



General Assembly

January Session, 2015

**Raised Bill No. 865**

LCO No. 3162



Referred to Committee on ENVIRONMENT

Introduced by:  
(ENV)

**AN ACT CONCERNING ALLOWABLE COSTS FOR THE  
INSTALLATION OF OVERSIZED WATER MAINS AND THE BACKUP  
WELL SITING REQUIREMENTS FOR CERTAIN WATER COMPANY  
DIVERSIONS.**

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2 repealed and the following is substituted in lieu thereof (*Effective from*  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] that he deems necessary.

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

46 established pursuant to section 22a-451 or from the proceeds of any  
47 bonds authorized for the provision of potable drinking water. If, upon  
48 review of the engineering report required by this subsection to be  
49 submitted with an application for such a grant, the commissioner  
50 determines that a grant to a water company from available  
51 appropriations or from the proceeds of any bonds authorized for the  
52 provision of potable drinking water is appropriate, the commissioner  
53 may make such a grant in accordance with regulations adopted by the  
54 commissioner pursuant to subsection (e) of this section.

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

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

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

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

77 specified in this subsection minus the amount of the other funding.

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

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

104 (B) The commissioner may order any person or municipality  
105 responsible for pollution of the groundwaters to reimburse the state, a  
106 water company, and any municipality [which] that is not responsible  
107 for pollution but received an order pursuant to this section or [which]  
108 that did not receive such an order but voluntarily provided potable

109 drinking water, for (i) the expenses each incurred in providing potable  
110 drinking water to any person affected by such pollution, provided the  
111 required reimbursement for such expenses shall not exceed the actual  
112 cost of short-term provision of potable drinking water and an amount  
113 equal to the reasonable cost of planning and implementing the most  
114 cost-effective long-term method of providing potable drinking water  
115 as determined by the commissioner and the Commissioner of Public  
116 Health; (ii) costs for recovering such reimbursement; (iii) interest on  
117 the expenses specified in (i) at a rate of ten per cent a year from the  
118 date such expenses were paid; and (iv) reasonable attorney's fees. The  
119 commissioner may request the Attorney General to bring a civil action  
120 to recover any costs or expenses incurred by the commissioner  
121 pursuant to this subsection provided no such action may be brought  
122 later than ten years after the date of discovery of the pollution of  
123 public or private sources of water for drinking or other personal or  
124 domestic use.

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

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

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

141 order pending on May 31, 1985, shall be construed in accordance with  
142 this section.

143 (7) Any person who or municipality [which] that provides potable  
144 drinking water pursuant to this section may, with the approval of the  
145 commissioner, construct or install facilities beyond the areas included  
146 in the order or facilities [which] that are more costly than those [which]  
147 that are determined to be most cost-effective, provided any request for  
148 a grant or reimbursement shall be limited to the amounts specified in  
149 this section.

150 (8) Notwithstanding the provisions of subdivision (7) of this  
151 subsection, any facility, or part thereof, that is larger than necessary to  
152 serve the contaminated area in order to meet the public health and  
153 firefighting flow needs of a municipality shall be considered an  
154 allowable cost for the purpose of making a grant to a municipality  
155 pursuant to this subsection.

156 Sec. 2. Subsection (a) of section 22a-377 of the general statutes is  
157 repealed and the following is substituted in lieu thereof (*Effective from*  
158 *passage*):

159 (a) The following diversions are exempt from the provisions of  
160 sections 22a-365 to 22a-378a, inclusive: (1) One or more wells joined in  
161 one system whose combined maximum withdrawal will not exceed  
162 fifty thousand gallons of water during any twenty-four-hour period;  
163 (2) the maximum withdrawal of fifty thousand gallons of surface water  
164 during any twenty-four-hour period; (3) discharges permitted under  
165 the provisions of section 22a-430; (4) a storm drainage system [which]  
166 that collects the surface water runoff of an area of less than one  
167 hundred acres; (5) water for fire emergency purposes; (6) diversions  
168 within, extensions and relocation of water supply system distribution  
169 mains; (7) roadway crossings or culverts [which] that allow for  
170 continuous flow or passage of an existing watercourse; (8) diversions  
171 directly related to routine maintenance and emergency repairs of

172 dams; and (9) diversions by a water company, as defined in section 25-  
 173 32a, that are necessary to protect the security of public water supplies,  
 174 including: (A) A diversion from a [back-up] backup well where a  
 175 primary well is out of service, provided (i) the [back-up] backup well is  
 176 located within [two] seven hundred fifty feet of such primary well, (ii)  
 177 the total quantity of water withdrawn does not result in an increase in  
 178 the rate or quantity of a diversion registered or permitted by the  
 179 commissioner pursuant to section 22a-368 or 22a-378a, and (iii) not  
 180 later than January thirtieth of each year, the commissioner is supplied  
 181 a written annual report, for the prior year, that identifies the location of  
 182 each [back-up] backup well, the construction type of each [back-up]  
 183 backup well, the date of installation and the daily water use from each  
 184 primary well and each [back-up] backup well for those days on which  
 185 the [back-up] backup well operated; or (B) a transfer of water from one  
 186 distribution system to another during a water supply emergency  
 187 declared pursuant to section 22a-378 or 25-32b or otherwise declared  
 188 according to law, provided the transfer (i) is limited to the period  
 189 during which the emergency exists, (ii) does not result in an increase in  
 190 the rate or quantity of a diversion registered or permitted by the  
 191 commissioner pursuant to section 22a-368 or 22a-378a, (iii) is  
 192 accomplished through existing, authorized, installed capacity to  
 193 transfer or through temporary equipment that is removed within thirty  
 194 days after the last day of the water supply emergency, and (iv) the  
 195 commissioner is notified, in writing, of any such transfer and its  
 196 location within three days of the transfer and the commissioner is  
 197 provided a written report of the daily transfer of water that occurred  
 198 during the emergency and any other related information the  
 199 commissioner may request.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-471(b)
Sec. 2	<i>from passage</i>	22a-377(a)

***Statement of Purpose:***

To allow a municipality that installs a larger than necessary water main for the provision of water to a contaminated drinking water area and for requisite firefighting flow needs to be eligible to receive a grant from the state for the costs associated with such water main and, for purposes of diversion exemptions, to provide a larger area in which a backup well can be located where the primary well is out of service.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*