
OLR Bill Analysis

sHB 5151

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

SUMMARY

This bill makes various changes affecting public water systems and the oversight of small community water systems (i.e., those regularly serving between 25 and 1,000 year-round residents). Among other things, the bill:

1. requires, by January 1, 2021, small community water systems to submit to the Department of Public Health (DPH) a fiscal and asset management plan for all their capital assets;
2. requires such systems, before completing their fiscal asset management plan, to complete an assessment review of their hydropneumatic pressure tanks by May 2, 2019;
3. requires the DPH commissioner to publish on the department's website a schedule of civil penalties imposed against water companies under the safe drinking water statutes, rather than adopting them in regulations as under current law; and
4. requires the DPH commissioner to notify the public at least six months before publishing the civil penalties and hold a public hearing within 30 days after such notification.

Under the bill, as under existing law, "water company" means 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.

The bill also makes technical and conforming changes.

EFFECTIVE DATE: October 1, 2018

§ 1 — FISCAL AND ASSET MANAGEMENT PLANS

Plan Contents

The bill requires each small community water system to prepare a fiscal and asset management plan for all of the system's capital assets. The fiscal and asset management plan must include:

1. a list of all of the system's capital assets;
2. the assets' (a) useful life, based on their current condition, (b) maintenance and service history, and (c) manufacturer's recommendation;
3. the small community water system's plan for reconditioning, refurbishing, or replacing the assets; and
4. information on (a) whether the small community water system has any unaccounted for water loss (i.e. water supplied to its distribution system that never reached consumers), (b) the amount and cause of such unaccounted water loss, and (c) measures the system is taking to reduce it.

The bill requires the water system to begin creating the plan by assessing its hydropneumatic pressure tanks as its initial priority.

Under the bill, the "useful life" of a water system's capital asset means the manufacturer's recommended life or the estimated lifespan, taking into consideration the asset's service history and condition when the fiscal and asset management plan is prepared.

Deadline

The bill requires small community water systems to complete the fiscal and asset management plan by January 1, 2021. But they must first complete an assessment review of their hydropneumatic pressure tanks by May 2, 2019 on a form DPH prepares.

The bill also requires small community water systems to update the fiscal and asset management plan annually and make it available to

DPH upon request.

Exceptions

The plan requirement does not apply to a small community water system that is (1) regulated by the Public Utilities Regulatory Authority (i.e., investor-owned water companies), (2) required to submit a water supply plan to DPH (e.g., generally, those serving 1,000 or more people or 250 or more customers), or (3) a state agency.

The bill deems the report requirement to relate to the purity and adequacy of water supplies for the purpose of imposing a penalty for violating statutory or regulatory requirements regarding public water supply purity, adequacy, or testing described further below.

Regulations

The bill authorizes the DPH commissioner to adopt regulations to implement the fiscal and asset management plan requirement.

§ 2 — CIVIL PENALTIES

Publishing Civil Penalty Schedule

Current law requires the DPH commissioner to adopt regulations establishing a schedule of civil penalties that may be imposed against water companies for violation of state laws and regulations regarding the purity, adequacy, and testing of public water supplies.

The bill instead requires the commissioner to publish the civil penalty schedule on the department's website if the penalty for a violation has not been established by statute. The commissioner must do this annually, or when he deems it necessary in response to any guidelines or rules issued by the federal Environmental Protection Agency.

Notwithstanding the Uniform Administrative Procedure Act (UAPA), the bill does not require the commissioner to adopt or revise any regulations for imposing these civil penalties.

Within six months before publishing the civil penalty schedule on the DPH website, the commissioner must publish a notice in the

Connecticut Law Journal of his intention to do so. The notice must include (1) the civil penalty schedule, (2) the date the commissioner intends to hold a public hearing on the matter, and (3) when the commissioner will receive public comments on the schedule. He must hold the hearing and receive public comments on the civil penalty schedule within 30 days after publishing the notice.

The bill requires the commissioner to consider the public comments he receives when establishing the civil penalty schedule and publish his response to these comments on the department's website at least one month before publishing the schedule.

Notice of Violations

By law, the DPH commissioner must notify a water company before imposing a civil penalty for failing to correct a violation within a specified date. He may do this by certified mail, return receipt requested, or personal service. The bill specifies that for the latter, the notification must be served to the address the water company filed with the department, or if the water company failed to do so, the company's last known address on file.

If the civil penalty is imposed for a continuing violation, the bill requires the notice to include the initial date the penalty is imposed. For an isolated violation, the notice must include the date for which it is imposed. By law, the notice must include additional information, such as a statement of the violation and the water company's right to a hearing.

Administrative Appeal

By law, a water company can contest the penalty by applying to the DPH commissioner for an administrative hearing under the UAPA within 20 days after receiving notice of the penalty. The bill requires the application to include a detailed statement of all the grounds for contesting the penalty.

Existing law, unchanged by the bill, requires the water company to send a copy of the application to the health director of the

municipalities in which the violation occurred or that use the water that was the subject of the violation. A water company aggrieved by a DPH order may appeal to Superior Court.

COMMITTEE ACTION

Public Health Committee

Joint Favorable Substitute

Yea 26 Nay 0 (03/26/2018)