Connecticut General Assembly

STATE REPRESENTATIVE

ED JUTILA

37TH ASSEMBLY DISTRICT

My Job

- Serving 4th 2-year term as State Representative for the towns of East Lyme and Salem (approximately 23,000 people)

Deputy House Majority Whip

- Serves on 3 committees:
  - Public Safety and Security, (Vice-Chair)
  - Transportation
  - Commerce

My Background

Biography

- Graduated from East Lyme High School
- Earned a B.A. from University of Connecticut
- Earned law degree with Honors from University of Connecticut
- Senior Attorney with Carrier Corporation, subsidiary of United Technologies Corporation

Political Experience

- Began public service as Volunteer Firefighter
- Former Democratic Town Committee Chairman, Member of the East Lyme Board of Selectmen, Charter Revision Commission, and Deputy Town Meeting Moderator

The State Legislature At a Glance

Connecticut State Capitol

CT Legislative Office Building

Part time Legislature

January-June (odd numbered years)

February-May (even numbered years)

151 Representatives

(99 Democrats, 52 Republicans,)

36 Senators

(22 Democrats, 14 Republicans)

27 Joint Standing Committees

Having Cognizance in areas such as Commerce, Education, Environment, Energy, Housing, Higher Education, Public Safety, Public Health and Transportation.

Appropriations and Finance deal with the budget and taxes

How a bill becomes a law

Proposed bill

Bill is sent to the clerk of the House of the sponsoring legislator for numbering.

Bill title, number and sponsors are printed in the House and Senate Journals.

Bill is sent to the appropriate joint standing committee.

Committee may:
1. have the bill drafted in legal language; 2. combine it with other bills and have it drafted as a committee bill; 3. refer the bill to another committee; or 4. take no action, so the bill fails.

Committee holds public hearings for the public, state agencies, legislators on all bills it considers.

Committee may report the bill favorably, defeat the bill or issue no report (the bill fails).

Bill requiring action by another committee is referred to that committee a bill requiring expenditure is referred to the Appropriations Committee.

After leaving the last committee, the bill is sent to the Legislative Commissioners' Office to be checked for constitutionality and consistency with other law.

The Office of Fiscal Analysis adds an estimate of the bill's cost. The Office of Legislative Research adds a "plain English" explanation of the bill.

Clerk assigns the bill a calendar #

Debate and amendments in the house of origin. House may send the bill to another committee.

A "yes" vote sends the bill to the other house for placement on calendar.

Other house votes on the bill.

Bill returned to first house for concurrence if amended by second house. If not amended, bill is sent to the governor.

If both houses pass the bill, it is sent to the governor.

The bill becomes law if:
1. the governor signs it;
2. the governor fails to sign within 5 days during the legislative session;
3. the vetoed bill is repassed in each house by a 2/3 vote

Proposed Bill

General Assembly — **Committee Bill No. 6414**

January Session, 2005 — LCO No. 3568

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING DESIGNATION OF THE EIGHTMILE RIVER WATERSHED WITHIN THE NATIONAL WILD AND SCENIC RIVER SYSTEM.

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

Section 1. (NEW) (*Effective October 1, 2005*) (a) It is declared to be the policy of the state of Connecticut that the portion of the Eightmile River watershed which is the subject of the authorized study by the Eightmile River Wild and Scenic River Study Committee for purposes of designation as a national wild and scenic rivers system be preserved as provided for in the federal Wild and Scenic Rivers Act, Public Law 90-542, as amended.

(b) The Commissioner of Environmental Protection shall cooperate with all relevant federal, state and local agencies to provide for such designation and to implement any management plan developed in accordance with the federal Wild and Scenic Rivers Act. Upon the designation of the river watershed by Congress, the commissioner shall notify the joint standing committee of the General Assembly having cognizance of matters relating to the environment regarding any statutory changes necessary to implement the preservation and

LCO No. 3568 {D:\Conversion\Tob\h\2005HB-06414-R01-HB.doc} *1 of 2*

Bill is introduced by Legislator

It is assigned a Bill number and printed in House and Senate Journal

Referred to appropriate Joint Standing Committee based on subject matter

Committee Bill No. 6414

conservation of the river watershed in accordance with the federal Wild and Scenic Rivers Act. The commissioner shall cause a copy of this section to be delivered to all United States Representatives and Senators representing Connecticut in the Congress of the United States.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2005*	New section

Statement of Purpose:
To preserve the portion of the Eightmile River watershed which is the subject of the authorized study by the Eightmile River Wild and Scenic River Study Committee as provided for in the federal Wild and Scenic Rivers Act.

[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.]

Co-Sponsors: REP. ORANGE, 48th Dist.; SEN. DAILY, 33rd Dist.
SEN. STILLMAN, 20th Dist.; REP. JUTILA, 37th Dist.

Committee Process

- Committee has option to:
  - have bill drafted into legal language
  - combine it with other bills
  - draft it as a raised committee bill
  - refer bill to another committee
  - reserve it for a Public Hearing
  - or take no action, so the bill fails

Rep. Jutila, Vice-Chair of the Public Safety and Security Committee, speaks at a press conference regarding the Eastern Connecticut Firefighter Training School.

Public Hearing Process

Committee holds public hearings for the public, state agencies and legislators to express their views.

Looking for a More Active Role in Government?

An Introduction on How to Testify at Public Hearings

Committees are the information and fact-finding part of the legislative process and where a great deal of policy debate is held. Public hearings allow Connecticut residents to weigh in with their views on a bill before a committee vote is held. These hearings are open to anyone - legislators, constitutional officers, commissioners and the general public - and are usually held on weekdays in the morning or afternoon. Committee members draw from information raised at hearings to make more informed decisions, gauge public opinion on issues, and glean personalized information from constituents and the public on the expected impact of a bill.

Before testifying, the first step is to find out about upcoming public hearings. Daily bulletins are available at the Legislative Office Building (LOB), which is located at 300 Capitol Avenue in Hartford, on the Capitol Concourse Level. As a rule, bulletins announce meeting times and locations at least five days prior to a public hearing. If you'd prefer to read up on upcoming hearings from home, daily bulletins are available on the General Assembly website, www.cga.ct.gov.

Now that you've chosen a public hearing to attend, it is recommended to arrive early, to make sure you reserve your spot to testify. Sign-up sheets for testifying are usually posted an hour before the designated start of the hearing and slots are filled on a first-come first-serve basis. It is important to have written copies of your testimony on-hand to distribute to committee members, the press, and others present. Procedures vary by committee, so it is helpful to consult the bulletin for specific information. Many are nervous before their first time testifying but you might be relieved to note that the first hour of public hearings is usually reserved for legislators and other government officials. That way, you'll have some time to observe others testifying and learn from their presentations before it is your turn.

Connecticut Network (CT-N), the television channel that covers state government, is an excellent resource for public hearings. It is the C-SPAN of state government. To find out on which channel CT-N is featured in your area, visit its comprehensive website (www.ctn.state.ct.us) or call 246-1553. On the website you will find detailed listings for upcoming televised public hearings and streaming video of live meetings. For more information on testifying at public hearings, please use my office as a resource or contact your own state representative. The phone number is (860) 240-8500 and Jason Knight, my legislative assistant, will gladly help you look up bill numbers and more detailed information on public hearings. Please let me know in advance if you are coming and I will try to attend with you.

I encourage everyone to take a more active role in state government and voice your opinion at public hearings. Your unique input can truly make a difference in our local community and our state.

Rep. Schofield testifies in support of legislation at a public hearing with a constituent.

Committee Vote

ENVIRONMENT COMMITTEE

VOTE TALLY SHEET

Bill No.: HB-6414 **Amendment Letter:**

AN ACT CONCERNING DESIGNATION OF THE EIGHTMILE RIVER WATERSHED WITHIN THE NATIONAL WILD AND SCENIC RIVER SYSTEM.

Chair: STILLMAN, A. **Motion:** WILBER, G. **Second:** ROY, R.

Action: Joint Favorable

Language Change:

TOTALS	Voting	Yea	Nay	Abstain	Absent and Not Voting	Voice Vote
	26	26	0	0	2	

	yea	nay	abstain	absent			yea	nay	abstain	absent
Sen. Stillman, A. S20	X									
Rep. Roy, R. 119	X									
Sen. Meyer, E. S12	X									
Rep. Moukawsher, E. 040	X									
Sen. McKinney, J. S28	X									
Rep. Chapin, C. 067	X									
Rep. Alberts, M. 050	X									
Rep. Backer, T. 121	X									
Sen. Cook, C. S18	X									
Rep. Davis, P. 117	X									
Rep. Giuliano, M. 023	X									
Rep. Greene, L. 105	X									
Sen. Harris, J. S05	X									
Rep. Hennessy, J. 127	X									
Rep. Jarmoc, S. 059	X									
Rep. Jutila, E. 037	X									
Rep. Kalinowski, R. 100	X									
Rep. Megna, R. 097				X						
Rep. Mioli, J. 136	X									
Sen. Murphy, C. S16	X									
Rep. Mushinsky, M. 085	X									
Rep. O'Rourke, J. 032	X									
Rep. Perone, C. 137				X						
Rep. Piscopo, J. 076	X									
Rep. Spallone, J. 036	X									
Rep. Urban, D. 043	X									
Rep. Wilber, G. 063	X									
Rep. Willis, R. 064	X									

Vote date 3/23/2005 9:30:00 AM

The Committee may favorably vote on the bill as is:

Joint Favorable (JF)

Vote favorably on bill with changes:

Joint Favorable Substitute (JFS)

Refer it to another Committee

Joint Favorable Change of Reference

or Defeat the bill with a:

No vote or by taking no action

Legislative Research and Fiscal Analysis

The Office of Legislative Research adds a "plain English“ bill summary.

The Office of Fiscal Analysis adds an estimate of the bill's cost.

OLR Bill Analysis

HB 6414

AN ACT CONCERNING DESIGNATION OF THE EIGHTMILE RIVER WATERSHED WITHIN THE NATIONAL WILD AND SCENIC RIVER SYSTEM

SUMMARY:

This bill declares it state policy that the portion of the Eightmile River Watershed being studied for designation as a national Wild and Scenic River be preserved according to the federal Wild and Scenic Rivers Act.

It requires the environmental protection commissioner to cooperate with federal, state, and local agencies to provide for such a designation and implement any management plan developed according to the federal act. Upon congressional designation of the Eightmile River as a Wild and Scenic River, the commissioner must notify the Environment Committee of any changes in the law required to preserve the river under the federal act. The commissioner must send a copy of this bill to each member of the state's congressional delegation.

EFFECTIVE DATE: October 1, 2005

BACKGROUND

Eightmile River Watershed

The Eightmile River watershed is a 62 square mile area with more than 160 miles of river and streams. Most of the watershed is located in East Haddam, Lyme, and Salem.

Wild and Scenic Rivers Act

The goal of the national Wild and Scenic Rivers Act (PL 90-542) is to protect rivers and river segments with outstanding scenic, recreational, geologic, historical, or cultural values from federal projects that may endanger those values. The act prescribes methods and standards through which rivers may be identified and added to the wild and scenic river system.

OFFICE OF FISCAL ANALYSIS

Legislative Office Building, Room 5200

Hartford, CT 06106 ◇ (860) 240-0200

http://www.cga.ct.gov/ofa

HB-6414

AN ACT CONCERNING DESIGNATION OF THE EIGHTMILE RIVER WATERSHED WITHIN THE NATIONAL WILD AND SCENIC RIVER SYSTEM.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 06 $	FY 07 $
Department of Environmental Protection	GF - None	None	None

Note: GF=General Fund

Municipal Impact: None

Explanation

Any increase in the administrative workload of the Department of Environmental Protection (DEP) due to the designation of the eight mile river watershed as a national wild and scenic river is anticipated to be minimal and could be handled within the routine duties of the agency. Mailing costs to the congressional delegation are anticipated to be negligible.

House and Senate Vote

Environment Committee Chairman Rep. Roy (Milford) brings out legislation on the House Floor.

The Bill is debated and amended on the floor of the House or Senate depending on where the bill originated.

If the bill passes by a simple majority it is sent to the other chamber. If differing versions or amendments are passed it goes to a conference committee.

Governor's Role

If both chambers pass the bill with the same language it is sent to the Governor who can:

1. Sign the bill.
2. Veto the bill
3. Take no action

Eight Mile River Bill Signing in the town of Salem

Governor Malloy signing legislation in his office

Bill becomes Law

Once it passes the House and Senate it is given a public act number.

A Bill becomes law when signed by the Governor.

It is then codified into our State General Statutes.

STATE OF CONNECTICUT

House Bill No. 6414

Public Act No. 05-18

AN ACT CONCERNING DESIGNATION OF THE EIGHTMILE RIVER WATERSHED WITHIN THE NATIONAL WILD AND SCENIC RIVER SYSTEM.

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

Section 1. (NEW) (*Effective October 1, 2005*) (a) It is declared to be the policy of the state of Connecticut that the portion of the Eightmile River watershed which is the subject of the authorized study by the Eightmile River Wild and Scenic River Study Committee for purposes of designation as a national wild and scenic rivers system be preserved as provided for in the federal Wild and Scenic Rivers Act, Public Law 90-542, as amended.

(b) The Commissioner of Environmental Protection shall cooperate with all relevant federal, state and local agencies to provide for such designation and to implement any management plan developed in accordance with the federal Wild and Scenic Rivers Act. Upon the designation of the river watershed by Congress, the commissioner shall notify the joint standing committee of the General Assembly having cognizance of matters relating to the environment regarding any statutory changes necessary to implement the preservation and conservation of the river watershed in accordance with the federal Wild and Scenic Rivers Act. The commissioner shall cause a copy of

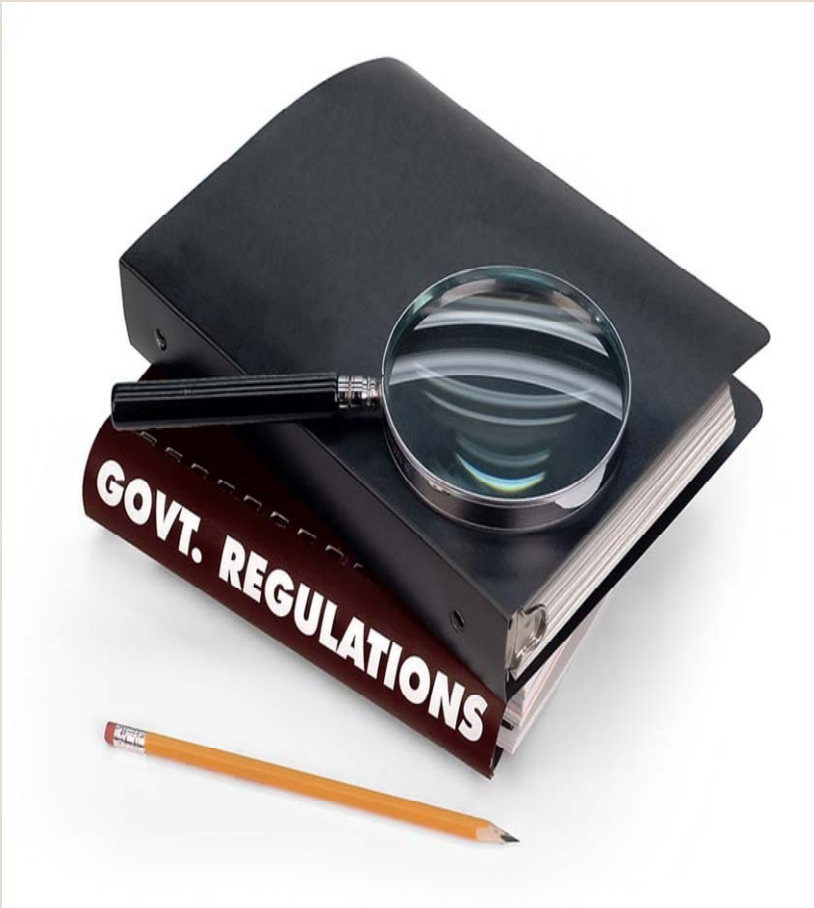
House Bill No. 6414

this section to be delivered to all United States Representatives and Senators representing Connecticut in the Congress of the United States.

Approved May 9, 2005

The Regulatory Process

Very often the General Assembly passes legislation that delegates regulatory authority to an Executive Branch department such as the Department of Energy and Environmental Protection. Once signed into law, the Department is authorized or in some cases mandated to draft regulations.



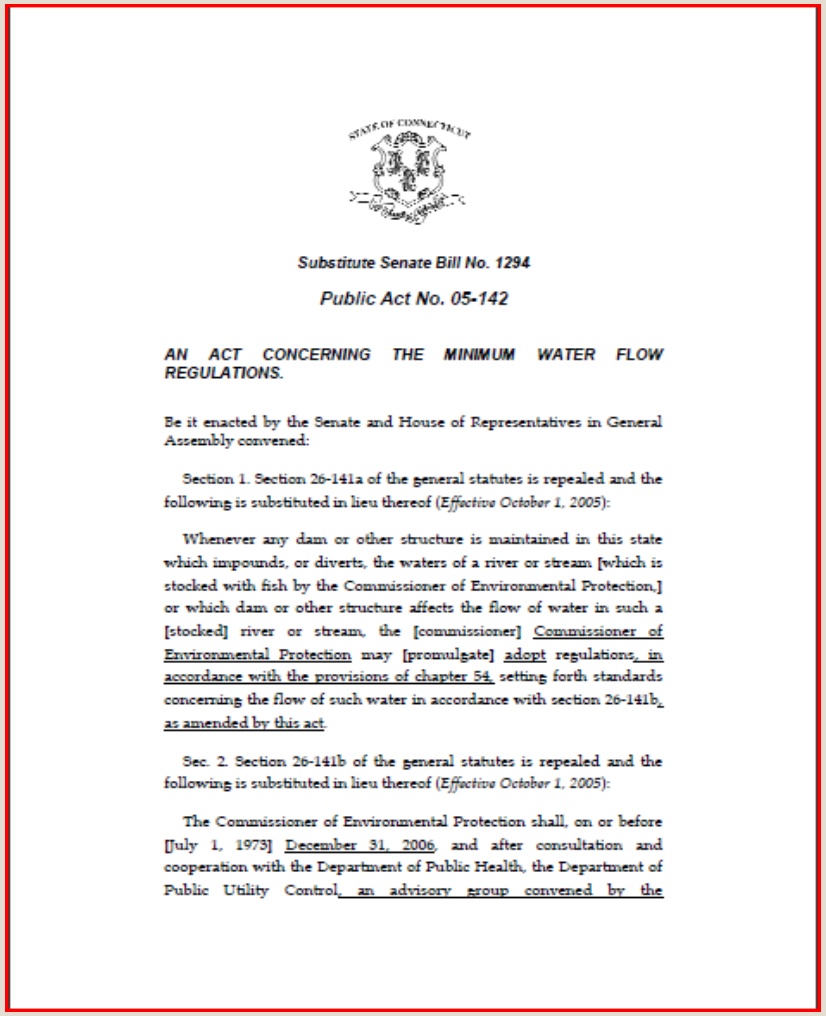
What is a Regulation?

Generally speaking, a regulation falls within that part of the law that is known as administrative law. Regulations are what state agencies such as DEEP use to more specifically establish how a general law (such as a law to improve water quality) is to be implemented. In Connecticut, the term “regulation” is defined in state statute.

Statutory Definition of a Regulation

Sec. 4-166 (13) Regulation: means each agency statement of general applicability, without regard to its designation, that implements, interprets, or prescribes law or policy, or describes the organization, procedure or practice requirements of any agency. The term includes the amendment or repeal of a prior regulation, but does not include statements concerning only the internal management of an agency and not affecting private rights or procedures available to the public.

PA 05 - 142



Substitute Senate Bill No. 1294

Public Act No. 05-142

AN ACT CONCERNING THE MINIMUM WATER FLOW REGULATIONS.

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

Section 1. Section 26-141a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

Whenever any dam or other structure is maintained in this state which impounds, or diverts, the waters of a river or stream [which is stocked with fish by the Commissioner of Environmental Protection,] or which dam or other structure affects the flow of water in such a [stocked] river or stream, the [commissioner] Commissioner of Environmental Protection may [promulgate] adopt regulations, in accordance with the provisions of chapter 54, setting forth standards concerning the flow of such water in accordance with section 26-141b, as amended by this act.

Sec. 2. Section 26-141b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2005*):

The Commissioner of Environmental Protection shall, on or before [July 1, 1973] December 31, 2006, and after consultation and cooperation with the Department of Public Health, the Department of Public Utility Control, an advisory group convened by the

- As a case study, Public Act 05-142 is a law passed in 2005 that amends previous legislation requiring the DEEP Commissioner to adopt water flow regulations for rivers and streams.

Background Information on Stream Flow

- The Connecticut DEEP proposed revisions to the Stream Flow Standards in accordance with legislation enacted in 2005. This statute directed DEEP to develop regulations that would expand the Coverage of the stream flow standards to include all rivers and streams rather than only those stocked with fish as was the case previously.

- The statute further directed DEEP to develop standards that balance the needs of humans to use water for drinking, washing, fire protection, irrigation, manufacturing, and recreation with the needs of fish and wildlife that also depend on the availability of water to sustain healthy, natural communities.

Revisions to Water Flow Regulations Case Study

Proposed Stream Flow Standards and Regulations
Public Notice, October 13, 2009

The Regulations of Connecticut State Agencies are amended by adding sections 26-141b-1 to 26-141b-9, inclusive, as follows:

(NEW) **Section 26-141b-1. Short title.** Sections 26-141b-1 to 26-141b-9, inclusive, shall be known as the department's Stream Flow Standards and Regulations.

(NEW) **Sec. 26-141b-2. Definitions.** As used in sections 26-141b-1 to 26-141b-9, inclusive, of the Regulations of Connecticut State Agencies:

(1) "Anadromous" means a species of aquatic life that spawns in freshwater and migrates to salt water to complete its life cycle as an adult;

(2) "Antecedent period" means the fourteen consecutive days immediately preceding the date the required release is calculated pursuant to section 26-141b-6(a)(3) of the Regulations of Connecticut State Agencies;

(3) "Best management practices" means those practices, facilities or procedures which reduce the impact of human activity on natural stream flow patterns which the commissioner has determined to be acceptable based on technical, economic and institutional feasibility;

(4) "Bioperiod" means the period during which certain biological processes dependent on stream flow rates occurs or is likely to occur;

(5) "Bioperiod Q25" means the daily stream flow that is equaled or exceeded on 25 percent of days in a bioperiod calculated using methods developed by the U.S. Geological Survey or otherwise acceptable to the commissioner;

(6) "Bioperiod Q50" means the daily stream flow that is equaled or exceeded on 50 percent of days in a bioperiod calculated using methods developed by the U.S. Geological Survey or otherwise acceptable to the commissioner;

(7) "Bioperiod Q75" means the daily stream flow that is equaled or exceeded on 75 percent of days in a bioperiod calculated using methods developed by the U.S. Geological Survey or otherwise acceptable to the commissioner;

(8) "Bioperiod Q80" means the daily stream flow that is equaled or exceeded on 80 percent of days in a bioperiod calculated using methods developed by the U.S. Geological Survey or otherwise acceptable to the commissioner;

(9) "Bioperiod Q90" means the daily stream flow that is equaled or exceeded on 90 percent of days in a bioperiod calculated using methods developed by the U.S. Geological Survey or otherwise acceptable to the commissioner;

1

- The purpose of the proposed regulations is to provide for the protection of Connecticut's river and stream systems by establishing stream flow standards that apply to (or exempt by regulation) all river and stream systems in the state.
- These proposed rules eventually would replace the existing requirements found in the Minimum Stream Flow Standards and Regulations of the Connecticut Department of Energy and Environmental Protection, sections 26-141a-1 to 26-141a-8, inclusive, of the Regulations of Connecticut State Agencies.

Procedure for Making Regulations

The following are some of the important steps agencies typically follow when developing regulations:

- The Department announces its decision to pursue regulation adoption or amendment.
- DEEP legal counsel works with staff and stakeholders to complete the regulatory proposal.
- An Assistant Attorney General is consulted for an informal review.
- A draft fiscal note, certification sheet, public notice, small business impact statement, and statement of purpose are prepared.

Public Hearing Held

- A public "Notice of Intent to Adopt and Amend Regulations" is approved by DEP legal counsel and sent to the Connecticut Law Journal for publication. (such notice must be published 30 days before hearing)
- Hearing is held if requested by 15 or more members of the public or on the Department's own initiative.
- Public comment accepted.
- Hearing record closed.
- Hearing report, final proposed regulations and revised fiscal note prepared by DEEP.

Formal Submission to Commissioner, OPM and Attorney General

- Final proposed regulations and associated documents approved by Bureau Chief, Deputy Commissioner and Commissioner.
- Final proposed regulation and fiscal note submitted to OPM.
- Notice of availability of regulation and hearing report mailed to everyone that commented on the regulations and certification of mailing done. (Must be mailed 20 days before submittal to Regulations Review Committee.)
- Formal submission of the regulatory package to the Attorney General for a legal sufficiency determination.

Final Approval By Regulations Review Committee

- Submission to Regulations Review Committee of the General Assembly and Office of Fiscal Analysis for required regulations, must be 180 days after public notice published.
- Regulations Review Committee considers proposed regulations.
- If rejected, due to errors or not reflecting the legislature's intent, the regulation may be resubmitted to Regulations Review Committee and Office of Fiscal Analysis (for required regulations, must be resubmitted by 1st Tuesday of 2nd month after rejection.)
- Regulation filed with Secretary of State within 14 days of Regulation Review Committee approval.
- Regulation is published in Connecticut Law Journal.
- Regulation is published in the Regulations of Connecticut State Agencies.

Summary
How a Law Becomes a Regulation

Once the bill is signed into Law it is referred to the appropriate agency to adopt regulations to carry out and implement the specifics of that law.

Attorney General George Jepsen

Once approved by the agency it is sent to the Attorney General who reviews the regulations for legal sufficiency.

Agency legal counsel is then assigned the task of drafting the regulations to carry out the law in a way that reflects the intent of the legislature. A public hearing may also be held or requested.

The regulation is then sent to the Legislature's Regulations Review Committee which reviews the regulation to make sure it reflects the intent of the legislature.

DEEP Commissioner

Daniel C. Esty

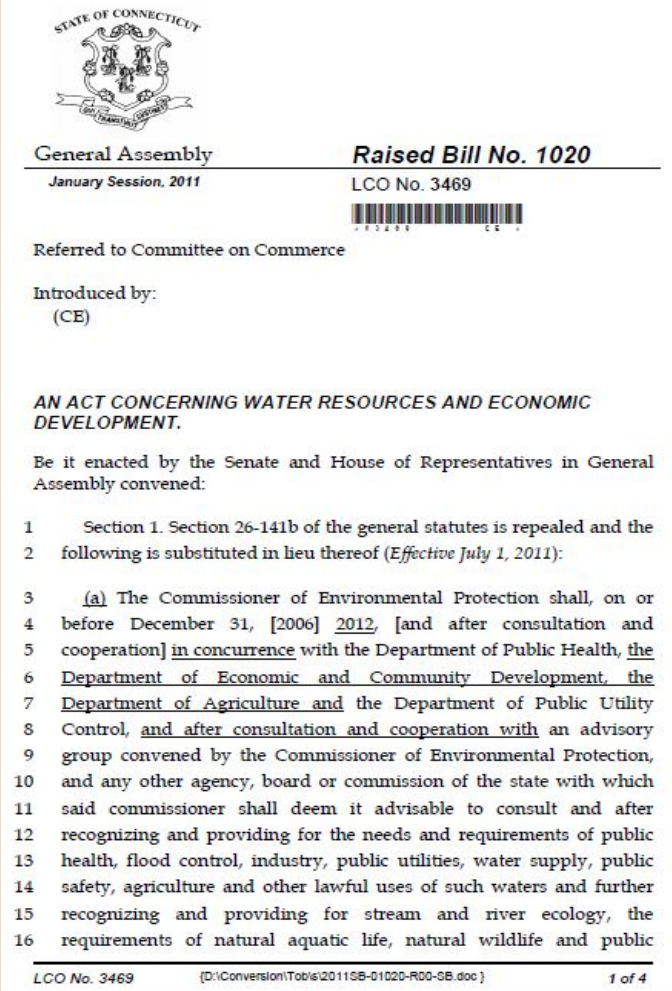
The draft regulation is then sent to the Bureau Chief, Deputy Commissioner and Commissioner for final approval by the agency

The regulation is then either sent back to the Agency for technical corrections or changes; or it is approved in whole. Once approved the regulations will be codified by the Agency and published.

Senate Bill 1020

Many times after a regulation or law is adopted, the legislature takes up a bill to modify the existing law to clarify intent or fine tune the language:

- SB 1020 represents an effort by the Commerce Committee to achieve greater balance in stream flow regulations.
- The Committee held a public hearing on the bill.
- Following that, a Joint Favorable action was taken.



STATE OF CONNECTICUT

General Assembly — **Raised Bill No. 1020**

January Session, 2011 — LCO No. 3469

Referred to Committee on Commerce

Introduced by:
(CE)

AN ACT CONCERNING WATER RESOURCES AND ECONOMIC DEVELOPMENT.

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

Section 1. Section 26-141b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(a) The Commissioner of Environmental Protection shall, on or before December 31, [2006] 2012, [and after consultation and cooperation] in concurrence with the Department of Public Health, the Department of Economic and Community Development, the Department of Agriculture and the Department of Public Utility Control, and after consultation and cooperation with an advisory group convened by the Commissioner of Environmental Protection, and any other agency, board or commission of the state with which said commissioner shall deem it advisable to consult and after recognizing and providing for the needs and requirements of public health, flood control, industry, public utilities, water supply, public safety, agriculture and other lawful uses of such waters and further recognizing and providing for stream and river ecology, the requirements of natural aquatic life, natural wildlife and public

LCO No. 3469 {D:\Conversion\Tobie\2011SB-01020-R00-SB.doc} *1 of 4*

Reasons for the Bill

- Requires the DEEP to:
  - adopt river and stream flow regulations by December 2012 in concurrence with Departments of Public Health, Economic and Community Development, Department of Public Utilities Control & Agriculture.
  - classify rivers and streams based on the current and proposed future uses
  - set priorities for dams & other similar structures to comply with flow regulations
- Requires regulations to provide exemptions from regulatory requirements when not technically feasible or financially viable.
- Requires the DPUC to establish ratemaking mechanism allowing water companies to recover the costs of complying with regulations
- Prohibits regulations from requiring reservoir release requirements that would adversely affect public health, safety, agriculture, & economic development needs
- Current law- DEEP had to adopt regulations by 2006 in consultation with DPH & an advisory committee.

Response From Stakeholders:

Testimony of CT Business and Industry Assoc. (CBIA)

CBIA's EPC ENVIRONMENTAL POLICIES COUNCIL
Strategies for a Sustainable Future

Commerce Committee
Public Hearing – Feb. 24, 2011

Testimony of: Eric J. Brown
Associate Counsel
Connecticut Business & Industry Association

SB-1020 (Raised): **An Act Concerning Water Resources and Economic Development**

Position: **CBIA supports modifying section 26-141b of the Connecticut General Statutes to clarify and simplify the legislature's directive to the Department of Environmental Protection and other agencies with respect to addressing current and future concerns for adequate flows in our state's rivers and streams.**

Good morning. My name is Eric Brown and I serve as associate counsel with the Connecticut Business & Industry Association (CBIA). CBIA represents roughly ten thousand small and large businesses throughout Connecticut employing hundreds of thousands of Connecticut citizens who rely on a safe, affordable and reliable supply of water.

While CBIA was not directly involved in the original negotiations for passage of what is now Section 26-141b of the Connecticut General Statutes in 2005, we have participated in the subsequent 6-year, unsuccessful effort to develop regulations that meet the requirements of that statute to the satisfaction of interested stakeholders. As I believe you are all aware, that process has constituted an immense resource drain on all involved, most predominantly the Department of Environmental Protection (DEP).

This and other committees of the General Assembly are keenly aware that DEP has been the subject of scrutiny and criticism regarding its ability to effectively and efficiently manage its workload. Many blame a lack of resources, while others point to the agency's well-meaning, but resource-intensive propensity to rely on command-and-control strategies and a quest to achieve near-zero risk not only with respect to public health, but also with respect to criticism from environmental activists, the media and even lawmakers.

In our view, the DEP must have the flexibility to adopt a new, more strategic and priority-driven approach to managing our environment and the precious resources we hold so dear. And the legislature needs to help them in that endeavor. The adoption of C.G.S. 26-141b back in 2005 is

Summary of CBIA's testimony in support of the bill

- Clarify and simplify directive to DEP and other agencies with respect to current and future adequate river and stream flows
- DEP needs flexibility to adopt more strategic and priority-driven approach to management of environmental resources
- Scientific evidence strongly suggests vast expansion of modest and manageable regulatory program is environmentally unnecessary
- DEP & EPA suggest less than 0.5 percent rivers and streams are impaired due to low flow
- Recommendations to modify current law:

1. Legislature should require a report on how "impaired waters" are currently created and ask for recommendations to improve procedures.

2. Legislature should direct DEP to focus on narrow set of stream/river segments (figure out where they are, what factors cause the impairment, & work with municipalities to solve problem).

3. Legislature should explore additional measures with agencies & stakeholders.

Response From Administration/Agency:

Commissioner Amey Marella, Department of Environmental Protection

STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Public Hearing – February 24, 2011
Commerce Committee

Testimony Submitted by Commissioner Amey Marrella
Department of Environmental Protection

Raised Senate Bill No. 1020 – AN ACT CONCERNING WATER RESOURCES AND ECONOMIC DEVELOPMENT

Thank you for the opportunity to present testimony regarding Raised Senate Bill No. 1020 – AN ACT CONCERNING WATER RESOURCES AND ECONOMIC DEVELOPMENT.

The Department of Environmental Protection (Department) opposes Section 1 of this bill because it prematurely ends the five year ongoing public adoption process for minimum stream flow regulations. After a five year stakeholder process, robust public process, and as required by Public Act 05-142, the Department submitted stream flow regulations to the Legislative Regulation Review Committee (LRRC) on September 7, 2010 and then resubmitted revised regulations on December 2, 2010. In addition to the stakeholder process, the Department consulted with the Department of Public Health (DPH), Department of Economic and Community Development, and Department of Public Utility Control (DPUC), and the regulations were endorsed by the Water Planning Council, comprised of DEP, DPH, DPUC and the Office of Policy and Management. The Department was responsive to concerns raised by the LRRC in October and has addressed all substantive concerns raised by the Legislative Commissioner's Office. When rejecting the regulations without prejudice in December, the LCCR directed the Department to continue to meet with stakeholders to resolve the few remaining issues. The Department is currently meeting with stakeholders, including an agreed upon mediated process, and anticipates a revised submission to LRRC in April.

Given that the Department continues to work with numerous stakeholders and other state agencies to adopt regulations that strive to achieve the balance sought by the existing statute, it is premature to change the underlying statute. The raised bill would change provisions related to water supply exemptions, technical supply yields, expenditure provisions, and concurrence that would make the envisioned balance extremely difficult if not impossible to achieve. Working within the existing statute's language has provided the necessary type and level of direction and discretion to all stakeholders and the Department to continue to develop a regulatory framework for stream flow requirements that allows Connecticut to meet its needs for water while balancing human and ecological needs.

Summary of the DEP's testimony against the bill

The bill prematurely ends five year ongoing public adoption process for minimum stream flow regulations established by PA 05-142

- DEP anticipates revised submission of stream flow regulations to the Legislative Regulations Review Committee in April.
- Goal of stream flow regulation is to proactively manage our water resources among competing uses to establish sustainable water resources for all needs.
- The raised bill would change provisions related to water supply exemptions and make it impossible to achieve the envisioned balance of PA 05-142.
- Using existing statute's language would allow for continued development of a regulatory framework for stream flow requirements and permit Connecticut to balance its water, human, and ecological needs.

Joint Favorable Report

(Summarizes Pros and Cons of Legislation)

Commerce Committee

JOINT FAVORABLE REPORT

Bill No.:	SB-1020
Title:	AN ACT CONCERNING WATER RESOURCES AND ECONOMIC DEVELOPMENT.
Vote Date:	3/8/2011
Vote Action:	Joint Favorable
PH Date:	2/24/2011
File No.:	

SPONSORS OF BILL:

RESPONSE FROM ADMINISTRATION/AGENCY:

Paul Formica, First Selectman, East Lyme

Mr. Formica testified in support of the bill stating "We recognize that DEP has made several positive changes to the stream flow regulations. We are optimistic that we will be able to resolve outstanding concerns. However, given that DEP has indicated that it intends to come back and pursue regulation of groundwater withdrawals under the stream flow enabling act, we are very concerned how this will impact our water supplies if protections are not built into the existing law."

Susan Bransfield, First Selectman, Town of Portland

Susan Bransfield testified in support of the bill stating "In addition to costs, the regulations raise questions about whether communities will have enough water to meet the needs of residents and businesses. Some communities may face severe water supply deficits. Communities will also have to impose water use restrictions on residents on a more frequent basis that may be disruptive."

Representative Mary M. Mushinsky, Eighty-Fifth Assembly District

Representative Mushinsky testified in opposition to the bill stating "If this bill succeeds in stopping more than five years of work on these regulations, towns and citizens will have to resort to lawsuits against upstream diverters. We've seen that story before – Waterbury vs. the surrounding small towns at a cost of millions of dollars. That's how the western states allocate their water resources: in court. We can do better.

NATURE AND SOURCES OF SUPPORT:

Bill Ethier, Chief Executive Officer, Home Builders Association of Connecticut, INC

Lisa Stevens, Independent Electrical Contractors of New England, INC

Elizabeth Gara, Connecticut Water Works Association

Joseph Pellegrino, Executive Director, CT Association of Plumbing, Heating, & Cooling Contractors

Susan Sulyanovsky, President, Torrington Water Department

Robert N. Beaumont, Chairman, Wallingford Board of Public Utilities Commissioners

Anthony P. Ruscigno, President, Greater New Haven Chamber of Commerce

Robin Wilson, Quinnipiac Chamber of Commerce

Jeon Jennings, Executive Director, Connecticut Heating & Cooling Contractors

Jay Berardino, Berardino Realtors

Bart Russell, Executive Director, Connecticut Council of Small Towns

Andy Markowski, Connecticut State Director, National Federation of Independent Business

Frank J. Johnson, President, Manufacturing Alliance of Connecticut, INC

Robert Wesolowski, President, The Avon Water Company

Jonathan Avery, President, Hazardville Water Company

Kachina Walsh-Weaver, Senior Legislative Associate, Connecticut Conference of Municipalities

George S. Logan, Director of Capital and Planning, Aquarion Water Company

Rich Carella, Co-Chair, Middlesex Chamber

Connecticut Water Company

Southington Water Department

Connecticut Farm Bureau Association

Utility Contractors Association of Connecticut

NATURE AND SOURCES OF OPPOSITION:

Eileen Fielding, Executive Director, Farmington River Watershed Association

David Sutherland, Director of Government Relations, The Nature Conservancy

Charles J. Rothenberger, Staff Attorney, Connecticut Fund for the Environment

David Burchsted, Naugatuck Watershed Council

Christopher Phelps, Program Director, Environment Connecticut

Jacqueline Talbot, Connecticut River Watershed Council

Martin Mador, Volunteer Legislative Chair, Sierra Club

Sandy Breslin, Director of Government Affairs, Audubon Connecticut

Amey Marrella, Commissioner, Department of Environmental Protection

Louis Burch, Program Coordinator, Citizens Campaign for the Environment

Rivers Alliance of Connecticut

League of Women Voters of Connecticut

Legislative History of SB 1020

Last year S.B. 1020 passed the Commerce Committee 15-2 in an effort to balance environmental interests with those of economic development efforts. Ultimately, however, the bill was moved to the Foot of the Senate Calendar and Recommitted back to the Commerce Committee as other legislation was given higher priority and time during session expired. Unlike Congress, once session ends the legislation dies and must start the process all over again during the next session.

Bill Status Report for Substitute for Raised S.B. No. 1020

AN ACT CONCERNING WATER RESOURCES AND ECONOMIC DEVELOPMENT.

To require that the Commissioner of Environmental Protection adopt certain regulations in concurrence with the Departments of Public Health, Economic and Community Development and Agriculture and to prevent certain economic development efforts from being affected by regulations concerning public water supplies.

Introduced by: Commerce Committee

Bill History

Date		*Action Taken*
6/8/2011		Senate Recommitted to Commerce
5/5/2011		Moved to Foot of the Calendar, Senate
3/23/2011	(LCO)	File Number 168
3/23/2011		Senate Calendar Number 135
3/23/2011		Favorable Report, Tabled for the Calendar, Senate
3/23/2011	(LCO)	Reported Out of Legislative Commissioners' Office
3/17/2011	(LCO)	Referred to Office of Legislative Research and Office of Fiscal Analysis 03/22/11 5:00 PM
3/9/2011	(LCO)	Filed with Legislative Commissioners' Office
3/8/2011	(CE)	Joint Favorable
2/18/2011		Public Hearing 02/24
2/17/2011		Referred to Joint Committee on Commerce

COMMERCE COMMITTEE

VOTE TALLY SHEET

Bill No.: SB-1020 **Amendment Letter:**

AN ACT CONCERNING WATER RESOURCES AND ECONOMIC DEVELOPMENT.

Chair: BERGER, J **Motion:** SANTIAGO, E **Second:** LEBEAU

Action: Joint Favorable

Language Change:

TOTALS	Voting	Yea	Nay	Abstain	Absent and Not Voting
	17	15	2	0	2

	yea	nay	abstain	absent			yea	na
Sen. **LeBeau**, G. S03	X							
Rep. **Berger**, J. 073	X							
Sen. **Crisco**, J. S17	X							
Rep. **Haddad**, G. 054		X						
Sen. **Frantz**, L. S36	X							
Rep. **Camillo**, F. 151	X							
Rep. **Becker**, B. 019		X						
Rep. **Gentile**, L. 104	X							
Rep. **Jutila**, E. 037	X							
Rep. **O'Brien**, E. 061	X							
Rep. **Perone**, C. 137	X							
Rep. **Santiago**, E. 130	X							
Rep. **Verrengia**, J. 020	X							
Rep. **Zalaski**, B. 081				X				
Sen. **Kelly**, K. S21	X							
Rep. **Coutu**, C. 047	X							
Rep. **D'Amelio**, A. 071	X							
Rep. **Noujaim**, S. 074				X				
Rep. **Williams**, S. 068	X							

Stream Flow Regulations Revisited

With failure to enact a legislative change the Regulations Review Committee proceeds as planned to adopt regulations as mandated by law.

Legislative Regulation Review Committee

2010-047c

Department of Environmental Protection

STREAM FLOW STANDARDS & REGULATIONS

Regulations Review Committee

MEETING MINUTES

Tuesday, November 29, 2011

11:00 AM in Room 1E of the LOB

The meeting was called to order at 11:20 AM by Chairman, Rep. Davis P. 117.

The following committee members were present:

Senators: Doyle P. S09; Gerratana T. S06; Kelly K. S21; Markley J. S16; Musto A. S22; Roraback A. S30

Representatives: Candelora V. 086; Davis P. 117; Fox D. 148; Noujaim S. 074; O'Neill A. 069; Roldan K. 004; Rowe T. 123

Absent were:

Senators:

Representatives: Ayala A. 128

1. The members approved the committee rules for the 2011 2012 term.

2. Resubmittals

2010-047c

Department of Environmental Protection

STREAM FLOW STANDARDS & REGULATIONS

Approved with Technical Corrections and Deletions based on a revised LCO report **2011-022a**

Stream Flow Regulations Revisited

- The Legislative Commissioners' Office, staffed by attorneys, indicates that the regulations are consistent with the law.
- They urge approval in whole with technical corrections and deletions.
- Had changes been more substantive, they would have recommended rejection at which point the regulations would have to be resubmitted for the next meeting.

The Connecticut General Assembly

Legislative Commissioners' Office

Edwin J. Maley, Jr.
Commissioner
William A. Hamzy
Commissioner

Larry G. J. Shapiro
Director

Legislative Office Building
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Hartford, Connecticut
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Memorandum

To:	Legislative Regulation Review Committee
From:	Legislative Commissioners' Office
Committee Meeting Date:	November 29, 2011

Regulation No:	2010-47c
Agency:	Department of Energy and Environmental Protection
Subject Matter:	Stream Flow Standards and Regulations
Statutory Authority: (copy attached)	26-141b

	Yes or No
Mandatory	Y
Federal Requirement	N
Permissive	Y

Recommendation:

X	Approval in whole
X	with technical corrections
X	with deletions
	with substitute pages
	Disapproval in whole or in part
	Rejection without prejudice

Reviewed by:	Bradford M. Towson / Angela Rehm
Date:	November 16, 2011

Final Regulations Adopted unanimously on a voice vote

The Day

Dana Jensen/The Day

A small amount of water from the Aquarion Water Co. dam at Mystic Reservoir flows Wednesday into Copps Brook in Stonington. Copps Brook is listed as "impaired" by state Department of Environmental Protection.

Article published Nov 28, 2011

New state water flow guidelines seek balance between nature, human needs

By Judy Benson Day Staff Writer

Suppliers will be told how much to release from reservoirs into rivers and streams

State ready to go with new flow regulations for healthier streams

By Judy Benson Day Staff Writer

Legislators to vote on rules to balance needs of wildlife, humans

Article published Nov 30, 2011

Streamflow regulations passed

By Judy Benson Day Staff Writer

Measure will affect 60 public reservoirs in state

Hartford - A legislative committee unanimously approved rules Tuesday for the amounts of water that must be released from dams to maintain ecologically healthy flows in all the state's streams.

Six years in the making, the new streamflow regulations will apply to about 60 public-water supply reservoirs owned by private and municipal water companies. The Regulation Review Committee approved them after rejecting an earlier version. Minimum flow previously applied only to the 5 percent of streams stocked with fish.

Summary of Changes

Proposed stream flow regulations

- **Apply to all state's rivers and streams.**
- **Apply to all dams that impound or divert rivers or streams.**
- **Each river or stream would be designated as Class I, II, III or IV.**
- **Class I is the most restrictive; natural free flowing conditions would be maintained.**
- **Class II applies to "minimally impacted." Dam owners on these waterways would be required to release 75 percent or more of the stream's natural flow, with variations according to season.**
- **Class III streams are "moderately altered." Releases would vary throughout the year to mimic natural cycles. U.S. Geological Survey data from free-flowing streams in the state would be used to extrapolate flow requirements for each Class III stream; watershed size would also be factored in.**
- **Class IV streams are considered "substantially altered," with water release requirements tailored to meet human needs first. After those are met, the goal is to achieve "the best stream flow that can be achieved," with releases following the variable levels similar to Class III as much as possible.**
- **Stream classifications for each waterway would be proposed by DEEP, a map published and a public notice issued. After a 90-day public comment period, DEEP, in consultation with the departments of Public Health, Economic and Community Development and Agriculture, and the Office of Policy and Management, would consider the comments and decide on classifications.**
- **Water companies would have 10 years to make improvements to dams and other equipment to meet the new flow requirements.**
- **Special provisions for droughts allowing for reduced water releases are included.**

Source: Connecticut Department of Energy and Environmental Protection

Reflection

"It took a long time to achieve the balance the Legislature sought in the 2005 law, but the negotiations we've had were helpful in addressing our major concerns," **Betsy Gara, Director of the CT Water Works Association** "

"It's not just about fish. It's about the wetlands and natural flood systems . . . flows and water levels are really what drives nature. It's what nature has evolved around. These regulations are about striking a balance. . ." **Mark P. Smith, Deputy Director, The Nature Conservancy Freshwater Program**

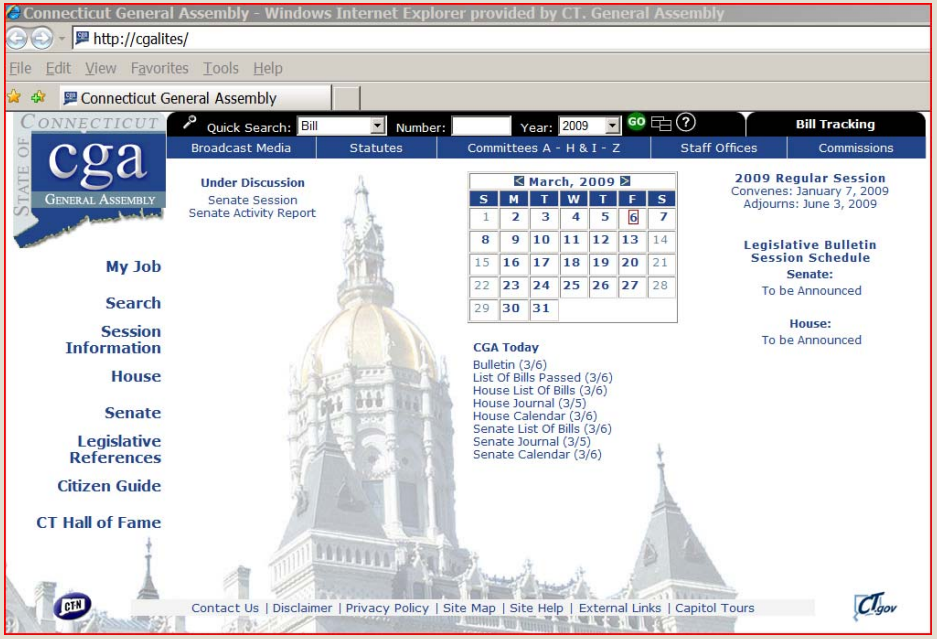
Sean D. Elliot/The Day

City of Groton Reservoir Patrolman Fred Fricano lowers a dissolved-oxygen meter into the waters of Thompson's Brook in Groton last Tuesday. New regulations that will dictate the amount water companies and other users must release into rivers and streams are scheduled for a final committee vote Tuesday.

Questions and Comments

If you are interested in what you learned here today I encourage you to find out more at www.cga.ct.gov Here you can do bill tracking, get public Hearing schedules and find out more about issues that interest you.

You also can find out more about the Department of Environmental Protection's Stream Flow Regulations on its website at:
www.ct.gov/dep/site/default.asp

If you need any help accessing this information please use my office as a resource at:

860-240-8568 or at
Ed.Jutila@cga.ct.gov.