



General Assembly

January Session, 2017

***Raised Bill No. 7220***

LCO No. 4427



Referred to Committee on PUBLIC HEALTH

Introduced by:  
(PH)

***AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S  
RECOMMENDATIONS REGARDING SAFE DRINKING WATER.***

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

1 Section 1. (NEW) (*Effective October 1, 2017*) (a) As used in this  
2 section:

3 (1) "Small community water system" means a water company that  
4 regularly serves at least twenty-five, but not more than one thousand,  
5 year-round residents;

6 (2) "Useful life" means a manufacturer's recommended life or the  
7 estimated lifespan of a water company's capital asset, taking into  
8 consideration the service history and current condition of such capital  
9 asset; and

10 (3) "Water company" has the same meaning as provided in section  
11 25-32a of the general statutes.

12 (b) Each water company shall prepare a fiscal and asset  
13 management plan for all of the capital assets that comprise each of the

14 water company's small community water systems. The fiscal and asset  
15 management plan shall include, but need not be limited to, (1) a list of  
16 all capital assets of the small community water system, (2) the useful  
17 life of such capital assets, which shall be based on the current condition  
18 of such capital assets, (3) the maintenance and service history of such  
19 capital assets, (4) the manufacturer's recommendation regarding such  
20 capital assets, and (5) the water company's plan for the reconditioning,  
21 refurbishment or replacement of such capital assets. Each water  
22 company shall commence the creation of the fiscal and asset  
23 management plan with the assessment of its hydropneumatic pressure  
24 tanks as its initial priority. Each water company shall complete the  
25 fiscal and asset management plan for all of the capital assets of each of  
26 its small community water systems not later than January 1, 2020,  
27 except that each water company shall complete on a form prepared by  
28 the Department of Public Health the asset and fiscal management plan  
29 assessment review of the hydropneumatic pressure tanks at each of its  
30 small community water systems not later than May 1, 2018. Following  
31 the completion of the initial fiscal and asset management plan, a water  
32 company shall update such fiscal and asset management plan annually  
33 and shall make such fiscal and asset management plan available to the  
34 department upon request.

35 (c) This section shall not apply to a water company that is (1) a  
36 water company, as defined in section 16-1 of the general statutes, (2)  
37 subject to the requirements in section 25-32d of the general statutes, or  
38 (3) a state agency.

39 (d) The provisions of this section shall be deemed to relate to the  
40 purity and adequacy of water supplies for the purposes of the  
41 imposition of a penalty under section 25-32e of the general statutes, as  
42 amended by this act.

43 (e) The Commissioner of Public Health may adopt regulations, in  
44 accordance with the provisions of chapter 54, to carry out the  
45 provisions of this section.

46 Sec. 2. Subsections (a) to (e), inclusive, of section 25-32e of the  
47 general statutes are repealed and the following is substituted in lieu  
48 thereof (*Effective October 1, 2017*):

49 (a) If, upon review, investigation or inspection, the Commissioner of  
50 Public Health determines that a water company has violated any  
51 provision of section 25-32, section 25-32d or any regulation adopted  
52 under section 25-32d, or any [regulation in the Public Health Code]  
53 provision of the general statutes or regulations of Connecticut state  
54 agencies relating to the purity and adequacy of water supplies or to the  
55 testing of water supplies or any report of such testing, the  
56 commissioner may impose a civil penalty not to exceed five thousand  
57 dollars per violation per day upon such water company.  
58 Governmental immunity shall not be a defense against the imposition  
59 of any civil penalty imposed pursuant to this section. The  
60 commissioner shall [adopt regulations, in accordance with the  
61 provisions of chapter 54, establishing a schedule or schedules of the  
62 amounts, or the ranges of amounts, of civil penalties which may be  
63 imposed under this section. In adopting such regulations, the  
64 commissioner shall consider the size of or the number of persons  
65 served by the water company, the level of assessment necessary to  
66 insure immediate and continued compliance with such provision, and  
67 the character and degree of injury or impairment to or interference  
68 with or threat thereof to: (1) The purity of drinking water supplies; (2)  
69 the adequacy of drinking water supplies; and (3) the public health,  
70 safety or welfare. No such civil penalty may be imposed until the  
71 regulations required by this subsection have been adopted] publish  
72 annually, or as the commissioner deems necessary in response to any  
73 guidelines or ruling promulgated by the United States Environmental  
74 Protection Agency, a schedule of the amounts, or ranges of amounts, of  
75 civil penalties that may be imposed under this section on the  
76 Department of Public Health's Internet web site if the civil penalty for  
77 a violation under this section has not been established by statute.  
78 Notwithstanding any provision of the Uniform Administrative

79 Procedures Act, as set forth in chapter 54, the commissioner shall not  
80 be required to adopt or revise any regulations regarding the  
81 imposition of civil penalties when publishing such schedule in  
82 response to such guidelines or ruling.

83 (b) In setting a civil penalty in a particular case, the commissioner  
84 shall consider all factors which the commissioner deems relevant,  
85 including, but not limited to, the following: (1) The amount of  
86 assessment necessary to insure immediate and continued compliance  
87 with such provision; (2) the character and degree of impact of the  
88 violation on the purity and adequacy of drinking water supplies; (3)  
89 whether the water company incurring the civil penalty is taking all  
90 feasible steps or procedures necessary or appropriate to comply with  
91 such provisions or to correct the violation; (4) any prior violations by  
92 such water company of statutes, regulations, orders or permits  
93 administered, adopted or issued by the commissioner; (5) the character  
94 and degree of injury to, or interference with, public health, safety or  
95 welfare which has been or may be caused by such violation; and (6)  
96 [after the adoption of the federal Safe Drinking Water Act Public  
97 Notification Rule pursuant to section 5 of public act 01-185,] whether  
98 the consumers of the water company have been notified of such  
99 violation pursuant to [such rule] section 19-13-B102 of the regulations  
100 of Connecticut state agencies.

101 (c) If the commissioner has reason to believe that a violation has  
102 occurred, the commissioner may impose a penalty if compliance is not  
103 achieved by a specified date and send to the violator, by certified mail,  
104 return receipt requested, or personal service at the address filed with  
105 the department by the water company as required under subsection (a)  
106 of section 25-33 or, if the water company did not file an address as  
107 required under subsection (a) of said section, to the last known address  
108 of the water company on file at the department, a notice which shall  
109 include: (1) A reference to the sections of the statute or regulation  
110 involved; (2) a short and plain statement of the [matters asserted or  
111 charged] violation; (3) a statement of the amount of the civil penalty or

112 penalties [to be] imposed; (4) the initial date of the imposition of the  
113 penalty when the penalty is imposed for a continuing violation, or the  
114 dates for which the penalty is imposed when the penalty is imposed  
115 for an isolated violation; and (5) a statement of the [party's] water  
116 company's right to a hearing. The commissioner shall send a copy of  
117 such notice to the local director of health in the municipality or  
118 municipalities in which such violation occurred or that utilize such  
119 water.

120 (d) The civil penalty shall be payable for noncompliance on the date  
121 specified in subsection (c) of this section and for each day thereafter  
122 until the water company against which the penalty was issued  
123 [notifies] demonstrates to the commissioner that the violation has been  
124 corrected or has otherwise ceased to occur. [Upon receipt of such  
125 notification, the commissioner shall determine whether or not the  
126 violation has been corrected and shall notify the water company, in  
127 writing, of such determination. The water company may, within  
128 twenty days after such notice is sent by the commissioner, request a  
129 hearing to contest an adverse determination. If, after such hearing, the  
130 commissioner finds that the violation still exists, or if the water  
131 company fails to request a hearing, the penalty shall continue in force  
132 from the original date of imposition.]

133 (e) The water company to which the notice is addressed shall have  
134 [twenty] ten days from the date of mailing of the notice to make  
135 written application to the commissioner for a hearing to contest the  
136 imposition of the penalty. The application shall include a detailed  
137 statement of all of the grounds for contesting the imposition of the  
138 penalty. The water company shall send a copy of such application to  
139 the local director of health in the municipality or municipalities in  
140 which such violation occurred or that utilize such water. All hearings  
141 under this section shall be conducted pursuant to sections 4-176e to 4-  
142 184, inclusive, except that the presiding officer shall automatically  
143 grant each local director of health in the municipality or municipalities  
144 in which such violation occurred or that utilize such water the right to

145 be heard in the proceeding. Any civil penalty may be mitigated by the  
146 commissioner upon such terms and conditions as the commissioner, in  
147 the commissioner's discretion, deems proper or necessary upon  
148 consideration of the factors set forth in subsection (b) of this section.

149 Sec. 3. (NEW) (*Effective October 1, 2017*) As used in this section and  
150 sections 4 to 15, inclusive, of this act:

151 (1) "Abandoned operations" includes, but is not limited to, the  
152 failure of a small water company to:

153 (A) Provide water to consumers of the small water company for at  
154 least five days during the preceding three months or two or more  
155 repeated service interruptions during the preceding three months;

156 (B) Meet the standards adopted under section 25-32 of the general  
157 statutes for the quantity and quality of public drinking water and such  
158 failure constitutes an immediate threat to the quality or adequacy of  
159 any source of water supply;

160 (C) Have the financial, managerial and technical resources needed  
161 to operate the small water company in a reliable and efficient manner  
162 and to provide continuous, adequate service to the persons served by  
163 the small water company;

164 (D) Adequately maintain the small water company's facilities,  
165 resulting in a potential threat to the quality or adequacy of the small  
166 water company's public water supply; and

167 (E) Provide consumers adequate notice of a public health threat or  
168 potential public health threat.

169 (2) "Consumer" has the same meaning as provided in section 25-32a  
170 of the general statutes;

171 (3) "Small water company" means a water company, other than a  
172 state agency, that is not required to submit a water supply plan

173 pursuant to section 25-32d of the general statutes; and

174 (4) "Water company" has the same meaning as provided in section  
175 25-32a of the general statutes.

176 Sec. 4. (NEW) (*Effective October 1, 2017*) (a) A motion to appoint a  
177 receiver for a small water company may be filed in the Superior Court  
178 by the Commissioner of Public Health. The court shall hold a hearing  
179 not later than ten days after the date the motion is filed. Notice of such  
180 hearing shall be given to the owner of such small water company, or  
181 such owner's agent for service of process, not less than five days prior  
182 to such hearing and shall be posted by the Department of Public  
183 Health in conspicuous locations throughout the distribution system of  
184 the small water company for not less than three days prior to such  
185 hearing. The notice and hearing requirements in this subsection may  
186 be waived by the owner of the small water company.

187 (b) Notwithstanding the provisions of subsection (a) of this section,  
188 the court may appoint a receiver upon an ex parte motion filed by the  
189 department when affidavits, testimony or any other evidence  
190 presented indicate that there is a reasonable likelihood a condition  
191 exists at such small water company that must be remedied  
192 immediately to ensure the health, safety and welfare of the consumers  
193 of such small water company. Notice of the ex parte motion and order  
194 shall be served on the owner or the owner's agent for service of process  
195 and shall be posted in a conspicuous place at such small water  
196 company not later than twenty-four hours after issuance of such order.  
197 A hearing on the motion shall be held not later than five days after the  
198 issuance of such order unless the owner consents to a later hearing  
199 date. The hearing requirement in this subsection may be waived by the  
200 owner of the small water company.

201 Sec. 5. (NEW) (*Effective October 1, 2017*) The court shall grant a  
202 motion for the appointment of a receiver made under section 4 of this  
203 act for a small water company upon a finding of any of the following:

204 (1) Such small water company has abandoned operations; or (2) such  
205 small water company failed to comply with an order issued in  
206 response to a violation under sections 19a-36 to 19a-39, inclusive, or 25-  
207 32 to 23-53, inclusive, of the general statutes or any regulation or  
208 permit adopted or issued thereunder, and such violation constitutes an  
209 immediate threat to the quality or adequacy of any source of water  
210 supply.

211 Sec. 6. (NEW) (*Effective October 1, 2017*) It shall be a sufficient  
212 defense to a receivership motion if any owner of a small water  
213 company establishes that (1) the owner did not have a reasonable time  
214 in which to correct such violation, or (2) the violation listed in the  
215 application does not, in fact, exist.

216 Sec. 7. (NEW) (*Effective October 1, 2017*) (a) Except as provided in  
217 subsection (c) of this section, a receiver appointed pursuant to the  
218 provisions of this section and sections 4 to 6, inclusive, and 8 to 13,  
219 inclusive, of this act shall (1) have the same powers in operating a  
220 small water company as a receiver of a corporation under section 52-  
221 507 of the general statutes, (2) exercise such powers to remedy the  
222 conditions that constituted grounds for the imposition of receivership,  
223 (3) ensure the availability and potability of water and the provision of  
224 water at an adequate volume and pressure to the consumers of the  
225 small water company, and (4) preserve the assets and property of the  
226 owner. If such small water company is placed in receivership, it shall  
227 be the duty of the receiver to notify each consumer of such  
228 receivership. Such receiver may correct or eliminate any condition or  
229 violation that is prejudicial to public health while the receiver remains  
230 at such small water company, provided the total cost of correction or  
231 elimination does not exceed three thousand dollars. The court may  
232 order expenditures for such correction or elimination in excess of three  
233 thousand dollars upon application from such receiver.

234 (b) Not later than ninety days after the date of appointment as a  
235 receiver, the receiver shall take all necessary steps to stabilize the



236 operation of the small water company in order to ensure the  
237 availability and potability of water and the provision of water at  
238 adequate volume and pressure to the consumers of such small water  
239 company.

240 (c) The court may limit the powers of a receiver appointed pursuant  
241 to the provisions of this section and sections 3 to 6, inclusive, and 8 to  
242 13, inclusive, of this act to those necessary to solve a specific problem.

243 (d) Any action filed against a small water company that is in  
244 receivership pursuant to this section shall be transferred to the court  
245 supervising the receiver of such small water company. Except as  
246 otherwise ordered by the court, the appointment of a receiver pursuant  
247 to this section shall act as a stay of such actions until such time as the  
248 court terminates the stay.

249 Sec. 8. (NEW) (*Effective October 1, 2017*) (a) A receiver may not be  
250 required to honor any lease, mortgage, secured transaction or other  
251 contract entered into by the owner of a small water company if, upon  
252 application to the Superior Court, said court determines that (1) the  
253 person seeking payment under the lease, mortgage secured transaction  
254 or other contract was an owner or controlling stockholder of such  
255 small water company or was an affiliate of such owner or controlling  
256 stockholder at the time the lease, mortgage secured transaction or  
257 other contract was effectuated, or (2) the rental, price or rate of interest  
258 required to be paid under the lease, mortgage secured transaction or  
259 other contract was substantially in excess of a reasonable rental, price  
260 or rate of interest at the time the lease, mortgage secured transaction or  
261 other contract was entered into.

262 (b) If the receiver is in possession of real estate or goods subject to a  
263 lease, mortgage or security interest that the receiver is permitted to  
264 avoid under subsection (a) of this section and if the real estate or goods  
265 are necessary for the continued operation of the small water company  
266 under this section, the receiver may apply to the court to set a

267 reasonable rental, price or rate of interest to be paid by the receiver for  
268 the duration of the receivership. The court shall hold a hearing not  
269 later than fifteen days after application is made. Any known owners of  
270 the property involved shall receive notice of such application from the  
271 receiver not later than ten days prior to the hearing. Payment by the  
272 receiver of the amount determined by the court to be reasonable is a  
273 defense to any action against the receiver for payment or for  
274 possession of the goods or security interest or real estate subject to the  
275 lease or mortgage involved by any person who received such notice,  
276 but the payment does not relieve the owner of the small water  
277 company of any liability for the difference between the amount paid  
278 by the receiver and the amount due under such lease, mortgage,  
279 secured transaction or other contract involved.

280 (c) The provisions of this section shall not apply to a lease,  
281 mortgage, secured transaction or other contract entered into with any  
282 financial institution regulated by a state or federal agency.

283 Sec. 9. (NEW) (*Effective October 1, 2017*) (a) The Department of Public  
284 Health shall maintain and publish on the department's Internet web  
285 site a list of interested and qualified individuals, corporations,  
286 associations and partnerships, with experience in the provision of  
287 water service and a history of satisfactory operation of a water  
288 company. The Superior Court may appoint any responsible individual,  
289 corporation, association or partnership whose name is proposed by the  
290 Commissioner of Public Health to act as receiver. If no such individual,  
291 corporation, association or partnership consents to assume operation  
292 of the small water company, the Superior Court shall appoint a  
293 receiver. No state employee, owner of the small water company or  
294 other person with a financial interest in the small water company may  
295 serve as a receiver for such small water company. No person  
296 appointed to act as a receiver shall be permitted to have a current  
297 financial interest in the small water company or to acquire a financial  
298 interest in the small water company for a period of five years from the  
299 date his or her receivership terminates.

300 (b) The court, in its discretion, may require a bond of such receiver  
301 in accordance with the provisions of section 52-506 of the general  
302 statutes.

303 Sec. 10. (NEW) (*Effective October 1, 2017*) The court may remove a  
304 receiver appointed pursuant to sections 3 to 9, inclusive, and 11 to 13,  
305 inclusive, of this act, in accordance with section 52-513 of the general  
306 statutes. A small water company receiver appointed pursuant to  
307 sections 3 to 9, inclusive, and 11 to 13, inclusive, of this act shall be  
308 entitled to a reasonable receiver's fee as determined by the court. The  
309 receiver shall be liable only in the receiver's official capacity for injury  
310 to person and property by reason of the conditions of the small water  
311 company. The receiver shall not be personally liable, except for acts or  
312 omissions constituting gross, wilful or wanton negligence.

313 Sec. 11. (NEW) (*Effective October 1, 2017*) (a) The receiver may,  
314 subject to the approval of the Superior Court and the Commissioner of  
315 Public Health, use the rates collected from the consumers of the small  
316 water company, or sell or otherwise dispose of all or part of the real  
317 and personal property of the small water company, or both, to pay the  
318 costs incurred in the operation of the receivership. The costs shall  
319 include, but not be limited to: (1) Payment of fees to the receiver for the  
320 receiver's services; (2) payment of fees of attorneys, accountants,  
321 certified operators, engineers or any other person or entity that  
322 provides goods or services necessary to the operation of the  
323 receivership; and (3) any other fee deemed necessary by the Superior  
324 Court and the commissioner.

325 (b) Subject to the approval of the Superior Court and the  
326 commissioner, the receiver may increase the rates collected from the  
327 consumers of the small water company to pay the costs incurred in the  
328 operation of the receivership.

329 Sec. 12. (NEW) (*Effective October 1, 2017*) Each receiver shall, during  
330 the first week in January, April, July and October in each year, sign,

331 swear to and file with the clerk of the Superior Court in which the  
332 receiver was appointed a full and detailed account of his or her doings  
333 as the receiver for the three months next preceding, together with a  
334 statement of all court orders passed during such three-month period  
335 and the present condition and prospects of the small water company in  
336 the receiver's charge, and cause a motion for a hearing and approval of  
337 the same to be placed on the short calendar.

338       Sec. 13. (NEW) (*Effective October 1, 2017*) The Superior Court, upon a  
339 motion by the receiver appointed under sections 4 to 12, inclusive, of  
340 this act or the owner of the small water company, may terminate the  
341 receivership if it finds that such small water company has been  
342 rehabilitated so that the violations or other conditions complained of  
343 no longer exist. Upon such finding, the court may terminate the  
344 receivership and return such small water company to its owner. In its  
345 termination order, the court may include such terms as it deems  
346 necessary to prevent the violations or other conditions complained of  
347 from recurring.

348       Sec. 14. (NEW) (*Effective October 1, 2017*) (a) (1) If a small water  
349 company has abandoned operations of the small water company, or (2)  
350 the Commissioner of Public Health has filed or is filing an application  
351 in a Superior Court for the appointment of a receiver under section 4 of  
352 this act, the commissioner, after providing notice and an opportunity  
353 for a hearing to the owner of the small water company, may authorize  
354 a person to temporarily manage and operate a small water company.

355       (b) The commissioner may appoint a person under this section by  
356 emergency order. Notice of such appointment shall be deemed  
357 adequate if the notice is mailed or hand-delivered to the last known  
358 address of the small water company.

359       (c) A temporary manager appointed under this section has the  
360 powers and duties necessary to ensure the continued operation of the  
361 small water company, the availability and potability of water and the

362 provision of water at adequate volume and pressure to the consumers  
363 of the small water company, including the powers and duties to (1)  
364 read meters, (2) bill consumers for water services, (3) collect revenues,  
365 (4) disburse funds, (5) increase rates charged to consumers if such rate  
366 increase is necessary and approved by the commissioner, (6) access all  
367 small water company components, (7) conduct sampling of water, (8)  
368 make necessary repairs, as determined by the temporary manager in  
369 consultation with the commissioner, and (9) perform other acts  
370 necessary to assure continuous and adequate water service as  
371 authorized by the commissioner.

372 (d) The commissioner may require a bond of such temporary  
373 manager in accordance with section 52-506 of the general statutes.

374 (e) A temporary manager shall serve a term of one year, unless (1)  
375 specified otherwise by the commissioner, (2) an extension is requested  
376 by the Department of Public Health or the temporary manager and the  
377 commissioner grants such extension, (3) the temporary manager is  
378 discharged from such temporary manager's responsibilities by the  
379 commissioner, or (4) a receiver is appointed pursuant to the provisions  
380 of sections 4 to 13, inclusive, of this act.

381 (f) Not later than sixty days after appointment, the temporary  
382 manager shall provide to the commissioner an accounting of the assets  
383 and property the small water company received.

384 (g) The source of compensation for the temporary manager shall be  
385 the rates collected from the consumers of the small water company.  
386 The commissioner shall set the compensation at the time of  
387 appointment.

388 (h) The temporary manager shall report to the commissioner on a  
389 monthly basis. Such report shall include, but need not be limited to (1)  
390 an income statement for the relevant reporting period, (2) a summary  
391 of small water company activities, including, but not limited to, all  
392 repairs made to the water company, and (3) any other information

393 deemed necessary by the commissioner.

394 (i) This section shall not affect the authority of the department to  
 395 pursue enforcement against a small water company.

396 Sec. 15. (NEW) (*Effective October 1, 2017*) The Commissioner of  
 397 Public Health, or an agent authorized by the commissioner to conduct  
 398 any inquiry, investigation or hearing under the provisions of this  
 399 section and sections 3 to 14, inclusive, of this act, shall have the power  
 400 to inspect the premises of a water company, issue subpoenas, order the  
 401 production of books, records or documents, administer oaths and take  
 402 testimony under oath relative to the matter of such inquiry,  
 403 investigation or hearing. At any hearing ordered by the Department of  
 404 Public Health, the commissioner or such agent may subpoena  
 405 witnesses and require the production of records, papers and  
 406 documents pertinent to such inquiry. If any person disobeys such  
 407 subpoena or, having appeared in obedience thereto, refuses to answer  
 408 any pertinent question put to such person by the commissioner or such  
 409 agent or to produce any records and papers pursuant to the subpoena,  
 410 the commissioner or such agent may apply to the superior court for the  
 411 judicial district of Hartford or for the judicial district wherein the  
 412 person resides or wherein the business has been conducted, setting  
 413 forth such disobedience or refusal, and the court shall cite such person  
 414 to appear before the court to answer such question or to produce such  
 415 records and papers.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2017</i>	New section
Sec. 2	<i>October 1, 2017</i>	25-32e(a) to (e)
Sec. 3	<i>October 1, 2017</i>	New section
Sec. 4	<i>October 1, 2017</i>	New section
Sec. 5	<i>October 1, 2017</i>	New section
Sec. 6	<i>October 1, 2017</i>	New section
Sec. 7	<i>October 1, 2017</i>	New section

Sec. 8	<i>October 1, 2017</i>	New section
Sec. 9	<i>October 1, 2017</i>	New section
Sec. 10	<i>October 1, 2017</i>	New section
Sec. 11	<i>October 1, 2017</i>	New section
Sec. 12	<i>October 1, 2017</i>	New section
Sec. 13	<i>October 1, 2017</i>	New section
Sec. 14	<i>October 1, 2017</i>	New section
Sec. 15	<i>October 1, 2017</i>	New section

***Statement of Purpose:***

To implement the recommendations of the Department of Public Health regarding safe drinking water.

*[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.]*