

2019 -- S 0820

LC002108

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO WATERS AND NAVIGATION - PUBLIC DRINKING WATER SUPPLY
SYSTEM PROTECTION

Introduced By: Senators Euer, Goldin, and Bell

Date Introduced: April 30, 2019

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 46-15.3-5.1 and 46-15.3-7.5 of the General Laws in Chapter 46-
2 15.3 entitled "Public Drinking Water Supply System Protection" are hereby amended to read as
3 follows:

4 **46-15.3-5.1. Water supply systems management plans.**

5 (a) All parties involved in the supply, transmission, and/or distribution of drinking water
6 shall prepare, maintain, and carry out a water supply system management plan as described by
7 this chapter. This requirement applies, without limitations, to:

8 (1) All municipalities subject to chapter 22.2 of title 45, the Comprehensive Planning and
9 Land Use Regulation Act. The executive summary of the water supply system management plan
10 including the demand management goals and plans for water conservation and efficient use of
11 water, of any water supplier providing service in any municipality, shall be incorporated in the
12 services and facilities element of the plan for that municipality required by subdivision 45-22.2-
13 6(6);

14 (2) All municipalities, municipal departments and agencies, districts, authorities or other
15 entities engaged in or authorized to engage in the supply, treatment, transmission, or distribution
16 of drinking water on a wholesale or retail basis, referred to herein as "water suppliers", which
17 obtain, transport, purchase, or sell more than fifty million (50,000,000) gallons of water per year.

18 (b) A water supply system management plan shall be prepared in the format, and shall

1 address each of the topics, listed in this section, to the extent that each is relevant to the
2 municipality or water supplier, the water source(s), the water system(s), and the area served or
3 eligible to be served. Notwithstanding any other provisions of this chapter, water supply
4 management plans shall be in conformity with all applicable provisions of the Federal Safe
5 Drinking Water Act [42 U.S.C. § 300f et seq.], chapter 13 of this title, Public Drinking Water
6 Supply, and chapter 14 of this title, Contamination of Drinking Water, as administered by the
7 department of health. Any other topic of interest may be included.

8 (c) A water supply system management plan shall include, without limitation, the
9 following components:

10 (1) The water supply management component of the water supply system management
11 plan shall include, without limitation:

12 (i) A statement of the goals that the plan is designed to achieve, including, but not limited
13 to, goals for:

14 (A) Water resource protection;

15 (B) Demand management, which shall include goals as appropriate for managing peak
16 and seasonal use of water; and

17 (C) Supply development as necessary and with consideration of source water availability;
18 and

19 (D) System management, including system safety, [resilience](#) and reliability, infrastructure
20 maintenance, repair, and reduction of leakage.

21 (ii) A description of the water system(s) covered, including sources of water, the service
22 area, present and anticipated future users, and other important characteristics;

23 (iii) Data collection in a form that can be accepted directly into the Rhode Island
24 Geographic Information System;

25 (iv) Demand management measures that will achieve a high level of efficiency in the use
26 of a limited resource, through the application of metering of one hundred percent (100%) of the
27 water used; sanitary device retrofit; performance of and compliance with water use audits for
28 major industrial, commercial, institutional, governmental, agricultural and other outdoor water
29 users; education and information; and use of appropriate fees, rates, and charges to influence use
30 demand management measures shall include such restrictions on use; as may be necessary to
31 meet or exceed targets for water use, including seasonal use, that are established by the water
32 resources board; and the water resources board is hereby expressly directed and authorized to
33 establish and maintain no later than July 31, 2010, by rule targets for water use and methods for
34 achieving the targets, which shall as appropriate take into account differing conditions among

1 watershed and water supply areas;

2 (v) System management measures to insure that the following elements are optimally
3 operated and maintained, including: leak detection and repair; meter installation and replacement;
4 and frequency of reading meters. Maintenance or reduction of leakage to stated goals shall be
5 considered an essential component of system management;

6 (vi) Supply management measures to insure present and future availability of drinking
7 water in adequate quantity and quality, including protection of the capacity and quality of
8 drinking water sources; retaining water sources for standby or future use that are or can be
9 improved to drinking water quality; reactivation of any water sources not in use; interconnection
10 of systems for ongoing, standby, or emergency use; supply augmentation;

11 (vii) Emergency management, including risk assessment; responses to temporary or
12 permanent loss of supplies due to natural or manmade causes; extraordinary treatment processes;
13 interruptions in the delivery system; and contamination of water sources or delivery systems;

14 (viii) The water supply system management plans of water suppliers shall document that
15 coordination has been accomplished with those plans of other suppliers in the vicinity and with
16 operators of wastewater treatment and disposal facilities serving all or part of the same area or
17 that a good faith effort to do so has been made. Plans shall be consistent with applicable local
18 comprehensive plans and shall be integrated into the water supply plans of the municipality or
19 municipalities in which the service area is or is planned to be located. Conversely, the local
20 comprehensive plans shall be consistent with water supply plans;

21 (ix) Water supply system management plans shall designate the person or organization
22 responsible for taking each action, others who must participate, and the time period in which each
23 action is to be taken. The capital, operating, and maintenance cost (if any) of each action shall be
24 estimated and the anticipated source of funds shall be identified;

25 (x) Water suppliers subject to this chapter shall utilize methods to implement
26 management measures necessary to achieve the findings, intent, and objectives of this chapter.
27 The water supplier may be required to document the validity or effectiveness of any management
28 measure, implementation method, or other provision or action included in its plan.

29 (2) The water quality protection component of the water supply system management plan
30 shall include, without limitations, those items enumerated in § 46-15.3-7.

31 (3) The leak detection and repair component of the water supply system management
32 plan shall include, without limitation:

33 (i) Methodology for leak detection;

34 (ii) Detailed program for the conducting of required repairs to the water supply system;

1 (iii) Impact assessment studies on the ability of the supplier to provide for peak demand
2 services;

3 (iv) A priority list of actions for implementing these management measures;

4 (v) Every supplier of public water encompassed under this section shall conduct periodic
5 leak detection consistent with stated goals for leakage, however no less frequently than once
6 every ten (10) years.

7 **46-15.3-7.5. Completion and filing of water supply system management plans.**

8 (a) Each party required by this chapter to prepare and maintain a water supply system
9 management plan shall complete and adopt an initial plan adhering to the schedule as previously
10 approved by the water resources board.

11 (b) Municipalities and water suppliers subject to the requirements of § 46-15.3-5.1 of this
12 chapter shall file a copy of all plans and amendments thereto with the water resources board. The
13 plans shall be treated as confidential documents.

14 (c) The water resources board shall establish procedures that permit parties that review
15 the plans under rules adopted by the water resources board to obtain sensitive information
16 essential to performance of their reviews, including minimum measures necessary to transmit,
17 use, store, and maintain such sensitive information under conditions that insure its security to the
18 maximum possible. These procedures may include designation of those persons within each
19 reviewing agency authorized to use or inspect sensitive information, and exclusion of all others.

20 An executive summary containing an:

21 (1) Introduction;

22 (2) Background;

23 (3) A general system description containing:

24 (i) Water supply sources;

25 (ii) Water treatment facilities;

26 (iii) Storage facilities;

27 (iv) Pumping stations;

28 (v) Raw water and finished water transmission facilities;

29 (vi) Distribution facilities including low to high service;

30 (vii) Planned extensions;

31 (viii) Interconnections;

32 (ix) Populations served and projections;

33 (x) Major users;

34 (xi) Metering;

- 1 (xii) Legal agreements;
- 2 (xiii) Leakage;
- 3 (xiv) Demand management;
- 4 (xv) Supply management;
- 5 (xvi) Available water;
- 6 (xvii) Safe yield;
- 7 (xviii) Anticipated future demands;
- 8 (xix) Capital improvement;
- 9 (xx) Rate structure;
- 10 (xxi) Financial management;
- 11 (xxii) Emergency management;
- 12 (xxiii) Water supply source protection; and
- 13 (xxiv) General policies shall be developed.

14 (4) This summary shall be distributed as the public document. The water resources board
15 shall be authorized to recover and secure water supply management plans and water supply
16 system management plans previously distributed to other than water resources board and
17 designated review agencies and replaced by executive summaries as provided herein.

18 (d) Municipalities and water suppliers subject to § 46-15.3-5.1 shall review their plans at
19 least once every five (5) years, and shall amend or replace their plan as may be necessary [to](#)
20 [conform with the provisions of § 46-15.3-5.2](#) to remain current.

21 (e) A municipality or water supplier subject to § 46-15.3-5.1 of this chapter may request,
22 in writing, that the water resources board extend the time in which to complete and submit filings
23 required by this chapter, not to exceed one year. A request shall be approved only upon
24 demonstration that an extension is justified by extraordinary circumstances beyond the control of
25 the municipality or water supplier. An extension, if approved, shall not waive any of the
26 requirements of § 46-15.3-7.6. This provision does not apply to the section on emergency
27 management. Should a municipality or water supplier fail to submit a filing as provided herein, a
28 determination of non-compliance shall be made by the water resources board.

29 SECTION 2. Chapter 46-15.3 of the General Laws entitled "Public Drinking Water
30 Supply System Protection" is hereby amended by adding thereto the following section:

31 **46-15.3-5.2. Water security.**

32 [\(a\) This section shall be known and may be cited as the "water security act of 2019."](#)

33 [\(b\) Purposes of this section are as follows:](#)

34 [\(1\) To secure to all of the people of the state access to safe drinking water for their](#)

1 household and their daily use, and as necessary to providing for their health and welfare and
2 preserving their right to the enjoyment of the natural resources of the state;

3 (2) To ensure:

4 (i) That income is not a determinant of access to safe drinking water;

5 (ii) That the full costs of maintaining drinking water supply systems are taken into
6 account;

7 (iii) That drinking water supply systems costs are not increased except as necessary to
8 provide for infrastructure and system improvements to ensure high water quality to persons using
9 the system for water supply, and to ensure the well-being of the ecosystem and the natural
10 environment; and

11 (iv) That increases in system costs are equitably allocated to system users; and

12 (3) To address constructively global warming and climate change issues as those have a
13 bearing on the reliability, resilience, and costs of water supply systems serving diverse
14 communities in the state, and taking into account, as appropriate, social and economic as well as
15 environmental impacts.

16 (c) Maintenance of water supply system management plans.

17 (1) The water resources board, in consultation with Rhode Island infrastructure bank, the
18 department of health, the department of environmental management, the division of statewide
19 planning, and the division of public utilities, shall, by May 1, 2020, promulgate guidelines for
20 maintaining water supply system management plans, which guidelines shall include, but not be
21 limited to, requirements for system improvements necessary to address immediate and long-term
22 risks to public health and to provide for overall system resilience in the face of climate change
23 risks, including sea level rise, flooding, higher precipitation levels, droughts, and heat impacts.
24 The development of the guidelines shall provide for community input, consistent with principles
25 of environmental justice. For purposes of this section, "environmental justice" is defined as the
26 fair treatment and meaningful involvement of all people regardless of race, color, national origin,
27 or income, with respect to the development, implementation, and enforcement of environmental
28 laws, regulations, and policies with the goal that everyone enjoys the same degree of protection
29 from environmental and health hazards, and equal access to the decision-making process to have
30 a healthy environment in which to live, learn, and work. The guidelines shall include mandatory
31 provisions pertaining to development of cost estimates for such system improvements. The
32 guidelines shall provide for exemptions for water suppliers that have issued, since January 1,
33 2017, updated water supply management plans that substantially address the matters required to
34 be considered in the guidelines.

1 (2) All water suppliers, as defined in § 46-15.3-5.1(a)(2), except as exempted as provided
2 for in subsection (c)(1) of this section, shall prepare and submit to the water resources board by
3 June 1, 2022, an updated water supply system management plan consistent with the guidelines,
4 for review under the provisions of this chapter.

5 (3) The Rhode Island infrastructure bank, in consultation with the water resources board,
6 the department of health, the department of environmental management, the division of statewide
7 planning, and the division of public utilities, shall, on or before January 1, 2023, report its
8 findings and recommendations regarding:

9 (i) The costs and the benefits of implementing necessary water supply system
10 improvements consistent with the guidelines; and

11 (ii) A strategy for financing the implementation of necessary water supply system
12 improvements, in a manner consistent with the purposes of this section.

13 (4) The development of these findings and recommendations shall provide for
14 community input, consistent with principles of environmental justice, including, but not limited
15 to, public hearings in all environmental justice communities that the water supplier services.

16 (d) Moratorium on conversions in ownership:

17 (1) In order to provide adequate time for consideration of the costs of necessary water
18 supply system improvements, no water supplier as defined in § 46-15.3-5.1(a)(2), may undergo a
19 conversion in ownership prior to July 1, 2024. For purposes of this subsection, a "conversion in
20 ownership" means any transfer by a person or persons of an ownership or membership interest or
21 authority in a water supplier, or the assets of a water supplier, whether by purchase, merger,
22 consolidation, lease, gift, joint venture, sale, or other disposition which results in a change of
23 ownership or control. For purposes of this subsection, "person" means any individual, trust or
24 estate, partnership, corporation (including associations, joint stock companies and insurance
25 companies), state or political subdivision of the state or any agency or instrumentality of either
26 the state or a political subdivision of the state.

27 (2) The attorney general shall establish on or before January 1, 2022, criteria and
28 procedures for review of conversions of ownership of water suppliers to ensure that:

29 (i) Public use of any property taken for water supply purposes remains unimpaired;

30 (ii) Any conversion of ownership of property or improvements thereto, which were
31 acquired, made or financed through charges to water uses, are equitably distributed based on the
32 jurisdiction in which those water users were located;

33 (iii) The "conversion in ownership" will not result in rates, charges, or restrictions on
34 usage that are unduly burdensome to water users served by the water supplier in such manner that

1 charges do not exceed the percentage of household income appropriate to their federal poverty
2 level as provided in subsection (e) of this section; and

3 (iv) The natural resources of the state are conserved.

4 (e) Equitable allocation of water supply system costs. Taking into consideration that
5 housing costs for a substantial proportion of low- and moderate-income households are a high
6 percentage of household income and that water use and waste water treatment charges are part of
7 housing costs, the division of public utilities, in consultation with the water resources board, the
8 Rhode Island infrastructure bank, the office of health and human services, and the division of
9 statewide planning, shall develop by October 15, 2022, recommendations for water supply rates
10 that are based on percentage of income (a PIPP or percentage of income payment), that are
11 equitable, that are sufficient to finance necessary system improvements, and do not result in
12 substantial housing cost increases for low- and moderate-income households. Under a PIPP, low-
13 income households pay a fixed percentage of their income for utility bills. This percentage
14 depends on the federal poverty level of the household, therefore, those with the highest federal
15 poverty level pay the smallest percentage of their income for utility bills.

16 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO WATERS AND NAVIGATION - PUBLIC DRINKING WATER SUPPLY
SYSTEM PROTECTION

1 This act would create the water security act of 2019 which would secure to all people
2 across the state access to safe drinking water providing that income is not a determinant of access
3 to safe drinking water, and would require certain state agencies to promulgate guidelines for
4 maintaining water supply system management plans.

5 This act would take effect upon passage.

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