



# House of Representatives

**File No. 804**

General Assembly

January Session, 2017

**(Reprint of File No. 460)**

Substitute House Bill No. 7221  
As Amended by House Amendment  
Schedule "A"

Approved by the Legislative Commissioner  
May 26, 2017

**AN ACT CONCERNING ACCESS TO WATER PLANNING  
INFORMATION.**

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

1 Section 1. Subdivision (19) of subsection (b) of section 1-210 of the  
2 general statutes is repealed and the following is substituted in lieu  
3 thereof (*Effective July 1, 2017*):

4 (19) Records when there are reasonable grounds to believe  
5 disclosure may result in a safety risk, including the risk of harm to any  
6 person, any government-owned or leased institution or facility or any  
7 fixture or appurtenance and equipment attached to, or contained in,  
8 such institution or facility, except that such records shall be disclosed  
9 to a law enforcement agency upon the request of the law enforcement  
10 agency. Such reasonable grounds shall be determined (A) (i) by the  
11 Commissioner of Administrative Services, after consultation with the  
12 chief executive officer of an executive branch state agency, with respect  
13 to records concerning such agency; and (ii) by the Commissioner of  
14 Emergency Services and Public Protection, after consultation with the

15 chief executive officer of a municipal, district or regional agency, with  
16 respect to records concerning such agency; (B) by the Chief Court  
17 Administrator with respect to records concerning the Judicial  
18 Department; and (C) by the executive director of the Joint Committee  
19 on Legislative Management, with respect to records concerning the  
20 Legislative Department. As used in this section, "government-owned  
21 or leased institution or facility" includes, but is not limited to, an  
22 institution or facility owned or leased by a public service company, as  
23 defined in section 16-1, other than a water company, as defined in  
24 section 25-32a, a certified telecommunications provider, as defined in  
25 section 16-1, [a water company, as defined in section 25-32a,] or a  
26 municipal utility that furnishes electric [, gas or water] or gas service,  
27 but does not include an institution or facility owned or leased by the  
28 federal government, and "chief executive officer" includes, but is not  
29 limited to, an agency head, department head, executive director or  
30 chief executive officer. Such records include, but are not limited to:

31 (i) Security manuals or reports;

32 (ii) Engineering and architectural drawings of government-owned  
33 or leased institutions or facilities;

34 (iii) Operational specifications of security systems utilized at any  
35 government-owned or leased institution or facility, except that a  
36 general description of any such security system and the cost and  
37 quality of such system [,] may be disclosed;

38 (iv) Training manuals prepared for government-owned or leased  
39 institutions or facilities that describe, in any manner, security  
40 procedures, emergency plans or security equipment;

41 (v) Internal security audits of government-owned or leased  
42 institutions or facilities;

43 (vi) Minutes or records of meetings, or portions of such minutes or  
44 records, that contain or reveal information relating to security or other  
45 records otherwise exempt from disclosure under this subdivision;

46 (vii) Logs or other documents that contain information on the  
47 movement or assignment of security personnel; and

48 (viii) Emergency plans and emergency preparedness, response,  
49 recovery and mitigation plans, including plans provided by a person  
50 to a state agency or a local emergency management agency or official,  
51 [; and

52 (ix) With respect to a water company, as defined in section 25-32a,  
53 that provides water service: Vulnerability assessments and risk  
54 management plans, operational plans, portions of water supply plans  
55 submitted pursuant to section 25-32d that contain or reveal  
56 information the disclosure of which may result in a security risk to a  
57 water company, inspection reports, technical specifications and other  
58 materials that depict or specifically describe critical water company  
59 operating facilities, collection and distribution systems or sources of  
60 supply;]

61 Sec. 2. Subsection (d) of section 1-210 of the general statutes is  
62 repealed and the following is substituted in lieu thereof (*Effective July*  
63 *1, 2017*):

64 (d) Whenever a public agency, except the Judicial Department or  
65 Legislative Department, receives a request from any person for  
66 disclosure of any records described in subdivision (19) of subsection  
67 (b) of this section under the Freedom of Information Act, the public  
68 agency shall promptly notify the Commissioner of Administrative  
69 Services or the Commissioner of Emergency Services and Public  
70 Protection, as applicable, of such request, in the manner prescribed by  
71 such commissioner, before complying with the request as required by  
72 the Freedom of Information Act. [and for information related to a  
73 water company, as defined in section 25-32a, the public agency shall  
74 promptly notify the water company before complying with the request  
75 as required by the Freedom of Information Act.] If the commissioner,  
76 after consultation with the chief executive officer of the applicable  
77 agency, [or after consultation with the chief executive officer of the

78 applicable water company for information related to a water company,  
79 as defined in section 25-32a,] believes the requested record is exempt  
80 from disclosure pursuant to subdivision (19) of subsection (b) of this  
81 section, the commissioner may direct the agency to withhold such  
82 record from such person. In any appeal brought under the provisions  
83 of section 1-206 of the Freedom of Information Act for denial of access  
84 to records for any of the reasons described in subdivision (19) of  
85 subsection (b) of this section, such appeal shall be against the chief  
86 executive officer of the executive branch state agency or the municipal,  
87 district or regional agency that issued the directive to withhold such  
88 record pursuant to subdivision (19) of subsection (b) of this section,  
89 exclusively, or, in the case of records concerning Judicial Department  
90 facilities, the Chief Court Administrator or, in the case of records  
91 concerning the Legislative Department, the executive director of the  
92 Joint Committee on Legislative Management.

93 Sec. 3. Section 25-32d of the general statutes is repealed and the  
94 following is substituted in lieu thereof (*Effective July 1, 2017*):

95 (a) Each water company, as defined in section 25-32a, and supplying  
96 water to one thousand or more persons or two hundred fifty or more  
97 consumers and any other water company as defined in said section  
98 requested by the Commissioner of Public Health shall submit a water  
99 supply plan to the Commissioner of Public Health for approval in  
100 accordance with the requirements of this section and with the  
101 concurrence of the Commissioner of Energy and Environmental  
102 Protection. The concurrence of the Public Utilities Regulatory  
103 Authority shall be required for approval of a plan submitted by a  
104 water company regulated by the authority. The Commissioner of  
105 Public Health shall consider the comments of the Public Utilities  
106 Regulatory Authority on any plan which may impact any water  
107 company regulated by the authority. The Commissioner of Public  
108 Health shall distribute a copy of the plan to the Commissioner of  
109 Energy and Environmental Protection and the Public Utilities  
110 Regulatory Authority. A copy of the plan shall be sent to the Secretary  
111 of the Office of Policy and Management for information and comment.

112 A plan shall be revised at such time as the water company filing the  
113 plan or the Commissioner of Public Health determines, or at intervals  
114 of not less than six years or more than nine years after the date of the  
115 most recently approved plan. Unless the Commissioner of Public  
116 Health requests otherwise, any water company that fails to meet public  
117 drinking water supply quality and quantity obligations, as prescribed  
118 in state law or regulation, shall be required to file plan revisions six  
119 years after the date of the most recently approved plan. On and after  
120 October 1, 2009, upon the approval of a water supply plan, any  
121 subsequent revisions to such plan shall minimally consist of updates to  
122 those elements described in subsection (b) of this section that have  
123 changed after the date of the most recently approved plan provided  
124 the Commissioner of Public Health has not otherwise requested  
125 submission of an entire water supply plan.

126 (b) Any water supply plan submitted pursuant to this section shall  
127 evaluate the water supply needs in the service area of the water  
128 company submitting the plan and propose a strategy to meet such  
129 needs. The plan shall include: (1) A description of existing water  
130 supply systems; (2) an analysis of future water supply demands; (3) an  
131 assessment of alternative water supply sources which may include  
132 sources receiving sewage and sources located on state land; (4)  
133 contingency procedures for public drinking water supply emergencies,  
134 including emergencies concerning the contamination of water, the  
135 failure of a water supply system or the shortage of water; (5) a  
136 recommendation for new water system development; (6) a forecast of  
137 any future land sales, an identification which includes the acreage and  
138 location of any land proposed to be sold, sources of public water  
139 supply to be abandoned and any land owned by the company which it  
140 has designated, or plans to designate, as class III land; (7) provisions  
141 for strategic groundwater monitoring; (8) an analysis of the impact of  
142 water conservation practices and a strategy for implementing supply  
143 and demand management measures; (9) on and after January 1, 2004,  
144 an evaluation of source water protection measures for all sources of the  
145 water supply, based on the identification of critical lands to be

146 protected and incompatible land use activities with the potential to  
147 contaminate a public drinking water source; and (10) a brief summary  
148 of the water company's underground infrastructure replacement  
149 practices, which may include current and future infrastructure needs,  
150 methods by which projects are identified and prioritized for  
151 rehabilitation and replacement and funding needs.

152 (c) For security and safety reasons, procedures for sabotage  
153 prevention and response shall be provided separately from the water  
154 supply plan as a confidential document to the Department of Public  
155 Health. Such procedures shall not be subject to disclosure under the  
156 Freedom of Information Act, as defined in section 1-200. Additionally,  
157 procedures for sabotage prevention and response that are established  
158 by municipally owned water companies shall not be subject to  
159 disclosure under the Freedom of Information Act, as defined in section  
160 1-200.

161 (d) Any water supply plan, including any subsequent revisions to  
162 such plan, submitted by a water company pursuant to this section shall  
163 be accompanied by a redacted copy of such plan, or subsequent  
164 revision to such plan. When submitting a redacted copy of a water  
165 supply plan, a water company shall redact the information exempted  
166 from disclosure under subsection (e) of this section.

167 (e) The following records filed with any public agency by a water  
168 company are confidential and shall not be subject to disclosure under  
169 the Freedom of Information Act, as defined in section 1-200:

170 (1) Cybersecurity plans and measures, supervisory control and data  
171 acquisition systems, information and communications systems, system  
172 access codes and specifications, vulnerability assessments, internal  
173 security audits, security manuals, security training or security reports,  
174 including, but not limited to, security assessments, plans and  
175 procedures, operational and design specifications of water and sewage  
176 treatment facility security systems or risk management plans;

177 (2) Emergency contingency plans and emergency preparedness

178 plans, incident management plans, response, recovery and mitigation  
179 plans or critical customer lists, including plans provided by a person to  
180 a federal or state agency or a federal, state or local emergency  
181 management agency or official, or documents or portions of  
182 documents that identify or describe procedures for sabotage  
183 prevention and response, except drought management and response  
184 plans shall be subject to disclosure;

185 (3) Design drawings or maps identifying specific locations, detailed  
186 schematics and construction details of wells, source water intakes,  
187 water mains, tunnels, storage facilities, water and sewage treatment  
188 facilities or pump stations and pressure reducing stations, and other  
189 distribution system pressure and flow control valves and facilities,  
190 provided information regarding general location of water mains, wells  
191 and interconnections shall be subject to disclosure;

192 (4) Dam specifications or dam safety documents described in  
193 sections 22a-401 to 22a-411, inclusive, including (A) inspections  
194 reports, engineering studies or reports, drawings, plans and  
195 specifications detailing construction or rehabilitation, and (B)  
196 emergency action plans prepared pursuant to section 22a-411a  
197 including plans provided to a federal or state agency or a federal, state  
198 or local emergency response or emergency management agency or  
199 official;

200 (5) Building floor or structural plans, specifications of structural  
201 elements or building security systems or codes;

202 (6) Detailed network topology maps;

203 (7) Specific locations of or specifications regarding electrical power,  
204 standby generators or fuel systems for water system facilities, except  
205 that general information regarding electrical power, standby  
206 generators or fuel systems for water system facilities may be disclosed;

207 (8) Operational specifications, schematics and procedures of water  
208 and sewage treatment plant processes and associated equipment and

209 chemicals, including, but not limited to, facility use of chlorine gas  
210 storage and delivery and the location of chemicals, except that a  
211 general description of any such treatment plant may be disclosed;

212 (9) Logs or other documents that contain information regarding the  
213 movement or assignment of water system and sewage treatment  
214 facilities and security personnel;

215 (10) Distribution system hydraulic models; or

216 (11) Any other record if there are reasonable grounds to believe the  
217 disclosure of such record may result in a safety risk. Upon request by  
218 the water company, such record may be reviewed by the  
219 Commissioner of Administrative Services, in consultation with the  
220 chief executive officer of the executive branch state agency or  
221 municipal water or sewage treatment entity that has custody of such  
222 record, to determine if such reasonable grounds exist.

223 [(d)] (f) The Commissioner of Public Health, in consultation with the  
224 Commissioner of Energy and Environmental Protection and the Public  
225 Utilities Regulatory Authority, shall adopt regulations in accordance  
226 with the provisions of chapter 54. Such regulations shall include a  
227 method for calculating safe yield, the contents of emergency  
228 contingency plans and water conservation plans, the contents of an  
229 evaluation of source water protection measures, a process for  
230 approval, modification or rejection of plans submitted pursuant to this  
231 section, a schedule for submission of the plans and a mechanism for  
232 determining the completeness of the plan. The plan shall be deemed  
233 complete if the commissioner does not request additional information  
234 within ninety days after the date on which the plan was submitted or,  
235 in the event that additional information has been requested, within  
236 forty-five days after the submission of such information, except that  
237 the commissioner may request an additional thirty days beyond the  
238 time in which the application is deemed complete to further determine  
239 completeness. In determining whether the water supply plan is  
240 complete, the commissioner may request only information that is



241 specifically required by regulation. The Department of Energy and  
 242 Environmental Protection and the Public Utilities Regulatory  
 243 Authority, in the case of any plan which may impact any water  
 244 company regulated by that agency, shall have ninety days upon notice  
 245 that a plan is deemed complete to comment on the plan.

246 [(e)] (g) Any water company, when submitting any plan or revision  
 247 or amendment of a plan after July 1, 1998, which involves a forecast of  
 248 land sales, abandonment of any water supply source, sale of any lands,  
 249 or land reclassification, shall provide notice, return receipt requested,  
 250 to the chief elected official of each municipality in which the land or  
 251 source is located, the Nature Conservancy, the Trust for Public Land  
 252 and the Land Trust Service Bureau and any organization on the list  
 253 prepared under subsection (b) of section 16-50c. Such notice shall  
 254 specify any proposed abandonment of a source of water supply, any  
 255 proposed changes to land sales forecasts or any land to be designated  
 256 as class III land in such plan. Such notice shall specify the location and  
 257 acreage proposed for sale or reclassification as class III land and  
 258 identify sources to be abandoned and shall be provided no later than  
 259 the date of submission of such plan or revision. Such notice shall  
 260 indicate that public comment on such plan or revision shall be received  
 261 by the Commissioners of Public Health and Energy and Environmental  
 262 Protection not later than sixty days after the date of notice. The  
 263 Commissioner of Public Health shall take such comment into  
 264 consideration in making any determination or approval under this  
 265 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2017	1-210(b)(19)
Sec. 2	July 1, 2017	1-210(d)
Sec. 3	July 1, 2017	25-32d

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.

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:** None

**Explanation**

The bill, which makes changes to the Freedom of Information Act exemption for certain water company records, does not result in a fiscal impact to the state or municipalities.

House "A" struck the language of the underlying bill, its associated fiscal impact, and replaced it with language that is not anticipated to result in a fiscal impact to the state or municipalities.

**The Out Years**

**State Impact:** None

**Municipal Impact:** None

**OLR Bill Analysis****sHB7221 (as amended by House "A")\*****AN ACT CONCERNING ACCESS TO WATER PLANNING INFORMATION.****SUMMARY**

This bill revamps the Freedom of Information Act (FOIA) exemption for certain water company records. Generally, it removes water company records from the coverage of an existing FOIA exemption that applies to all public agency records if reasonable grounds exist to believe that their release could pose a security risk. It instead identifies specific water company records filed with a public agency as confidential and not subject to disclosure under FOIA. In addition to these specified records, the bill also makes confidential any other water company record filed with a public agency if there are reasonable grounds to believe that disclosure may result in a safety risk.

The bill requires water companies, when submitting a water supply plan (or revision to a plan) to the Department of Public Health, to also submit a copy of the plan that is redacted in accordance with the bill's provisions on confidential records.

\*House Amendment "A" (1) makes minor changes to the types of records not subject to disclosure; (2) adds the provision on submitting a redacted copy of a water supply plan; (3) modifies the procedure for determining whether there are reasonable grounds to believe that a safety risk exists; and (4) changes the effective date from October 1, 2017, to July 1, 2017.

EFFECTIVE DATE: July 1, 2017

**APPLICABILITY OF FOIA TO WATER COMPANY RECORDS**

Under FOIA, a “public agency” is generally any (1) state, municipal, regional, or quasi-public agency, including any judicial office, or (2) entity that is the functional equivalent of such agencies (CGS § 1-200). The law defines a water company as any individual, municipality, or entity that owns, maintains, operates, manages, controls, or employs any pond, lake, reservoir, well, stream, or distributing plant or system that supplies water to two or more consumers or to 25 or more people on a regular basis (CGS § 25-32a).

Thus, a water company itself is subject to FOIA if the company is a public agency. If a water company is not such a public agency, its records may still be subject to FOIA if they are submitted to a public agency (e.g., a water supply plan submitted to the Department of Public Health).

The bill revamps the FOIA exemption for certain water company records, as described below.

## **CURRENT EXEMPTION**

### ***Exempt Records***

Existing law exempts records from disclosure under FOIA when there are reasonable grounds to believe that disclosure may result in a safety risk, including the risk of harm to any government-owned or -leased institution or facility. Under current law, a government-owned or -leased institution or facility includes an institution or facility owned or leased by a water company. The bill removes water company-owned or -leased institutions and facilities from this exemption and instead identifies specific water company records filed with a public agency as confidential and not subject to disclosure under FOIA (see RECORDS DEEMED CONFIDENTIAL BY THE BILL below).

Records covered by existing law’s exemption generally include security manuals or reports; operational specifications of security systems; and emergency plans and emergency preparedness, response, recovery, and mitigation plans. Water company records covered by

this exemption include:

1. vulnerability assessments and risk management plans;
2. operational plans;
3. portions of water supply plans that could result in a security risk if disclosed;
4. inspection reports;
5. technical specifications; and
6. other materials that depict or specifically describe critical water company operating facilities, collection and distribution systems, or supply sources.

#### ***Procedure for Determining Whether Exemption Applies***

The bill makes a conforming change by eliminating the applicability to water company records of existing law's procedures for determining a security risk. Generally under these procedures, the administrative services or emergency services and public protection commissioner must determine whether there are reasonable grounds for a security risk, after consulting with the chief executive officer of the agency with custody of the record. For water company records, the bill also eliminates requirements in current law that the (1) custodial agency notify the water company of the request and (2) respective commissioners consult with the water company's chief executive officer when determining if a security risk exists.

#### **RECORDS DEEMED CONFIDENTIAL BY THE BILL**

The bill deems the following water company records filed with a public agency as confidential and not subject to disclosure under FOIA:

1. cybersecurity plans and measures, supervisory control and data acquisition systems, information and communications systems, system access codes and specifications, vulnerability

- assessments, internal security audits, security manuals, security training or security reports, including security assessments, plans and procedures, operational and design specifications of water and sewage treatment facility security systems, or risk management plans;
2. emergency contingency plans and emergency preparedness plans, incident management plans, response, recovery, and mitigation plans or critical customer lists, including plans provided by a person to a federal or state agency or a federal, state, or local emergency management agency or official, or documents or portions of documents that identify or describe procedures for sabotage prevention and response, except that drought management and response plans are subject to disclosure;
  3. design drawings or maps identifying specific locations, detailed schematics and construction details of wells, source water intakes, water mains, tunnels, storage facilities, water and sewage treatment facilities or pump stations and pressure reducing stations, and other distribution system pressure and flow control valves and facilities, provided information about general location of water mains, wells and interconnections are subject to disclosure;
  4. dam specifications or safety documents, including (a) inspection reports, engineering studies or reports, drawings, plans, and specifications detailing construction or rehabilitation and (b) emergency action plans, including plans provided to a federal or state agency or a federal, state, or local emergency response or emergency management agency or official;
  5. building floor or structural plans, specifications of structural elements, or building security systems or codes;
  6. detailed network topology maps;

7. specific locations of or specifications about electrical power, standby generators, or fuel systems for water system facilities, except that general information about electrical power, standby generators, or fuel systems for water system facilities may be disclosed;
8. operational specifications, schematics and procedures of water and sewage treatment plant processes and associated equipment and chemicals, including facility use of chlorine gas storage and delivery and the location of chemicals, except that a general description of the treatment plant may be disclosed;
9. logs or other documents that contain information about the movement or assignment of water system and sewage treatment facilities and security personnel; and
10. distribution system hydraulic models.

In addition to these specified records, the bill also makes confidential any other water company record filed with a public agency if there are reasonable grounds to believe that disclosure may result in a safety risk. Upon the water company’s request, such a record may be reviewed by the administrative services commissioner, in consultation with the chief executive officer of the executive branch state agency or municipal water or sewage treatment entity that has custody of the record, to determine if reasonable grounds exist.

**COMMITTEE ACTION**

Public Health Committee

Joint Favorable Substitute  
 Yea 26 Nay 0 (03/24/2017)

Government Administration and Elections Committee

Joint Favorable  
 Yea 13 Nay 0 (04/13/2017)