

# Summary of New Laws affecting the Water Industry

2019



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## 2019 Summary of New Laws

### Introduction

To assist CWWA's members in understanding the changes enacted in 2019, this publication summarizes the new laws affecting the water industry. It is compiled from public act summaries and reports prepared by the Office of Legislative Research and the Office of Fiscal Analysis. The complete text of public acts and related documents may be accessed at [cga.ct.gov](http://cga.ct.gov) or by contacting CWWA at 860-841-7350.

This year, CWWA was at the forefront of efforts to make changes to the Safe Drinking Water Primacy Assessment to ensure that water customers weren't overburdened with increases in fees to support the ability of the state Department of Public Health to maintain its EPA-designated primacy over drinking water. In addition, CWWA worked with lawmakers and the administration to address concerns with how language in the State Water Plan may be construed to expand Connecticut's public trust doctrine. Language was approved by lawmakers which clarifies that the State Water Plan is not intended to trump existing state law, an important change which paved the way for adoption of the State Water Plan.

To ensure that lawmakers understand and consider how these issues may affect Connecticut's public water systems, CWWA maintains a full-time presence at the state Capitol and communicates with lawmakers and the administration on a variety of bills on your behalf. This year, we are also holding "Meet the Regulators" events to give members the opportunity to hear from newly appointed commissioners and key staff about their department's top priorities and goals.

CWWA relies on the involvement of its member to ensure that we have a strong voice at the state Capitol. Given the issues considered facing the water industry, your membership and active involvement is more important than ever to CWWA's advocacy efforts.

Thank you for your continued support.

Very truly yours,

*Betsy Gara*

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## STATE WATER PLAN

House Joint Resolution 171 provides that the State Water Plan submitted to the legislature in January 2018 is adopted. In addition, Section 3 of Public Act 194 clarifies that in the event of a conflict between the State Water Plan and existing statute, the existing statute controls. *Effective date: Upon passage.*

## PRIMACY ASSESSMENT FEE

Public Act 19-117, Section 75, makes changes to the Safe Drinking Water Primacy Assessment fee established in 2017 to support the ability of the state Department of Public Health's Drinking Water Section (DPHDWS) to maintain primacy over drinking water. The key changes, include:

- Sunsets the fee after two years;
- Decreases the cap on the fee from \$4.00 per service connection to \$3.00 per service connection;
- Eliminates the \$2.5 million overall revenue cap; and
- Allows water companies to adjust the amount of the assessment to reflect the bad debt component and surplus or deficit related to their primacy assessment for the prior billing period.

Under the act, DPH is required to issue invoices to water companies for the Primacy Assessment fee by January 1, 2020 and 2021. DPH must issue a statement to each water company by August 1, 2019 and August 1, 2020, indicating the number of service connections listed in the department's records and the source of the number.

## Assessment Amounts and Due Dates

*Community water systems:*

- Fewer than 50 service connections: \$125 due May 1
- Between 50 and 99 service connections: \$150 due May 1
- 100 or more service connections: an amount set by the DPH commissioner not to exceed \$3.00 per service connection with 50% due March 1 and the remaining 50% due May 1

*Non-transient, non-community water system:*

- \$125 due March 1

*Transient Water Systems:*

The act does not impose a fee on Transient Water systems.

## Assessment Collection & Payment

The act also provides that: 1) if one water company acquires another, the purchaser must pay the assessment; and 2) if a company fails to pay any part of the assessment within 30 days after the due date, DPH may impose a 1.5% assessment fee for each month of nonpayment beyond the initial 30-day period unless it is a municipal water company, which is subject to a 9% fee.

The act continues to allow water companies to collect the assessment from their customers, using fees based on each customer's pro rata share of the assessment.

Under the act, water companies may charge the pro rata assessment without going through the standard rate change approval process, provided the fee appears as a separate item, identified as an assessment, on each customer's bill. Such charges are subject to the company's past due and collection procedures, including interest charges, that apply to other authorized charges.

### **Fee Tied to Primacy**

As under current law, if DPH loses its primacy designation for any reason, the assessment fee terminates immediately. If the assessment is terminated and not reinstated within 180 days, the water company must credit its customers any amount collected from them for the amount that the company is no longer required to pay DPH.

### **DPH Reporting and Comment Period**

By October 1 of 2019 and 2020, the act requires DPH, in consultation with OPM, to post on its website: 1) the staff and costs to support DPH's ability to maintain primacy, taking into consideration funding from state and federal sources; and 2) the assessment amounts due, based on the posted costs.

The act also requires DPH to post on its website a report on: 1) resources, activities, and costs that support DPH's ability to maintain primacy under the SDWA in the previous fiscal year, 2) the number of full-time equivalent positions that performed the required functions to maintain primacy in the previous fiscal year, and 3) quality improvement strategies the department deployed to streamline operations to make

efficient and effective use of staff and resources.

The act requires the commissioner to provide for a 30-day comment period after posting the report online. After that period, and no later than the following January 1, the commissioner must submit the report and a summary of the public comments to the governor and the Public Health Committee.

### **ELIGIBILITY FOR PUBLIC WATER SYSTEM IMPROVEMENT FUNDING**

Public Act 19-194 allows investor-owned water companies regulated by the Public Utilities Regulatory Authority (PURA) to receive grants from the Department of Public Health's (DPH) Public Water System Improvement Program. Current law limits program eligibility to municipal water companies and nonprofit noncommunity water systems (i.e., facilities served by their own water supply). Under the act, the water system may receive a program grant only if (1) it serves at least 25 people or at least 15 year-round service connections, (2) the grant is used for an eligible drinking water project approved for financial assistance under DPH's Drinking Water State Revolving Fund (DWSRF) Program, and (3) DPH consulted with PURA about the grant. Existing law, unchanged by the bill, limits program grants to (1) 50% of eligible project costs for systems serving up to 10,000 people and (2) 30% of eligible project costs for systems serving more than 10,000 people. *Effective date: July 1, 2019.*

## **SRF FUNDING FOR WATER EMERGENCIES**

By law, DPH awards DWSRF program loans equal to 100% of eligible project costs to eligible drinking water projects, based on a priority list for funding it establishes and maintains. Section 2 of Public Act 19-118 allows DPH to disregard the priority list to provide funding to address an emergency, including an unanticipated infrastructure failure, water contamination, or a water shortage that requires an eligible project to be immediately undertaken in order to protect the public's health and safety. Current law allows DPH to disregard the priority list only if a public water supply emergency exists. *Effective date: July 1, 2019.*

## **CERTIFIED OPERATORS**

Public Act 19-194, Section 2, requires DPH to amend its regulations to include standards and procedures for the approval of third parties to administer certification exams to operators of water treatment plants, water distribution systems, and small water systems. The regulations must also include standards and procedures for DPH to approve study courses and course providers related to these operators, as well as those who test backflow prevention devices and perform cross connection surveys. *Effective date: October 1, 2019.*

## **DEFINITION OF CERTAIN WELLS**

Section 22 of Public Act 19-118 makes minor changes to several definitions pertaining to the regulation of private residential wells and wells for semi-public use. It specifies that a "private well" is a well that supplies a residential population,

instead of any population, of less than 25 people and is owned or controlled (1) through an easement or (2) by the same entity that owns or controls the building or land that the water supply serves. The act also expands the definition of "water supply well" to include an artificial excavation constructed to obtain or provide water for industrial, commercial, agricultural, recreational, irrigation, or other outdoor water use, in addition to domestic use or drinking, as under current law. In doing so, the act conforms to the statutory definition used by the Department of Consumer Protection to regulate well drilling, thus subjecting all water supply wells to Public Health Code requirements. The act also authorizes the DPH commissioner to adopt regulations on the nonresidential construction of new water supply wells (e.g., an office building with less than 25 employees), in addition to the residential construction of such wells, as under current law. *Effective date: July 1, 2019.*

## **REPLACEMENT PUBLIC WELL**

Public Act 19-117, Sections 73 and 74, allows DPH to approve the location of a replacement public well in Ledyard that does not meet the state's sanitary radius and minimum setback requirements for these water sources, if certain conditions are met. And, if DPH approves the location, the bill allows the local health director to issue a permit for the replacement public well, by no later than March 1, 2020. Under the act, DPH may approve the location if the replacement public well is: 1) needed by the water company to maintain and provide safe and adequate water to its customers; 2) located in an aquifer of adequate water

quality, as determined by historical water quality data from the water supply source it is replacing; and 3) located in a more protected location than the water supply source it is replacing, as determined by DPH. *Effective date: October 1, 2019, for DPH's location approval and upon passage for Ledyard's permit issuance authority.*

### **EXTENSION OF MUNICIPAL WATER SERVICE (WALLINGFORD)**

Public Act 19-200, Section 2, requires the Department of Energy and Environmental Protection (DEEP) to pay a \$176,332 grant to Wallingford (funded by an existing DEEP bond authorization) to reimburse the town for extending municipal water services to five homes on South Broad Street (DEEP awarded the grant in November 2015, but it expired on December 31, 2016, before construction ended). *Effective date: Upon passage.*

### **ENERGY ISSUES**

Public Act 19-35 is a comprehensive energy bill includes various provisions of interest to water companies, including: 1) Allows the Department of Energy and Environmental Protection to retain consultants to assist in certain proceedings before the Public Utilities Regulatory Authority (PURA) and the Federal Communications Commission (FCC); 2) Increases from \$10 million to \$20 million, the amount of credits authorized under the state's Virtual Net Metering program, but does not extend eligibility to private or regional water companies; 3) Requires the Commissioner of Energy and Environmental Protection to adopt new state building construction standards through regulations.

### **INVASIVE SPECIES**

Public Act 19-190 requires owners of registered vessels (i.e., generally, any type of watercraft except a seaplane) to pay an annual aquatic invasive species (AIS) fee. The annual fee is \$5 for in-state vessels and \$20 for out-of-state vessels. A person who operates an out-of-state registered vessel on inland Connecticut waters without first paying the AIS fee commits an infraction and is subject to a fine of up to \$85. The act requires DMV and DEEP to deposit all AIS fee proceeds into the renamed Connecticut lakes, rivers, and ponds preservation account. The act requires DEEP to use at least 80% of the AIS fee proceeds for (1) programs to eradicate aquatic invasive species and cyanobacteria blooms; (2) education and public outreach programs about protecting and preserving state lakes, rivers, and ponds; and (3) grants to state and municipal agencies and nonprofit organizations to conduct research and provide education on managing state lakes, rivers, and ponds. Lastly, the act authorizes DEEP environmental conservation police officers to enforce the noise ordinance of any municipality bordering Candlewood Lake. *Effective date: January 1, 2020.*

### **PUBLIC UTILITY WORKFORCE DEVELOPMENT**

Public Act 19-150 requires the principals of each technical education and career school to meet with representatives from electric, gas, water, and wastewater utilities and from state colleges and universities offering public utility management courses to access the community's and utilities' workforce needs and modify the curriculum

accordingly. Under current law, they are required to meet with business community members in the school's geographic area to develop a plan to assess workforce needs and modify the school's curriculum to address the needs. *Effective date: October 1, 2019.*

### **MUNICIPAL CLIMATE CHANGE & COASTAL RESILIENCY**

Public Act 19-77 authorizes municipalities to establish a climate change and coastal resiliency reserve fund upon the recommendation of its chief executive officer, approval of its budget-making authority, and majority vote of its legislative body. Under the act, such fund may contain (1) funds authorized to be transferred from the municipality's general fund cash surplus at the end of a fiscal year and (2) proceeds of bonds, notes, or other obligations issued to fund property or casualty losses or projects related to the presence of pyrrhotite in the concrete foundations of residential buildings. The act authorizes the municipality's budget-making authority to direct the municipal treasurer to invest a portion of the reserve fund as specified. Additionally, it allows the municipality to use and appropriate all or part of the reserve fund to pay for municipal property losses, capital projects, and studies on mitigating climate change hazards and vulnerabilities, including land acquisition. *Effective date: July 1, 2019.*

### **PURA COMMISSIONERS - NUMBER**

Public Act 19-117 increases the number of the PURA commissioners from three to five. Since the term of one of the current PURA commissioners expires on June 30, 2019, the new law requires the governor to appoint three new commissioners to PURA between July 1, 2019, and May 1, 2020.