM), on the WPC's behalf and within available appropriations, to enter into memoranda of understanding (MOUs) with independent consultants for advice or assistance in developing and compiling the plan, which may include data collection, storage, and organization, as the WPC considers necessary.

The bill also:

1. expands the Department of Public Health (DPH) commissioner's authority to declare a public drinking water supply emergency (§ 3);
2. requires the Department of Energy and Environmental Protection (DEEP) commissioner to comment on water quality, flood management, recreation, and aquatic habitat issues in draft Water Utility Coordinating Committee (WUCC) coordinated water system plans (see BACKGROUND) (§ 6);

3. expands the allowed composition of the WPC's advisory group to include representatives of (a) regional councils of government and (b) a public health district (§ 5);
4. requires DPH to conduct feasibility studies on (a) licensing water professionals and (b) establishing a general permit for certain minor activities (§§ 2 & 7).

The bill also makes technical changes.

*House Amendment "A" (1) replaces provisions in the original file (File 467) with similar ones on (a) preparing and approving the state water plan, (b) studying water professional licensing, and (c) drinking water supply emergencies; (2) eliminates the provisions on WUCC consultants and water emergency response plans; and (3) adds the provisions on (a) WUCC plans, (b) the WPC advisory council, and (c) a general permit study.

EFFECTIVE DATE: July 1, 2014, except for the water professional licensing feasibility study provision, which takes effect October 1, 2014, and the MOU provision, which takes effect upon passage.

§ 1 — STATE WATER PLAN

Purpose

The state water plan the WPC must prepare under the bill replaces the current statewide long-range water resources management plan that DEEP, DPH, and OPM must prepare and periodically update as part of a continuing planning process.

The bill shifts, from these agencies to the WPC, responsibility to design a uniform planning program and budget. And under the bill, the WPC must consider, instead of coordinate, regional water and sewer facilities plans. It eliminates the requirement that the WPC provide technical or financial assistance to regional planning agencies (RPAs) in preparing such plans.

The bill also requires the WPC to:

1. identify appropriate regions in the state for comprehensive water planning;
2. identify data needs and develop a consistent format for submitting data to it, applicable state agencies, and regional councils of government for planning and permitting use;
3. consider the (a) potential impact of climate change on the availability and abundance of water resources and (b) importance of climate resiliency;
4. involve interested parties and solicit input from its advisory group;
5. consider individual water supply plans, water quality standards, stream flow classifications, water utility coordinating committee plans, the State Plan of Conservation and Development, and other planning documents it considers necessary; and
6. promote the adoption of municipal ordinances based on the State of Connecticut Model Water Use Restriction Ordinance for municipal water emergencies (see BACKGROUND); and
7. examine appropriate ways to resolve conflicts on implementing the state water plan.

Plan Content

The bill specifies the state water plan's required elements, including some that are based on those current law requires for the long-range plan.

Related to the requirements for the long-range plan under current law, the state water plan must:

1. identify water quantities and qualities (specifically, surface and groundwater resources available for public water supply, health, economic, recreation, and environmental benefits on a regional basin scale, rather than those that could be feasibly distributed to specific areas);

2. identify current and future water demand on a statewide and regional basin scale, instead of for specific areas;
3. recommend using the state's water resources to, instead of maximize benefits, balance public water supply, economic development, recreation, and ecological health;
4. recommend major engineering works or special districts, as well as technology and infrastructure upgrades and interconnections;
5. recommend land use and other measures, that include assessing land acquisition or land protection needs, to ensure the desired water quality and quantity, as well as promoting development based on available water resources;
6. consider desired recreational, agricultural, industrial, and commercial uses, as well as ecological uses; and
7. try to incorporate regional and local water use and management plans and programs and water and sewerage facilities plans.

The bill also requires the state water plan to:

1. inform residents about the importance of water-resource stewardship and conservation;
2. establish guidelines and incentives for consumer water conservation, considering energy efficiency;
3. develop a water reuse policy that incentivizes matching water quality to use;
4. meet data collection and analysis needs to provide for data-driven water planning and permitting decisions;
5. consider the plan's ecological, economic, environmental, public health, and safety impacts on Connecticut;
6. include short- and long-range objectives and strategies to communicate and implement the plan;

7. promote intra-regional solutions and sharing water resources;
8. develop and recommend strategies to address climate resiliency including the impact of extreme weather events;
9. recommend steps to increase the climate resiliency of existing water resources and infrastructure; and
10. identify changes to laws and regulations needed to implement the plan's recommendations.

Public Review and Comment

Before finalizing the plan, the WPC must provide the public with at least 120 days to review and comment on it. The DEEP and DPH commissioners, Public Utilities Regulatory Authority (PURA) chairperson, and OPM secretary must post the draft plan and information about the public comment period in a conspicuous location on their websites. The Council on Environmental Quality must do the same in the *Environmental Monitor*.

The WPC must (1) advertise and hold at least one public hearing during the public comment period and (2) consider all written and oral comments about the plan once the public comment period ends.

The WPC must then make available:

1. the electronic text of the finalized plan on a website and
2. a report summarizing the (a) public comments and (b) changes to the plan based on the comments and the reasons for the changes.

Legislative Review and Approval

The bill requires the WPC to, within available appropriations, prepare the state water plan by July 1, 2017. The WPC must then submit the state water plan, by January 1, 2018, to the Energy and Technology, Environment, Planning and Development, and Public Health committees for their approval, revision, or disapproval. The WPC must also electronically submit the plan to the governor.

The committees must, within 45 days after the 2018 regular legislative session convenes, (1) hold a joint public hearing on the plan and (2) submit it to the General Assembly with their joint recommendations for approval, modification, or disapproval. The recommendations may apply to the entire plan or parts of it.

Under the bill, the state water plan (1) becomes effective when the General Assembly adopts it or (2) is deemed approved if the General Assembly fails to act on the plan by July 1, 2018.

But if the General Assembly disapproves the plan, in whole or in part, the plan is deemed rejected and is returned to the WPC to be revised and resubmitted to the above legislative committees for their approval or modification. The resubmission must occur within 90 days after the plan's disapproval. And under the bill, if the committees fail to act on the resubmitted plan within 60 days after receiving it, the resubmitted plan is deemed approved.

Annual Reports

By January 1, 2016, and then annually, the WPC must report on the plan's development and implementation, and any updates to it, to the Energy and Technology, Environment, Planning and Development, and Public Health committees. Beginning January 1, 2016, this annual report replaces the annual report on water issues the WPC's must submit under current law.

§ 3 — PUBLIC DRINKING WATER SUPPLY EMERGENCY

By law, the DPH commissioner, in consultation with the DEEP commissioner and PURA, is authorized to declare a public drinking water supply emergency. The bill allows the commissioner to declare one if, based on information she receives, it is reasonably expected to occur without immediately implementing conservation practices. The law already allows her to make the declaration if the emergency exists or is imminent. By law, a public drinking water supply emergency includes water contamination, water shortage, or a water supply system failure (CGS § 25-32b).

Existing law allows the commissioner to, during a public drinking water supply emergency, allow or order the (1) sale, supply, or taking of waters or (2) temporary interconnection of water mains to sell or transfer water between water companies. The bill expands the commissioner's authority to include allowing or ordering a public water system or the municipality where the emergency occurs to implement water conservation practices. It also permits her to take more than one of these actions or those authorized under existing law.

§ 6 — WUCC PLAN COMMENTS

By law, each WUCC must prepare a coordinated water system plan in the public water supply management area. These plans must promote cooperation between public water systems and include provisions for, among other things, the impact on other water resources uses. The bill specifies that the impact includes such things as water quality, flood management, recreation, and aquatic habitat issues.

Under existing law, each WUCC must first prepare a draft plan and seek comments on it from certain parties. Current law requires a regional planning agency within the management area to comment on the plan's consistency with regional land use plans and policies. The bill instead requires regional councils of government to provide the comment. And by law, the DEEP commissioner must comment on the availability of water for proposed diversions. Under the bill, he must also comment on water quality, flood management, recreation, and aquatic habitat issues.

§ 5 — WPC ADVISORY GROUP MEMBERSHIP

By law, the WPC is authorized to establish an advisory group, balanced between consumptive and nonconsumptive water interests. The bill expands the interests that may be represented on the advisory group to include members from (1) regional councils of government and (2) a public health district. Existing law allows the group to have representatives of:

1. regional and municipal and investor-owned water utilities;

2. a wastewater system;
3. academia with expertise in streamflow, public health, and ecology; and
4. agricultural, electric power generation, business and industry, environmental land or river protection, boating, fisheries, recreation, and endangered species protection interests.

§§ 2 & 7 — FEASIBILITY STUDIES

Water Professional Licensing or Certification

The bill requires DPH, in consultation with the WPC, to study the feasibility of creating a program to license or certify water professionals. The study must be conducted within available appropriations.

The program must apply to people who are qualified based on knowledge to help DPH carry out the main requirements of the (1) federal Safe Drinking Water Act and (2) state's laws on overseeing safe and adequate public drinking water. The study must include:

1. the desired qualifications for the professionals,
2. a review of other state's public drinking water programs,
3. a review of the appropriate responsibilities for the professionals, and
4. cost and funding sources available to establish the program.

DPH must report on the study, by July 1, 2016, to the Energy and Technology, Environment, Planning and Development, and Public Health committees.

General Permits

The bill also requires DPH, in consultation with the WPC, to study the feasibility of establishing a general permit for minor activities that will have:

1. minimal environmental and public health effects when conducted separately,
2. minimal cumulative environmental and public health effects, and
3. no adverse effect on existing or potential uses of water or water bodies.

The study must list activities that may be conducted under this general permit and the circumstances for conducting them. DPH must report on the study to the Environment and Public Health committees by July 1, 2015.

BACKGROUND

Water Planning Council

The council consists of the PURA chairperson, DEEP and DPH commissioners, and the OPM secretary, or their designees. It is charged with addressing issues involving water companies, water resources, and state drinking water supply policies. It also has an advisory group to help with researching and analyzing water industry issues (CGS § 25-33o).

Water Utility Coordinating Committees (WUCCs)

The state is divided into seven management areas based on factors such as similarity of water supply problems, proliferation of small water systems, groundwater contamination, and over-allocated water resources. DPH convenes a WUCC for a particular management area to address these issues. A WUCC consists of one representative from each public water system with a source of supply or service area within the public water supply management area and one representative from each RPA within the management area (CGS §§ 25-33d to 25-33j).

State of Connecticut Model Water Use Restriction Ordinance

This is a model ordinance provided by the state for use in developing municipal ordinances to restrict the use of water supplied

by a water company. It is for communities seeking to set enforceable limits on using water during emergencies and temporary periods of high water demand.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 1 (03/21/2014)

Planning and Development Committee

Joint Favorable

Yea 18 Nay 0 (04/21/2014)