



Senate

General Assembly

File No. 379

February Session, 2016

Senate Bill No. 288

Senate, March 31, 2016

The Committee on Public Health reported through SEN. GERRATANA of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the bill ought to pass.

AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS ON THE EXPANSION AND CONSTRUCTION OF WATER SYSTEMS.

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

1 Section 1. Section 16-262m of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 (a) As used in this section, except as otherwise specified, and section
4 8-25a, "water company" means a corporation, company, association,
5 joint stock association, partnership, municipality, state agency, other
6 entity or person, or lessee thereof, owning, leasing, maintaining,
7 operating, managing or controlling any pond, lake, reservoir, stream,
8 well or distributing plant or system employed for the purpose of
9 supplying water to fifteen or more service connections or twenty-five
10 or more persons for at least sixty days in any one year.

11 (b) [No] On and after October 1, 2016, no person or entity, including,
12 but not limited to, a water company may begin the construction of a

13 water supply system for the purpose of supplying water to fifteen or
14 more service connections or twenty-five or more persons for at least
15 sixty days in any one year, and no such person or entity, except a
16 water company supplying more than two hundred fifty service
17 connections or one thousand persons, may begin expansion of [such] a
18 water supply system [,] without having first obtained a certificate of
19 public convenience and necessity from the Department of Public
20 Health.

21 (c) For systems serving twenty-five or more residents that are not
22 the subject of proceedings under subsection (c) of section 16-262n or
23 section 16-262o, an application for a certificate of public convenience
24 and necessity shall be on a form prescribed by [the Public Utilities
25 Regulatory Authority, in consultation with] the Department of Public
26 Health, and accompanied by a copy of the applicant's construction or
27 expansion plans, a fee of one hundred dollars, except no state agency
28 shall be required to pay such fee, and when an exclusive service area
29 provider has been determined pursuant to section 25-33g, a copy of a
30 signed ownership agreement between the applicant and provider for
31 the exclusive service area, as determined pursuant to section 25-33g,
32 detailing those terms and conditions under which the system will be
33 constructed or expanded and for which the provider will assume
34 service and ownership responsibilities. When an exclusive service area
35 provider has been determined pursuant to section 25-33g, the
36 application shall also be accompanied by a written confirmation from
37 the exclusive service area provider, as the person that will own the
38 water supply system, that such exclusive service area provider has
39 received the application and is prepared to assume responsibility for
40 the water supply system subject to the terms and conditions of the
41 ownership agreement. Written confirmation from the exclusive service
42 area provider shall be on a form prescribed by [said authority and]
43 said department. Said [authority and] department shall issue a
44 certificate to an applicant upon determining, to [their] said
45 department's satisfaction, that (1) no interconnection is feasible with a
46 water system owned by, or made available through arrangement with,
47 the provider for the exclusive service area, as determined pursuant to

48 section 25-33g or with another existing water system where no
49 exclusive service area has been assigned, (2) the applicant will
50 complete the construction or expansion in accordance with
51 engineering standards established by regulation by [the Public Utilities
52 Regulatory Authority] said department for water supply systems, (3)
53 ownership of the system will be assigned to the provider for the
54 exclusive service area, when an exclusive service area provider has
55 been determined pursuant to section 25-33g, (4) the proposed
56 construction or expansion will not result in a duplication of water
57 service in the applicable service area, (5) the applicant meets all federal
58 and state standards for water supply systems, (6) except as provided in
59 subsection (d) of this section, the person that will own the water
60 supply system has the financial, managerial and technical resources to
61 (A) operate the proposed water supply system in a reliable and
62 efficient manner, and (B) provide continuous adequate service to
63 [consumers] persons served by the water supply system, (7) the
64 proposed water supply system will not adversely affect the adequacy
65 of nearby water supply systems, and (8) any existing or potential
66 threat of pollution that [the Department of Public Health] said
67 department deems to be adverse to public health will not affect any
68 new source of water supply. Any construction or expansion with
69 respect to which a certificate is required shall thereafter be built,
70 maintained and operated in conformity with the certificate and any
71 terms, limitations or conditions contained therein.

72 (d) [The Public Utilities Regulatory Authority and the Department
73 of Public Health shall each adopt regulations, in accordance with the
74 provisions of chapter 54, to carry out the purposes of subsections (a) to
75 (c), inclusive, of this section.] For the purpose of the Department of
76 Public Health's issuance of a certificate pursuant to subsection (c) of
77 this section, when the person that will own the water supply system is
78 a water company, as defined in section 16-1, or is not the exclusive
79 service area provider because an exclusive service area provider has
80 not been determined pursuant to section 25-33g, the Public Utilities
81 Regulatory Authority shall determine whether such person has the
82 financial resources to (1) operate the proposed water supply system in

83 a reliable and efficient manner, and (2) provide continuous adequate
84 service to persons served by the water supply system.

85 (e) [(1)] For systems serving twenty-five or more persons, but not
86 twenty-five or more residents, at least sixty days in any one year an
87 application for a certificate of public convenience and necessity shall
88 be on a form prescribed by the Department of Public Health and
89 accompanied by a copy of the construction or expansion plans. [The
90 Department of Public Health] Said department shall issue a certificate
91 to an applicant upon determining, to its satisfaction, that: [(A) no] (1)
92 No interconnection is feasible with a water system owned by, or made
93 available through arrangement with, the provider for the exclusive
94 service area, as determined pursuant to section 25-33g or with another
95 existing water system where no existing exclusive service area has
96 been assigned; [, (B)] (2) the applicant will complete the construction or
97 expansion in accordance with engineering standards established by
98 [regulation] said department's regulations for water supply systems; [,
99 (C)] (3) ownership of the system will be assigned to the provider for
100 the exclusive service area, as determined pursuant to section 25-33g, if
101 agreeable to the exclusive service area provider and [the Department
102 of Public Health] said department, or may remain with the applicant, if
103 agreeable to [the Department of Public Health] said department, until
104 such time as the water system for the exclusive service area, as
105 determined by section 25-33g, has made an extension of the water
106 main, after which the applicant shall obtain service from the provider
107 for the exclusive service area; [, (D)] (4) the proposed construction or
108 expansion will not result in a duplication of water service in the
109 applicable service area; [, (E)] (5) the applicant meets all federal and
110 state standards for water supply systems; [, (F)] (6) the person that will
111 own the water supply system has the financial, managerial and
112 technical resources to [(i)] (A) operate the proposed water supply
113 system in a reliable and efficient manner, and [(ii)] (B) provide
114 continuous adequate service to consumers served by the water supply
115 system; [, (G)] (7) the proposed water supply system will not adversely
116 affect the adequacy of nearby water supply systems; [, and (H)] and (8)
117 any existing or potential threat of pollution that [the Department of

118 Public Health] said department deems to be adverse to public health
 119 will not affect any new source of water supply. Any construction or
 120 expansion with respect to which a certificate is required shall
 121 thereafter be built, maintained and operated in conformity with the
 122 certificate and any terms, limitation or conditions contained therein.

123 (f) Properties held by the Department of Energy and Environmental
 124 Protection and used for, or in support of, fish culture, natural resource
 125 conservation or outdoor recreational purposes shall be exempt from
 126 the requirements of subdivisions (1), (3) and (4) of [subsection (c) of
 127 this section and subparagraphs (A), (C) and (D) of subdivision (1) of
 128 subsection] subsections (c) and (e) of this section.

129 [(2)] (g) The Department of Public Health [shall] may adopt
 130 regulations, in accordance with the provisions of chapter 54, to carry
 131 out the purposes of this [subsection] section. Such regulations may
 132 include measures that encourage water conservation and proper
 133 maintenance.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	16-262m

PH *Joint Favorable*

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 17 \$	FY 18 \$
Public Utility Control, Dept.	CC&PUCF - Revenue Loss	less than 800	less than 1,000
Public Health, Dept.	GF - Revenue Gain	less than 800	less than 1,000
NET IMPACT		-	-

Note: CC&PUCF=Consumer Counsel and Public Utility Control Fund; GF=General Fund

Municipal Impact: None

Explanation

The bill, which requires Certificate of Public Convenience and Necessity (CPCN) applications to be submitted to the Department of Public Health, instead of to the Public Utility Regulatory Authority, will result in a revenue loss of less than \$1,000 annually¹ to the Public Utility Control Fund and a General Fund revenue gain of the same amount. As the bill is effective 10/1/2016, nine months of revenue is reflected in FY 17. No fiscal impact is anticipated from exempting state agencies from the application fee as no state agencies have applied for a CPCN to date.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future dependent on the number of applications.

¹There are approximately 10 CPCN applications each year. The application fee is \$100.

OLR Bill Analysis**SB 288*****AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS ON THE EXPANSION AND CONSTRUCTION OF WATER SYSTEMS.*****SUMMARY:**

This bill revises the process for issuing certificates of public convenience and necessity for water companies seeking to expand or construct their systems. Among other things, it:

1. requires certain water companies to obtain the certificate from the Department of Public Health (DPH), instead of both DPH and the Public Utilities Regulatory Authority (PURA);
2. exempts state agencies from the \$100 certification fee for residential water systems;
3. under certain conditions, requires PURA to determine if the water system owner has sufficient financial resources to provide adequate service and operate reliably and efficiently; and
4. correspondingly eliminates the requirement that PURA adopt regulations on the certificate process and allows, rather than requires, DPH to adopt them.

The bill also makes minor, technical, and conforming changes.

EFFECTIVE DATE: October 1, 2016

CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY***Certificate Process***

By law, certain water companies must obtain a certificate of public convenience and necessity before constructing or expanding their

water systems. The bill requires them to obtain the certificate from DPH, instead of both DPH and PURA, thereby generally removing PURA from the certification process.

Under existing law, the certification requirement applies to water companies constructing or expanding a system that supplies water to 15 or more service connections or 25 or more people for at least 60 days per year. The bill extends the requirement to any individual or entity constructing or expanding these systems.

Existing law allows water companies supplying more than 250 service connections or 1,000 people to expand their systems without obtaining a permit.

Conditions for Issuing a Certificate for Residential Systems

The bill modifies the conditions under which DPH must issue certificates for residential water systems. By law, this includes systems serving 25 or more residents that are not subject to (1) PURA proceedings on water company economic viability or failure to comply with agency orders regarding water availability or potability or (2) a department order for a water company to acquire another water company.

As part of its review, DPH must find that the system owner meets financial, managerial, and technical requirements. Specifically, the owner must be able to (1) operate the proposed water system in a reliable and efficient manner and (2) provide continuous, adequate service to people served by the system. The bill requires PURA to make this determination when the owner is (1) a PURA-regulated water company or (2) not the exclusive service area (ESA) provider because such a provider has not been determined under the law establishing ESA boundaries. (However, this statute refers only to creating the boundaries and not the providers for these areas.)

The bill requires a certificate applicant to build or expand its water system according to DPH engineering standards, instead of those from PURA.

Existing law also establishes a separate, DPH-administered certificate process for non-residential (e.g., schools, businesses) water systems serving 25 or more people for at least 60 days in one year that parallels the process for residential systems.

COMMITTEE ACTION

Public Health Committee

Joint Favorable

Yea 26 Nay 1 (03/16/2016)