

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 14-163—sHB 5424
Environment Committee
Planning and Development Committee

**AN ACT CONCERNING THE RESPONSIBILITIES OF THE WATER
PLANNING COUNCIL**

SUMMARY: This act requires the state's Water Planning Council (WPC) to prepare, within available appropriations, a state water plan by July 1, 2017. (Prior law mandated the development of a state long-range water resources management plan, but it was never developed.) The act (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 act further 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. 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 act also:

1. expands the Department of Public Health (DPH) commissioner's authority to declare a public drinking water supply emergency (§ 3);
2. requires (a) draft Water Utility Coordinating Committee (WUCC) coordinated water system plans to address their impact on water quality, flood management, recreation, and aquatic habitat and (b) the Department of Energy and Environmental Protection (DEEP) commissioner to comment on these issues (see BACKGROUND) (§ 6);
3. expands the potential membership of the WPC's advisory group to include representatives of (a) regional councils of government and (b) a public health district (§ 5); and
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 act also makes technical changes.

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

§ 1 — STATE WATER PLAN

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Purpose

The state water plan the act requires the WPC to prepare replaces the prior statewide long-range water resources management plan that DEEP, DPH, and OPM had to prepare and periodically update as part of a continuing planning process.

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

The act also requires the WPC, when developing the plan, to:

1. identify appropriate regions of 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 (COGs) 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, WUCC plans, the State Plan of Conservation and Development, and other planning documents it considers necessary;
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 in implementing the state water plan.

Plan Content

The act specifies the state water plan's required elements, including some based on those prior law required for the long-range plan.

Similar to the requirements for the long-range plan under prior law, the act's plan must:

1. identify water amounts and qualities (specifically, surface and groundwater resources available for public water supply, health, economic, recreation, and environmental benefits for regional basins, rather than those, under prior law, that could be feasibly distributed to specific areas);
2. identify current and future water demand for statewide and regional basins instead of for specific areas, as prior law required;
3. recommend using the state's water resources to, instead of maximizing 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

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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 act additionally 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 while considering energy efficiency;
3. develop a water reuse policy to encourage 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, and public health and safety impacts on Connecticut;
6. include short- and long-range objectives and strategies to communicate and implement the plan;
7. promote solutions and sharing water resources within regions;
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 allow the public 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 conspicuous locations on their websites. The Council on Environmental Quality must post this information in the *Environmental Monitor* (the council's official website).

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

Legislative Review and Approval

The act requires the WPC to, within available appropriations, prepare the state water plan by July 1, 2017. It must then submit the 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

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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 act, 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 it by July 1, 2018.

But if the General Assembly disapproves the plan, in whole or in part, the plan is deemed rejected and returned to the WPC for revisions and resubmission to the same legislative committees for their approval or modification. The resubmission must occur within 90 days after the plan's disapproval. And under the act, if these 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 annually afterwards, 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. This annual report replaces the annual report on water issues the WPC had to submit under prior law.

§ 3 — PUBLIC DRINKING WATER SUPPLY EMERGENCY

By law, the DPH commissioner, in consultation with the DEEP commissioner and PURA, may declare a public drinking water supply emergency. The act allows the DPH commissioner to declare one if, based on information she receives, it is reasonably expected to occur unless conservation practices are immediately implemented. The law already allows her to do this if the emergency exists or is imminent. By law, a public drinking water supply emergency includes water contamination, a water shortage, or a water supply system failure (CGS § 25-32b).

By law, during a public drinking water supply emergency, the DPH commissioner may allow or order the (1) sale, supply, or taking of any waters or (2) temporary interconnection of water mains to sell or transfer water among water companies. The act expands her authority to include allowing or ordering a public water system or the municipality where the emergency occurs to implement water conservation practices. It also explicitly 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 among public water systems and include provisions for, among other things, the impact on other water resources uses. The act specifies that the impact includes water quality, flood management, recreation, and aquatic habitat issues.

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Under existing law, each WUCC must first prepare a draft plan and seek comment on it from certain parties. Prior law required an RPA within a management area to comment on the plan's consistency with regional land use plans and policies. The act instead requires COGs to provide the comment. (PA 13-247 requires RPAs to reestablish themselves as COGs by January 1, 2015.) By law, the DEEP commissioner must comment on the availability of water for proposed diversions. Under the act, 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 act adds (1) COGs and (2) a public health district to those interests that may be represented on the advisory group. Existing law allows the group to have representatives of:

1. regional, municipal, and investor-owned water utilities;
2. a wastewater system;
3. academia, with expertise in stream flow, public health, and ecology; and
4. agricultural, electric power generation, business and industry, environmental land and river protection, boating, fisheries, recreational, and endangered species protection interests.

§§ 2 & 7 — FEASIBILITY STUDIES

Water Professional Licensing or Certification

The act 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.

Licensing or certification must apply to people whose knowledge can help DPH carry out the main requirements of the (1) federal Safe Drinking Water Act and (2) state 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 states' 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 act 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.

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The study must list activities that may be conducted under this general permit and the circumstances in which they may be conducted. 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, OPM secretary, and DEEP and DPH commissioners, or their designees. It is charged with addressing issues involving water companies, water resources, and drinking water supply policies. Its advisory group helps research and analyze water industry issues (CGS § 25-33o).

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 each 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 state model ordinance to help 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 demand.

OLR Tracking: KLM:KM:PF:ro