



Senate

General Assembly

File No. 95

January Session, 2015

Substitute Senate Bill No. 865

Senate, March 17, 2015

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

AN ACT CONCERNING ALLOWABLE COSTS FOR THE INSTALLATION OF OVERSIZED WATER MAINS.

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

1 Section 1. Subsection (b) of section 22a-471 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (b) (1) (A) Any municipality not responsible for the pollution of the
5 groundwaters [which] that is ordered to provide potable drinking
6 water in accordance with subsection (a) of this section may apply to
7 the commissioner for a grant as provided by this subsection. Except as
8 provided in subparagraph (C) of subdivision (1) of this subsection and
9 in subdivision (2) of this subsection, the commissioner shall make
10 grants for the short-term provision of potable drinking water and the
11 construction or installation of individual wells or individual water
12 treatment systems, including, but not limited to, carbon absorption
13 filters and shall make grants for other capital improvements for the
14 long-term provision of potable drinking water from any bond

15 authorization established for that purpose.

16 (B) The amount distributed to a municipality shall, as funds allow,
17 equal one hundred per cent of the cost of short-term provision of
18 potable drinking water, one hundred per cent of the cost of the
19 engineering report required by this section, one hundred per cent of
20 the cost of capital improvements for the most cost-effective long-term
21 method of providing potable drinking water as determined by the
22 commissioner and the Commissioner of Public Health upon
23 consideration of such engineering report, and one hundred per cent of
24 the cost during the first five years of installation of monitoring and
25 maintaining individual water treatment systems and monitoring
26 drinking water wells located in an area where the commissioner
27 determines that pollution of the groundwater is reasonably likely to
28 occur. No state funds shall be distributed to a municipality for the cost
29 of operating or maintaining any potable water supply facilities other
30 than as specified in this subsection.

31 (C) Notwithstanding any provision of this subsection to the
32 contrary, the commissioner may advance to a municipality, from the
33 proceeds of any bonds authorized for the provision of potable drinking
34 water, any percentage of the cost of short-term and long-term
35 provision of potable drinking water [which he] that the commissioner
36 deems necessary.

37 (2) (A) If the commissioner is unable to determine the person or
38 municipality responsible for rendering the groundwaters unusable for
39 potable drinking water or if the commissioner determines that the
40 responsible persons have no assets other than land, buildings, business
41 machinery or livestock and are unable to secure a loan at a reasonable
42 rate of interest to provide potable drinking water, a water company
43 [which] that has less than ten thousand customers and [which] that
44 owns, maintains, operates, manages, controls or employs a water
45 supply well [which] that is rendered unusable for potable drinking
46 water, may apply to the commissioner for a grant from funds
47 established pursuant to section 22a-451 or from the proceeds of any

48 bonds authorized for the provision of potable drinking water. If, upon
49 review of the engineering report required by this subsection to be
50 submitted with an application for such a grant, the commissioner
51 determines that a grant to a water company from available
52 appropriations or from the proceeds of any bonds authorized for the
53 provision of potable drinking water is appropriate, the commissioner
54 may make such a grant in accordance with regulations adopted by the
55 commissioner pursuant to subsection (e) of this section.

56 (B) The total amount distributed to a water company pursuant to
57 this subsection shall, as funds allow, equal fifty per cent of the cost of
58 the engineering report required by this subsection and fifty per cent of
59 the cost of the most cost-effective long-term method of rendering the
60 water supply in question usable for potable drinking water, as
61 determined by the commissioner and the Commissioner of Public
62 Health upon consideration of the required engineering report.

63 (C) For purposes of this section, "water company" and "customer"
64 have the same meanings as provided in section 25-32a.

65 (D) Any water company applying for a grant pursuant to this
66 section shall prepare or have prepared an engineering report [which]
67 that shall be subject to the approval of the commissioner and the
68 Commissioner of Public Health and include, but not be limited to, a
69 description in detail of the problem, area and population affected by
70 pollution of the groundwaters; alternate solutions including relative
71 cost of construction or installation, operation and maintenance; design
72 criteria on all alternate solutions and any other information the
73 commissioner deems necessary.

74 (3) (A) If a municipality or water company receives funding from a
75 private source, a federal grant or another state grant for any cost for
76 which a grant may be awarded pursuant to this section, the grant
77 under this section shall equal the specified percentage of the costs
78 specified in this subsection minus the amount of the other funding.

79 (B) If a municipality or water company receives a grant under this

80 section and is compensated by a person who or municipality [which]
81 that is responsible for rendering the groundwaters unusable for
82 potable drinking water, the municipality or water company shall
83 reimburse the account from which the funds were made available for
84 the grant as follows: If the compensation from the responsible party
85 equals or exceeds the costs toward which the grant was to be applied,
86 the municipality or water company shall reimburse the total amount of
87 the grant; if the compensation is less than the cost toward which the
88 grant was to be applied, the municipality or water company shall
89 reimburse a percentage of the compensation equal to the percentage of
90 such costs paid by the grant.

91 (4) (A) Notwithstanding any request for a hearing or a pending
92 appeal therefrom, if a person or municipality responsible for pollution
93 of the groundwaters fails to comply with an order of the commissioner
94 issued pursuant to this section, the municipality wherein such
95 pollution is located may, after giving written notice of its intent to the
96 commissioner and the responsible person or municipality, undertake
97 the actions required by the order and seek reimbursement for the cost
98 of such actions from the responsible person or municipality. If at any
99 time after receipt of such a notice, the responsible party intends to
100 comply with a step of the order [which] that the municipality has not
101 yet completed, the responsible party may do so with the written
102 approval of the commissioner and municipality, provided the actions
103 [which] that the responsible party takes are consistent with those taken
104 by the municipality.

105 (B) The commissioner may order any person or municipality
106 responsible for pollution of the groundwaters to reimburse the state, a
107 water company, and any municipality [which] that is not responsible
108 for pollution but received an order pursuant to this section or [which]
109 that did not receive such an order but voluntarily provided potable
110 drinking water, for (i) the expenses each incurred in providing potable
111 drinking water to any person affected by such pollution, provided the
112 required reimbursement for such expenses shall not exceed the actual
113 cost of short-term provision of potable drinking water and an amount

114 equal to the reasonable cost of planning and implementing the most
115 cost-effective long-term method of providing potable drinking water
116 as determined by the commissioner and the Commissioner of Public
117 Health; (ii) costs for recovering such reimbursement; (iii) interest on
118 the expenses specified in (i) at a rate of ten per cent a year from the
119 date such expenses were paid; and (iv) reasonable attorney's fees. The
120 commissioner may request the Attorney General to bring a civil action
121 to recover any costs or expenses incurred by the commissioner
122 pursuant to this subsection provided no such action may be brought
123 later than ten years after the date of discovery of the pollution of
124 public or private sources of water for drinking or other personal or
125 domestic use.

126 (C) If a municipality fails to recover all expenses specified in
127 subparagraph (B)(i) of subdivision (4) of this subsection from the
128 responsible party, the municipality may apply to the commissioner for
129 a grant in accordance with this subsection, provided the total amount
130 of funds received from the commissioner and the responsible party
131 shall not exceed the amounts specified in subparagraph (B) of
132 subdivision (1) of subsection (b) of this section.

133 (5) For purposes of this section except subdivision (3) of subsection
134 (a) and subparagraph (B)(ii) of subdivision (4) of this subsection, "cost"
135 includes only those costs [which] that the commissioner determines
136 are necessary and reasonable, including, but not limited to, the cost of
137 plans and specifications, construction or installation and supervision
138 thereof.

139 (6) If any grant application is pending on June 7, 1994, and is
140 approved by the commissioner, the percentage of costs to be paid by
141 the grant shall be determined in accordance with this section. Any
142 order pending on May 31, 1985, shall be construed in accordance with
143 this section.

144 (7) Any person who or municipality [which] that provides potable
145 drinking water pursuant to this section may, with the approval of the
146 commissioner, construct or install facilities beyond the areas included

147 in the order or facilities [which] that are more costly than those [which]
148 that are determined to be most cost-effective, provided any request for
149 a grant or reimbursement shall be limited to the amounts specified in
150 this section.

151 (8) In no event shall the amount of funding that the municipality is
152 eligible to receive under this section be reduced when the incremental
153 cost to increase the size or capacity of the potable water supply facility
154 to provide for fire protection flows or other public water supply needs
155 that are consistent with an adopted plan of conservation and
156 development is funded by the water company, another person or
157 through other available local, state or federal funds.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-471(b)

Statement of Legislative Commissioners:

In subdivision (8) of subsection (b) of section 22a-471 "potable water facility" was changed to "potable water supply facility" for accuracy.

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: None

Municipal Impact:

Municipalities	Effect	FY 16 \$	FY 17 \$
Various Municipalities	Savings	Potential	Potential

Explanation

The bill shifts the current cost sharing formula, from 63% state/37% other (which may be municipal) to 93% state/7% other, for certain water supply projects. This may result in a savings to municipalities.

There is no fiscal impact to the state as the bill does not authorize additional General Obligation (GO) bonds for the potable water program administered by the Department of Energy and Environmental Protection.¹ However, there may be fewer individual projects completed from the available pool of funding.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number, size, and capacity of potable water supply projects.

¹ As of February 1, 2015 the unallocated balance in the Potable Water program was \$3,258,707.

OLR Bill Analysis**sSB 865*****AN ACT CONCERNING ALLOWABLE COSTS FOR THE INSTALLATION OF OVERSIZED WATER MAINS.*****SUMMARY:**

This bill increases the grant amount certain eligible municipalities receive for providing long-term potable water supply facilities (e.g., water mains) that meet public water supply needs.

By law, the Department of Energy and Environmental Protection (DEEP) may require municipalities to provide long-term potable water to those whose water is contaminated. Municipalities not responsible for the contamination may apply to DEEP for a grant for the design and construction cost of facilities to provide the water. Under current regulations, for projects that provide capacity beyond what is necessary for the polluted area, DEEP reduces the total construction cost amount that is eligible for a grant. The reduction is based on a formula that takes into account a project's total cost and the additional proposed capacity (Conn. Agencies Reg. § 22a-471-1).

The bill prohibits DEEP from reducing grants for projects (1) that are consistent with an adopted conservation and development plan and (2) where another funding source (e.g., water company or other available local state or federal funds) pays the incremental cost of increasing the potable water supply facility's size or capacity to provide for public water supply needs, including fire protection.

The bill also makes technical changes.

EFFECTIVE DATE: Upon passage

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 25 Nay 2 (02/27/2015)