



Substitute House Bill No. 5470

Special Act No. 06-6

AN ACT ESTABLISHING A DRINKING WATER QUALITY MANAGEMENT PLAN FOR THE TOWN OF GROTON, ESTABLISHING THE LITCHFIELD HILLS REGIONAL WATER AUTHORITY AND CONCERNING EXAMINATION OF BORE HOLES USED FOR THE DEVELOPMENT OF GEOTHERMAL HEAT PUMPS.

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

Section 1. (*Effective July 1, 2006*) (a) The city of Groton, acting through its Department of Utilities and its community partnership with the towns of Groton, Norwich, Ledyard, Preston, Montville and Waterford, shall develop a drinking water quality management plan for the preservation of Groton's drinking water and the Thames River Regional pipeline.

(b) The Department of Public Health, in conjunction with the Departments of Environmental Protection and Public Utility Control and the Office of Policy and Management, shall review the plan.

(c) On or before January 1, 2009, the Commissioner of Public Health shall submit the department's findings and recommendations based on such review, including specific recommendations concerning necessary statutory changes, to the joint standing committees of the General Assembly having cognizance of matters relating to public

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health, environment, energy and technology and planning and development, in accordance with the provisions of section 11-4a of the general statutes.

Sec. 2. (*Effective from passage*) It is found and declared as a matter of legislative determination that the creation of the Litchfield Hills Regional Water Authority for the primary purpose of providing and assuring the provision of an adequate supply of pure water at reasonable cost within the Litchfield Hills Regional Water District and such other areas as may be served pursuant to cooperative agreements and acquisitions authorized by section 12 of this act to the degree consistent with the foregoing, of advancing water conservation and the conservation and compatible recreational use of land held by the authority, and the carrying out of its powers, purposes, and duties under sections 2 to 33, inclusive, of this act are for the benefit of the people residing in the Litchfield Hills Regional Water District and the state of Connecticut, and for the improvement of their health, safety and welfare, that said purposes are public purposes, and that the authority will be performing an essential governmental function in the exercise of its powers under sections 2 to 33, inclusive, of this act.

Sec. 3. (*Effective from passage*) As used in sections 2 to 33, inclusive, of this act:

(1) "Authority" means the Litchfield Hills Regional Water Authority created by section 6 of this act;

(2) "District" means the Litchfield Hills Regional Water District created by section 4 of this act;

(3) "Representative review board" means the representative review board of the Litchfield Hills Regional Water District created by section 5 of this act;

(4) "Chief executive officer" means the full-time employee of the

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authority responsible for the execution of the policies of the authority and for the direction of the other employees of the authority;

(5) "Treasurer" means the treasurer of the authority;

(6) "Customer" means any person, firm, corporation, company, association or governmental unit furnished water service by the authority or any owner of property who guarantees payment for water service to such property;

(7) "Properties" means the water supply and distribution system or systems, and other real or personal property of the authority;

(8) "Bonds" means bonds, notes and other obligations issued by the authority;

(9) "Revenues" means all rents, charges and other income derived from the operation of the properties of the authority;

(10) "Water supply system" means plants, structures and other real and personal property acquired, constructed or operated for the purpose of supplying water, basins, dams, canals, aqueducts, standpipes, pumping stations, water distribution systems, including land, reservoirs, conduits, pipelines, mains, compensating reservoirs, waterworks or sources of water supply, wells, purification or filtration plants or other plants and works, connections, rights of flowage or diversion and other plants, structures, conveyances, real or personal property or rights therein and appurtenances necessary or useful and convenient for the accumulation, supply or distribution of water.

Sec. 4. (*Effective from passage*) There is created a district to be known as the "Litchfield Hills Regional Water District" which embraces the area and territory of the towns of Burlington, Goshen, Harwinton, Litchfield, New Hartford, Norfolk, and the city of Torrington. If, on or after June 30, 2006, the authority purchases land or properties or sells

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water services directly to customers in any city or town within the district, the area and territory of such city or town thereupon shall be excluded from the district. The authority may establish procedures to add towns or cities to the district.

Sec. 5. (*Effective from passage*) (a) There shall be a representative review board of the Litchfield Hills Regional Water District which shall consist of four electors from the city of Torrington and one elector from each of the other towns within the district who shall be appointed by the chief elected official of such city or town, with the approval of the majority of the city council or board of selectmen, as the case may be. Members shall serve for a term of three years commencing July first, except that the members first appointed shall serve as follows: One member appointed from Torrington, Harwinton and Norfolk shall serve a one-year term, one member appointed from Torrington, New Hartford and Burlington shall serve a two-year term, two members appointed from Torrington and one member appointed from Goshen and one member appointed from Litchfield shall serve a three-year term. Members shall continue to serve until their successors are appointed and have qualified. In the event of the resignation, death or disability of a member from any city or town, a successor may be appointed by the chief elected official of such city or town for the unexpired portion of the term. Members shall receive one hundred dollars for each day in which they are engaged in their duties and shall be reimbursed for their necessary expenses incurred in the performance of their duties. They shall elect a chairman and a vice-chairman, who shall be members of the representative review board and a secretary. The chairman shall receive a per diem payment of one and one-half times the amount paid to members. The representative review board shall meet at least quarterly with the authority and such members of the staff of the authority as the representative review board deems appropriate.

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(b) (1) For the purposes of this section, "number of customers" means the number of premises or groups of premises treated as units for ordinary billing or other ordinary receipt of charges by the authority and shall be determined from the records of the authority on the last day of its preceding fiscal year and "number of acres of land" means the number of acres of land rounded to the nearest whole number as may appear on the records of the authority on the last day of its preceding fiscal year.

(2) In voting upon all matters before the representative review board, the vote of each member from a city or town shall be accorded a weight, determined as follows: (A) Adding (i) the quotient obtained by dividing the number of customers in the city or town by nine hundred, rounded to the next whole number, and (ii) the quotient obtained by dividing the number of acres of land in the city or town by dividing by four thousand, rounded up to the next whole number, and (B) dividing the sum obtained pursuant to subparagraph (A) of this subdivision by the number of its representative members of each town and city.

(3) Whenever a vote is taken on any matter by the representative review board, the vote shall be determined in accordance with this subsection, except a vote to appoint members of the Litchfield Hills Water Authority pursuant to section 6 of this act. Members of the representative review board holding a majority of the votes so weighted shall constitute a quorum.

(c) The representative review board shall adopt and may amend such rules of procedure and bylaws for the conduct of its affairs as it deems appropriate. It may establish (1) a standing committee on land use and management to consult with the authority on all matters of land use and management, including acquisition and sale, recreational use, cutting of timber and other products, mining and quarrying; (2) a standing committee on finance to consult with the authority on matters relating to financial and budgetary matters and the establishment of

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rates; and (3) a standing committee on consumer affairs to consult with the authority and the officer of consumer affairs established pursuant to section 16 of this act on matters concerning the interests of people residing within the district. The representative review board may appoint such other committees as it considers convenient from time to time.

Sec. 6. (*Effective from passage*) A public corporation, to be known as the "Litchfield Hills Regional Water Authority", constituting a public instrumentality and political subdivision, is created for the purposes, charged with the duties and granted the powers provided in sections 2 to 33, inclusive, of this act. The authority shall consist of five members who shall not be members of the representative review board, who shall be residents of the district and who shall be appointed without regard to political affiliation by a majority of the total unweighted votes of those members of the representative review board present at a meeting at which members of said board holding two-thirds of the total votes are present, and by affirmative votes from representatives from a majority of towns, for terms of five years and until their successors are appointed and have qualified, except that the first members shall serve as follows: One shall be appointed for a one-year term, one for a two-year term, one for a three-year term, one for a four-year term, and one for a five-year term. Any vacancy occurring on the authority shall be filled in the same manner for the unexpired portion of the term. Any member of the authority may be removed from office by the representative review board for cause. Members of the authority may receive such compensation for their services as shall be fixed by the representative review board and may be reimbursed for their necessary expenses incurred in performance of their duties.

Sec. 7. (*Effective from passage*) The duration of the representative review board and of the authority shall be perpetual unless terminated or altered by an act of the General Assembly, provided the General

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Assembly shall not terminate the existence of the authority until all of its liabilities have been met and its bonds have been paid in full or such liabilities and bonds have otherwise been discharged.

Sec. 8. (*Effective from passage*) The officers of the authority shall be a chairman and a vice-chairman, who shall be members of the authority, and a treasurer and a secretary, who may be members of the authority. The first chairman shall be designated by the representative review board for a two-year term and subsequent chairman shall be elected by the authority for two-year terms. All other officers shall be elected by the authority for one-year terms. The treasurer shall execute a bond conditioned upon the faithful performance of the duties of his office, the amount and sufficiency of which shall be approved by the authority and the premium therefor shall be paid by the authority. The authority shall, from time to time, appoint an agent for the service of process, and shall notify the Secretary of the State of the name and address of said agent.

Sec. 9. (*Effective from passage*) The authority may employ such persons as it may determine to be necessary or convenient for the performance of its duties and may fix and determine their qualifications, duties and compensation, provided the appointment of the chief executive officer shall be subject to the approval of the representative review board. The authority shall establish a position with ongoing responsibilities for the use and management of its land resources and such other senior managerial positions as it deems appropriate, which shall be filled by appointment by the chief executive officer with the approval of the authority. The authority may also from time to time contract for professional services.

Sec. 10. (*Effective from passage*) The authority shall meet at least monthly. Except as the bylaws of the authority may provide in emergency situations, the powers of the authority shall be exercised by the members at a meeting duly called and held. Three members shall

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constitute a quorum, and no action shall be taken except pursuant to the affirmative vote of at least three members. The authority may delegate to one or more of its members, officers, agents or employees such powers and duties as it may deem proper.

Sec. 11. (*Effective from passage*) Whenever a public hearing is required under sections 2 to 33, inclusive, of this act, notice of such hearing shall be published by the representative review board at least twenty days before the date set therefor, in a newspaper or newspapers having a general circulation in each city and town comprising the district. Such notice shall set forth the date, time and place of such hearing and shall include a description of the matters to be considered at such hearing. A copy of the notice shall be filed in the office of the clerk of each such city and town and shall be available for inspection by the public. At such hearings, all the users of the water supply system, owners of property served or to be served and other interested persons shall have an opportunity to be heard concerning the matter under consideration. When appropriate, the chairman of the representative review board may convene more than one hearing on any matter and direct such hearings to be held in suitable locations within the district so as to assure broader participation by the general public in discussion of the matters under consideration, provided in sections 2 to 33, inclusive, of this act. A public hearing shall be held in the city or town in which such real property is situated. Any decision of the representative review board on matters considered at such public hearing shall be in writing and shall be published in a newspaper or newspapers having a general circulation in each city and town comprising the district not later than thirty days after such decision is made.

Sec. 12. (*Effective from passage*) Subject to the provisions of sections 2 to 33, inclusive, of this act, the authority shall have the power: (1) To sue and be sued; (2) to have a seal and alter the same at its pleasure; (3) to acquire in the name of the authority by purchase, lease or otherwise

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and to hold and dispose of personal property or any interest therein, including shares of stock of a subsidiary corporation; (4) to acquire in the name of the authority by purchase, lease or otherwise and to hold and dispose of any real property or interest therein, including water rights and rights of way and water discharge rights, which the authority determines to be necessary or convenient, and to acquire any existing water supply system or parts thereof which are wholly or partially within the district as described in section 4 of this act. As a means of acquiring any real property or interests therein, the authority or a subsidiary corporation may purchase all of the stock or all of any part of the assets and franchises of any existing privately owned water company, whereupon the authority or such subsidiary corporation shall succeed to all rights, powers and franchises thereof. Sections 16-43, 16-50c and 16-50d of the 2006 supplement to the general statutes shall not apply to any action by the authority or a subsidiary corporation or any action by any privately owned water company, as defined in section 16-1 of the 2006 supplement to the general statutes, taken to effectuate the acquisition of the stock or all or any part of the assets and franchises of such water company by the authority. Notwithstanding the provisions of section 25-32 of the general statutes, land may be transferred to the authority or a subsidiary corporation of the authority as part of such an acquisition. The Commissioner of Public Health shall not grant a permit for a change in the use of any class I or class II land owned by the authority on the effective date of this section and not transferred to the authority or a subsidiary corporation or a permit for the sale, lease or assignment of any such class II land, unless (A) all provisions of said section 25-32 are complied with; (B) the Commissioner of Public Health determines, after a hearing, notice of which shall be published not later than thirty days before the hearing in one or more newspapers having a substantial circulation in the municipalities in which the land is located, that such change in the use or sale, lease, or assignment of the land will not have a significant adverse impact upon present and

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future water supply needs of the authority or a subsidiary corporation of the authority; (5) to construct and develop any water supply system; (6) to own, operate, maintain, repair, improve, construct, reconstruct, replace, enlarge and extend any of its properties; (7) notwithstanding the provisions of any general statute, special act or charter, but subject to the provisions of section 13 of this act to sell water, however acquired, to customers within the district or to any municipality or water company; (8) notwithstanding the provisions of the general statutes or any special act or charter, to purchase water approved by the Commissioner of Public Health from any person, private corporation or municipality when necessary or convenient for the operation of any water supply system operated by the authority; (9) to adopt and amend bylaws, rules and regulations for the management and regulation of its affairs and for the use and protection of the water and properties of the authority or a subsidiary corporation and, subject to the provisions of any resolution authorizing the issuance of bonds, rules for the sale of water, and the collection of rents and charges for water supply functions. A copy of such bylaws, rules and regulations and all amendments thereto, certified by the secretary of the authority, shall be filed in the office of the Secretary of the State and with the clerk of each town and city within the district. Any superior court located within the district shall have jurisdiction over any violation of such bylaws, rules or regulations and the authority may prosecute actions before the superior court to enforce such bylaws, rules and regulations; (10) to make contracts and to execute all necessary or convenient instruments, including evidences of indebtedness, negotiable or nonnegotiable; (11) to borrow money, to issue negotiable bonds or notes, to fund and refund the same and to provide for the rights of the holders of the authority's obligations; (12) to open the grounds in any public street or way or public grounds for the purpose of laying, installing, maintaining or replacing pipes and conduits, provided upon the completion of such work the grounds shall be restored to the condition they were in previously; (13) to enter into

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cooperative agreements with other water authorities, municipalities, water districts, water companies within or without the district for interconnection of facilities, for exchange or interchange of services and commodities or for any other lawful purpose necessary or desirable to effect the purposes of sections 2 to 33, inclusive, of this act, such agreements to be binding for a period specified therein; (14) to acquire, hold, develop and maintain land and other real estate and waters for conservation and for compatible active and passive recreational purposes and to levy charges for such uses, provided the Department of Public Health finds that such uses will not harm the quality of water provided by the authority; (15) to apply for and accept grants, loans or contributions from the United States, the state of Connecticut or any agency, instrumentality or subdivision of either of them or from any person, and to expend the proceeds for any of its purposes; (16) to create programs and policies for the purpose of conserving water; and (17) to do any and all things necessary or convenient to carry out the powers expressly given in sections 2 to 33, inclusive, of this act, including the powers granted by the general statutes to stock corporations, except the power to issue stock.

Sec. 13. (*Effective from passage*) The authority shall not sell water to customers in any part of the district with respect to which any person, any firm or any corporation incorporated under the general statutes or any special act has been granted a franchise to operate as a water company, as defined in section 16-1 of the 2006 supplement to the general statutes, or in which any town, city or borough or any district organized for municipal purposes operates a municipal water supply system, unless the legislative body of such town, city, borough or district, such person, or the governing board of such firm or corporation shall consent, in writing, to such sale by the authority. The authority shall not extend water supply services into new areas previously unserved without the approval of either the legislative body of the town, city, borough or district in which such area is

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located.

Sec. 14. (*Effective from passage*) (a) If the authority cannot agree with any owner upon the terms of acquisition by the authority of any real or personal property or interest therein which the authority is authorized to acquire, the authority may proceed, at its election, in the manner provided in subsection (b) of this section or in the manner provided in subsection (c) of this section. The provisions of this section shall not apply to the acquisition of (1) any real or personal property or interest therein, the legal title to which is vested in the state or a political subdivision thereof, or (2) any existing water supply system.

(b) The authority may, after ten days' written notice to such owner, petition the superior court for the county or judicial district in which such property is located, or, if said court is not then sitting, any judge of said court, and thereupon said court or such judge shall appoint a committee of three disinterested persons, who shall be sworn before commencing their duties. Such committee, after giving reasonable notice to the parties, shall view the property in question, hear the evidence, ascertain the value, assess just damages to the owner or parties interested in the property and report its actions to said court or such judge. Not later than fourteen days after such report is made to said court or such judge, any party may move for the acceptance thereof. Said court or such judge may accept such report or may reject it for irregular or improper conduct by the committee in the performance of its duties. If the report is rejected, the court or judge shall appoint another committee, which shall proceed in the same manner as did the first committee. If the report is accepted, such acceptance shall have the effect of a judgment in favor of the owner of the property against said authority for the amount of such assessment, and, except as otherwise provided by law, execution may issue therefor. Such property shall not be used by such authority until the amount of such assessment has been paid to the party to whom it is

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due or deposited for his use with the State Treasurer and, upon such payment or deposit, such property shall become the property of the authority; provided, if at any stage of condemnation proceedings brought under this section, it appears to the court or judge before whom such proceedings are pending that the public interest will be prejudiced by delay, said court or such judge may direct that the authority be permitted to enter immediately upon the property to be taken and devote it temporarily to the public use specified in such petition upon the deposit with said court of a sum to be fixed by said court or such judge, upon notice to the parties of not less than ten days, and such sum when so fixed and paid shall be applied so far as it may be necessary for the purpose of the payment of any award of damages which may be made, with interest thereon from the date of the order of said court or judge, and the remainder, if any, returned to the authority. If such petition is dismissed or no award of damages is made, said court or such judge shall direct that the money so deposited, so far as it may be necessary, shall be applied to the payment of any damages that the owner of such property or other parties in interest may have sustained by such entry upon and use of such property, and of the costs and expenses of such proceedings, such damages to be ascertained by said court or such judge or a committee to be appointed for that purpose, and if the sum so deposited is insufficient to pay such damages and all costs and expenses so awarded, judgment shall be entered against the authority for the deficiency, to be enforced and collected in the same manner as a judgment from the superior court; and the possession of such property shall be restored to the owner or owners thereof. The expenses or costs of any such proceedings shall be taxed by said court or such judge and paid by the authority.

(c) The authority, in its name, may proceed in the manner specified for redevelopment agencies in accordance with sections 8-128 to 8-132, inclusive, of the general statutes.

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Sec. 15. (*Effective from passage*) With the approval of the representative review board, the authority shall establish just and equitable rates or charges for the use of the water supply system authorized in this section, to be paid by any customer, and may change such rates or charges from time to time. Such water supply system rates or charges shall be established so as to provide funds sufficient in each year, with other water supply related revenues, if any, (1) to pay the cost of maintaining, repairing and operating the water supply system and each and every portion thereof, to the extent that adequate provision for the payment of such cost has not otherwise been made, (2) to pay the principal of and the interest on outstanding water supply bonds of the authority as the same shall become due and payable, (3) to meet any requirements of any resolution authorizing, or trust agreement securing, such bonds of the authority, (4) to make payments in lieu of taxes as provided in section 22 of this act as the same become due and payable, upon the water supply system properties of the authority or of a subsidiary corporation to the municipalities in which such properties are situated, (5) to provide for the maintenance, conservation and appropriate recreational use of the land of the authority, and (6) to pay all other reasonable and necessary expenses of the authority and of the representative review board to the extent that such expenses are allocable to the water supply system activities of the authority and the representative review board. Any change in such rates or charges shall be made in the same manner in which they were established. The rates or charges levied upon any customer of any water supply system acquired pursuant to subdivision (4) of section 12 of this act or served pursuant to a cooperative agreement pursuant to subdivision (13) of section 12 of this act shall not be required to be equalized with the authority's existing rates, but may be set on a separate basis, provided such rates are just, equitable and nondiscriminatory. Such rates or charges, if not paid when due, shall constitute a lien upon the premises served and a charge against the owners thereof, which lien and charge shall bear interest at the same

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rate as would unpaid taxes. Such lien shall take precedence over all other liens or encumbrances except taxes and may be foreclosed against the lot or building served in the same manner as a lien for taxes, provided all such liens shall continue until such time as they shall be discharged or foreclosed by the authority without the necessity of filing certificates of continuation, but in no event for longer than ten years. The amount of any such rate or charge which remains due and unpaid for thirty days may, with interest thereon at the same rate as unpaid taxes and with reasonable attorneys' fees, be recovered by the authority in a civil action in the name of the authority against such owners. Any municipality shall be subject to the same rate or charges under the same conditions as other users of the water supply system.

Sec. 16. (*Effective from passage*) (a) The representative review board may establish an office of consumer affairs to act as the advocate for consumer interests in all matters which may affect consumers, including, without limitation, matters of rates, water quality and supply service quality. The costs of such office of consumer affairs, unless otherwise provided by the state, shall be paid by the authority.

(b) The office of consumer affairs may appear and participate in any regulatory or judicial proceedings, federal or state, in which the interests of consumers may be involved. The office of consumer affairs shall have access to the authority's records, shall be entitled to call upon the assistance of the authority's experts and shall have the benefit of all other facilities or information of the authority in carrying out the duties of the office, except for such internal documents, information or data as are not available to parties to the authority's proceedings.

(c) Nothing in this section shall be construed to prevent any party interested in any proceeding or action of the authority from appearing in person or from being represented by counsel therein.

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(d) As used in this section, "consumer" means any person, company, corporation, association, city, borough or town that receives service from the authority or a subsidiary corporation whether or not such person, company, corporation, association, city, borough or town is financially responsible for such service.

Sec. 17. (*Effective from passage*) All contracts of the authority in excess of fifty thousand dollars for any supplies, materials, equipment, construction work or other contractual services shall be in writing and shall be awarded upon sealed bids or proposals made in compliance with a public notice advertised by publication at least ten days before the time fixed for opening said bids or proposals, except for contracts for professional services, when the supplies, materials, equipment or work can only be furnished by a single party or when the authority determines by a four-fifths vote of the entire authority that the award of such contract by negotiation without public bidding will be in the best interest of the authority. The authority may, in its sole discretion, reject all such bids or proposals or any bids received from a person, firm or corporation the authority finds to be unqualified to perform the contract, and shall award such contract to the lowest responsible bidder qualified to perform the contract.

Sec. 18. (*Effective from passage*) (a) If any member or employee of the representative review board or of the authority is financially interested in or has any personal beneficial interest, directly or indirectly, in any proposed contract or proposed purchase order for any supplies, materials, equipment or contractual services to be furnished to or used by the representative review board or the authority, such member or employee shall immediately so inform the representative review board or the authority, whichever he is a member or employee of, and shall take no part in the deliberations or vote concerning such contract or purchase order. The representative review board and the authority, as to its members and employees, as the case may be, may terminate the

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membership or employment of any person who violates this subsection.

(b) No member or employee of the representative review board or of the authority shall accept or receive, directly or indirectly, from any person, firm or corporation to which any contract or purchase order may be awarded, by rebate, gift or otherwise, any promise, obligation or contract for future reward or compensation or any money or any thing of value in excess of ten dollars, provided the aggregate value of all such things provided by a donor to a recipient in any calendar year shall not exceed fifty dollars and, excluding any food or beverage, costing less than fifty dollars in the aggregate per recipient in a calendar year, and consumed on an occasion or occasions at which the person paying, directly or indirectly, for the food or beverage, or his representative, is in attendance. Any person who violates any provision of this subsection shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both.

Sec. 19. (*Effective from passage*) (a) Notwithstanding any other provision of sections 2 to 33, inclusive, of this act, the authority shall not sell or otherwise transfer any unimproved real property or any interest or right therein, except for access or utility purposes, or develop such property for any use not directly related to a water supply function, other than for public recreational use not prohibited by section 25-43c of the general statutes, until the land use standards and disposition policies required by subsection (b) of this section have been approved by the representative review board.

(b) Not more than two years after the date it acquires all or part of a water supply system, the authority shall develop and submit to the representative review board for approval (1) standards for determining the suitability of its real property for categories of land use, including which, if any, of its real property may be surplus with regard to the purity and adequacy of both present and future water

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supply, which, if any, may be desirable for specified modes of recreation or open space use and which may be suitable for other uses, giving due consideration to the state plan of conservation and development, to classification and performance standards recommended in the final report of the council on water company lands pursuant to subsection (c) of section 16-49c of the general statutes and to such other plans and standards as may be appropriate, and (2) policies regarding the disposition of its real property including identification of dispositions which are unlikely to have any significant effect on the environment. Prior to approving any standards or policies specified in this subsection, the representative review board shall hold one or more public hearings to consider the proposed standards and policies. The proposed standards and policies shall be available for public inspection in the offices of the authority from the date notice of such hearing is published. The authority may amend such standards and policies from time to time with the approval of the representative review board, which shall hold public hearings if it deems such amendments substantial.

(c) After approval of land use standards and disposition policies in the manner provided in subsection (b) of this section, the authority shall not sell or otherwise transfer any real property or any interest or right therein, except for access or utility purposes, or develop such property for any use not directly related to a water supply function, other than for public recreational use not prohibited by section 25-43c of the general statutes, without the approval of a majority of the weighted votes of all of the members of the representative review board, and without the approval of the members of the legislative body of each affected municipality. The representative review board shall not approve such sale or other transfer unless it determines, following a public hearing, that the proposed action (1) conforms to the established standards and policies of the authority, (2) is not likely to affect the environment adversely, particularly with respect to the

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purity and adequacy of both present and future water supply, and (3) is in the public interest, giving due consideration, among other factors, to the financial impact of the proposed action on the customers of the authority and on the municipality in which the real property is located.

(d) Each request by the authority for approval pursuant to subsection (c) of this section shall be accompanied by an evaluation of the potential impact of the proposed action for which approval is requested. The evaluation shall include the following: (1) A description of the real property and its environment, including its existing watershed function and the costs to the authority of maintaining such property in its current use; (2) a statement that the proposed action conforms to the land classification standards and disposition policies of the authority; (3) a detailed statement of the environmental impact of the proposed action and, if appropriate, of any alternatives to the proposed action, considering (A) direct and indirect effects upon the purity and adequacy of both present and future water supply, (B) the relationship of the proposed action to existing land use plans, including municipal and regional land use plans and the state plan of conservation and development, (C) any adverse environmental effects which cannot be avoided if the proposed action is implemented, (D) any irreversible and irretrievable commitments of resources which would be involved should the proposed action be implemented, and (E) any mitigation measures proposed to minimize adverse environmental impacts; except that for a sale or transfer identified in accordance with subsection (b) of this section as being unlikely to have any significant effect on the environment, the authority may submit a preliminary assessment of the impact likely to occur in lieu of such detailed statement of environmental impact, and the representative review board may, on the basis of such preliminary assessment, waive or modify the requirements for such detailed statement; and (4) a summary of the final evaluation and recommendation of the authority.

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(e) The representative review board shall submit the evaluation required by subsection (d) of this section for comment and review, at least sixty days prior to the public hearing, to the Department of Public Health, the Office of Policy and Management, the regional planning agency for the region, the chief executive officer of the city or town in which the real property is situated and other appropriate agencies. The board shall also make the evaluation available to the public for inspection. The decision of the representative review board approving or disapproving the proposed action published in a newspaper or newspapers having a general circulation within the district and copies of such decision shall be filed with the clerk of each town and city in the district.

(f) (1) No agreement to sell or otherwise transfer any unimproved real property or any interest or right therein may be entered into by the authority except as provided in this subsection.

(2) Whenever the authority intends to sell or otherwise transfer any unimproved real property or any interest or right therein after approval by the representative review board, the authority shall first notify, in writing, by certified mail, return receipt requested, the Commissioner of Environmental Protection and the legislative body of the city or town in which such land is situated, of such intention to sell or otherwise transfer such property and the terms of such sale or other transfer.

(3) Not later than ninety days after such notice has been given under subdivision (2) of this subsection, the legislative body of the city or town or the Commissioner of Environmental Protection may give written notice to the authority by certified mail, return receipt requested, of the desire of the city, town or state to acquire such property and the commissioner or city or town shall have the right to acquire the interest in the property which the authority has declared its intent to sell or otherwise transfer, provided the state's right to acquire

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the property shall be secondary to that of the city or town.

(4) If the legislative body of the city or town or the Commissioner of Environmental Protection fails to give notice as provided in subdivision (3) of this subsection or gives notice to the authority by certified mail, return receipt requested, that the city, town or state does not desire to acquire such property, the city or town or the state shall have waived its right to acquire such property in accordance with the terms of this subsection.

(5) Not later than eighteen months after notice has been given as provided in subdivision (2) of this subsection by the city or town or the state of its desire to acquire such property, the authority shall sell the property to the city or town or the state, as the case may be, or, if the parties cannot agree upon the amount to be paid therefor, the city or town or the state may proceed to acquire the property in the manner specified for redevelopment agencies in accordance with sections 8-128 to 8-132, inclusive, of the general statutes, provided property subject to the provisions of subsections (b) and (c) of section 25-32 of the general statutes shall not be sold without the approval of the Department of Public Health.

(6) If the city or town or the state fails to acquire the property or to proceed as provided in sections 8-128 to 8-132, inclusive, of the general statutes not later than eighteen months after notice has been given by the city or town or the state of its desire to acquire the property, such city or town or the state shall have waived its rights to acquire such property in accordance with the terms of this subsection.

(7) Notwithstanding the provisions of section 22 of this act, the authority shall not be obligated to make payments in lieu of taxes on such property for the period from the date the city or town gives notice of its desire to acquire such property.

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(8) Notwithstanding the provisions of subdivision (5) of this subsection, if the authority thereafter proposes to sell or otherwise transfer such property to any person subject to fewer restrictions on use or for a price less than that offered by the authority to the city or town and the state, the authority shall first notify the city or town and the Commissioner of Environmental Protection of such proposal in the manner provided in subdivision (2) of this subsection, and such city or town and the state shall again have the option to acquire such property and may proceed to acquire such property in the same manner and within the same time limitations as are provided in subdivisions (2) to (6), inclusive, of this subsection.

(9) The provisions of this subsection shall not apply to transfers of real property from the authority to any public service company.

(10) A copy of each notice required by this subsection shall be sent by the party giving such notice to the clerk of the town or city in which the real property is situated and such clerk shall make all such notices part of the appropriate land.

(g) The provisions of this section shall not be construed to deprive the Department of Public Health of its jurisdiction under section 25-32 of the general statutes. The authority shall notify the Commissioner of Public Health of any proposed sale or other transfer of land, or change or use, as required by said section 25-32.

(h) The authority shall use the proceeds of any sale or transfer under this section solely for capital improvements to its remaining properties, acquisition of real property or any interest or right therein, retirement of debt or any combination of such purposes.

(i) The provisions of this section shall apply to any unimproved real property or any interest or right therein related to the water supply system whether owned or possessed by the authority or by any

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subsidiary corporation.

(j) In recognition that land that is classified as Class I or II land pursuant to section 25-37c of the general statutes is used and useful to protect the purity of the water supply, all land owned by the authority that is classified as Class I or II land pursuant to said section 25-37c may not be sold, leased or assigned unless a permanent conservation easement on the land is entered into to preserve the land in perpetuity predominantly in its natural scenic and open condition for the protection of natural resources and public water supplies while allowing for recreation consistent with such protection and improvements necessary for the protection or provision of safe and adequate potable water. As used in this section, "preservation in perpetuity" shall not be construed to include permission for the land to be developed for any commercial, residential or industrial uses, nor shall it include permission for recreational purposes requiring intense development, including, but not limited to, golf courses, driving ranges, tennis courts, ballfields, swimming pools and uses by motorized vehicles other than vehicles needed by water companies to carry out their purposes, provided trails or pathways for pedestrians, motorized wheelchairs or nonmotorized vehicles shall not be considered intense development.

(k) In order to conserve the land of the authority and in recognition of the ecological value of the land of the authority that is classified as Class III land pursuant to section 25-37c of the general statutes, the authority may sell, lease or assign any parcel of land of the authority that is classified as Class III land, provided such land is subject to a permanent conservation easement with the same conservation restrictions and development prohibitions set forth in subsection (j) of this section for permanent conservation easements, except that the authority may sell, lease or assign a parcel of Class III land owned by the authority not subject to such an easement if such sale, lease or

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assignment (1) is approved unanimously by each member of the representative review board and each member of the authority, and (2) is consistent with all other requirements of this section.

Sec. 20. (*Effective from passage*) The authority shall not acquire, by purchase, lease or otherwise, any existing water supply system or parts thereof, or commence any project costing more than two million dollars to repair, improve, construct, reconstruct, enlarge and extend any of its properties or systems without the approval, following a public hearing, of a majority of the total weighted votes of the membership of the representative review board. In the case of the first acquisition by the authority of an existing water supply system or part thereof, after such approval by the representative review board the authority shall file with the town clerk of each city and town in the district its plan for such acquisition. The legislative body of each such city and town shall approve or disapprove such acquisition plan not later than sixty days after such filing, provided failure to disapprove within said sixty days shall be deemed approval of such acquisition plan. The authority shall not first acquire an existing water supply system or part thereof except in accordance with an acquisition plan approved by at least sixty per cent of such legislative bodies, except that the authority shall acquire the municipally-owned Torrington Water Supply.

Sec. 21. (*Effective from passage*) (a) The authority shall have an annual audit of its accounts, books and records by a certified public accountant selected by the representative review board. A copy of the audit shall be filed in the office of the town clerk in each town within the district and with the Public Utilities Control Authority, and shall be available for public inspection during the ordinary business hours of the authority at the principal office of the authority. A concise financial statement shall be published annually, at least once, in a newspaper of general circulation in the municipality where the

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principal office of the authority is located. If such publication is not made by the authority, the representative review board shall publish such statement at the expense of the authority.

(b) The Attorney General may examine the books, accounts and records of the authority.

Sec. 22. (*Effective from passage*) (a) The authority or a subsidiary corporation shall not be required to pay taxes or assessments upon any of the properties acquired by it or under its jurisdiction, control or supervision. In lieu of such taxes or assessments the authority shall make annual payments to each city or town in which it or a subsidiary corporation owns property related to the water supply system equal to the taxes which would otherwise be due for the property of the authority or such subsidiary corporation in such municipality, excluding any improvements made to or constructed on any such real property by the authority or such subsidiary corporation, provided land owned by the authority or a subsidiary corporation related to the water supply system shall be assessed in accordance with section 12-63 of the general statutes. Payments for property acquired by the authority or a subsidiary corporation during any tax year shall be adjusted for such fractional year in accordance with the customary practice in such city or town for adjusting taxes between the buyer and seller of real property. The authority or a subsidiary corporation shall reimburse each such city or town for its expenses in providing municipal services to any improvements made to or constructed on any real property by the authority or such subsidiary corporation within such city or town. As used in this section, "improvements" shall not include water pipes or improvements to water pipes.

(b) The authority may contest the assessed valuation of any properties owned by the authority or a subsidiary corporation with respect to which any payment in lieu of taxes is determined in the same manner as any owner of real property in such city or town.

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Payments in lieu of taxes payable to any city or town shall be paid by the authority to the city or town upon the date and in the manner provided for the payment of real property taxes of the city or town.

(c) In the event the authority in any year does not have sufficient funds to make such payments in lieu of taxes, or any portion of them, as the same become due and payable, the authority shall adjust its rates and charges and the representative review board shall approve such adjustment of rates and charges, after a public hearing thereon as provided in section 15 of this act, so as to provide funds not later than one year after the date on which such payment became due and payable to make such payment. Any city or town or any holder of bonds or notes of the authority aggrieved by the failure of the authority to make any payment in lieu of taxes or portion thereof as the same becomes due and payable may apply to the superior court for the county in which such city or town is situated for an order directing the authority to appropriately increase its rates and charges.

(d) Neither the authority nor a subsidiary corporation shall be required to pay taxes imposed upon or measured by the receipts or earnings derived by the authority or such subsidiary corporation through the ownership or operation of a water supply system, or imposed as a result of the income, powers, activities or items reflected on the balance sheet of the authority or such subsidiary corporation.

Sec. 23. (*Effective from passage*) (a) The authority, subject to the approval of the representative review board, may, from time to time, issue its negotiable bonds for any of its corporate purposes, including incidental expenses in connection therewith, and to secure the payment of the same by a lien or pledge covering all or part of its contracts, earnings or revenues. The authority shall have power, from time to time, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds within the terms of any refunding provisions of its bonds, whether the bonds to be refunded have or

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have not matured, and may issue bonds partly to refund bonds then outstanding and partly for any of its public purposes. Except as may be otherwise expressly provided by the authority every issue of bonds by the authority shall be preferred obligations, taking priority over all other claims against the authority, including payments in lieu of taxes to any municipality, and payable out of any moneys, earnings or revenues of the authority, subject only to any agreements with the holders of particular bonds pledging any particular moneys, earnings or revenues. Notwithstanding the fact that the bonds may be payable from a special fund, if they are otherwise of such form and character as to be negotiable instruments under the terms of the Uniform Commercial Code, the bonds shall be negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code, subject only to the provisions of the bonds for registration.

(b) The bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature at such time or times, not exceeding forty years from their respective dates, bear interest at such rates per annum, not exceeding statutory limitations, be payable at such times, be in such denomination, be in such form, either coupon or registered, carry such registration privileges, be executed in such manner, be payable in lawful money of the United States of America, at such place or places, and be subject to such terms of redemption as such resolution or resolutions may provide. All bonds of the authority shall be sold through a negotiated sale or a public sale to the bidder who shall offer the lowest true interest cost to the authority, to be determined by the authority.

(c) Any resolution or resolutions authorizing any bonds or any issue of bonds may contain provisions which shall be a part of the contract with the holders of the bonds thereby authorized as to (1) pledging all or any part of the moneys, earnings, income and revenues derived from all or any part of the properties of the authority to secure the

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payment of the bonds or of any issue of the bonds subject to such agreement with the bondholders as may then exist; (2) the rates, rentals, fees and other charges to be fixed and collected and the amounts to be raised in each year thereby, and the use and disposition of the earnings and other revenues; (3) the setting aside of reserves and the creation of sinking funds and the regulation and disposition thereof; (4) limitations on the rights of the authority to restrict and regulate the use of the properties in connection with which such bonds are issued; (5) limitations on the purposes to which, and the manner in which, the proceeds of the sale of any issue of bonds may be applied; (6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured, and the refunding of outstanding or other bonds; (7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto and the manner in which such consent may be given; (8) the creation of special funds into which any earnings or revenues of the authority may be deposited; (9) the terms and provisions of any trust deed or indenture securing the bonds or under which bonds may be issued; (10) definitions of the acts or omission to act which shall constitute a default in the obligations and duties of the authority to the bondholders and providing the rights and remedies of the bondholders in the event of such default, including as a matter of right the appointment of a receiver, provided such rights and remedies shall not be inconsistent with the general laws of this state; (11) limitations on the power of the authority to sell or otherwise dispose of its properties; (12) any other matters, of like or different character, which in any way affect the security or protection of the bonds; and (13) limitations on the amount of moneys derived from the properties to be expended for operating, administrative or other expenses of the authority.

(d) The authority may obtain from a commercial bank or insurance

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company a letter of credit, line of credit or other liquidity facility or credit facility for the purpose of providing funds for the payments in respect of bonds, notes or other obligations required by the holder thereof to be redeemed or repurchased prior to maturity or for providing additional security for such bonds, notes or other obligations. In connection therewith, the authority may enter into reimbursement agreements, remarketing agreements, standby bond purchase agreements and any other necessary or appropriate agreements. The authority may pledge all or any part of the moneys, earnings, income and revenues derived from all or any part of the properties of the authority and any other property which may be pledged to bondholders to secure its payment obligations under any agreement or contract entered into pursuant to this section subject to such agreements with the bondholders as may then exist.

(e) In connection with or incidental to the carrying of bonds or notes or in connection with or incidental to the sale and issuance of bonds or notes, the authority may enter into such contracts to place the obligation of the authority, as represented by the bonds or notes, in whole or in part, on such interest rate or cash flow basis as the authority may determine, including without limitation, interest rate swap agreements, insurance agreements, forward payment conversion agreements, contracts providing for payments based on levels of, or changes in, interest rates or market indices, contracts to manage interest rate risk, including, without limitation, interest rate floors or caps, options, puts, calls and similar arrangements. Such contracts shall contain such payment, security, default, remedy and other terms and conditions as the authority may deem appropriate and shall be entered into with such party or parties as the authority may select, after giving due consideration, where applicable, for the creditworthiness of the counter party or counter parties, provided such parties or counter parties shall be a financial institution whose unsecured long-term obligations are rated within the top two rating

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categories of any nationally recognized rating service. The authority may pledge all or any part of the moneys, earnings, income and revenues derived from all or any part of the properties of the authority and any other property which may be pledged to bondholders to secure its payment obligations under any agreement or contract entered into pursuant to this section subject to such agreements with the bondholders as may then exist.

(f) It is the intention of the General Assembly that any pledge of earnings, revenues or other moneys made by the authority shall be valid and binding from the time when the pledge is made; that the earnings, revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act, and that the lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded.

(g) Neither the members of the authority nor any person executing the bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

(h) The authority shall have the power out of any funds available to purchase, as distinguished from the power of redemption provided in this section, any bonds issued by it at a price of not more than the principal amount thereof and accrued interest, and all bonds so purchased shall be cancelled.

(i) In the discretion of the authority, the bonds may be secured by a trust indenture by and between the authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company. Such trust indenture may contain such provisions for

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protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of any law, including covenants setting forth the duties of the authority in relation to the construction, maintenance, operation, repair and insurance of the properties and the custody, safeguarding and application of all moneys, and may provide that the properties shall be constructed and paid for under the supervision and approval of consulting engineers. The authority may provide by such trust indenture or other depository for the methods of disbursement thereof, with such safeguards and restrictions as it may determine. All expenses incurred in carrying out such trust indenture may be treated as part of the cost of maintenance, operation and repair of the properties. If the bonds are secured by a trust indenture, bondholders shall have no authority to appoint a separate trustee to represent them.

(j) Notwithstanding any other provision of sections 2 to 33, inclusive, of this act, any resolution or resolutions authorizing bonds or notes of the authority shall contain a covenant by the authority that it will at all times maintain rates, fees, rentals or other charges sufficient to pay, and that any contracts entered into by the authority for the sale and distribution of water shall contain rates, fees, rentals or other charges sufficient to pay, the cost of operation and maintenance of the properties and the principal of and interest on any obligation issued pursuant to such resolution or resolutions as the same severally become due and payable, and to maintain any reserves or other funds required by the terms of such resolution or resolutions.

(k) If any officer of the authority whose signature or a facsimile of whose signature appears on any bonds or coupons ceases to be such officer before delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes as if they had remained in office until such delivery.

Sec. 24. (*Effective from passage*) The authority shall have the power

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and is authorized to issue negotiable notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from date of issuance of such original note. Such notes shall be paid from any moneys of the authority available therefor and not otherwise pledged or from the proceeds of the sale of the bonds of the authority in anticipation of which they were issued. The notes shall be issued and may be secured in the same manner as the bonds and such notes and the resolution or resolutions authorizing such notes may contain any provisions, conditions or limitations which the bonds or a bond resolution of the authority may contain. Such notes shall be as fully negotiable as the bonds of the authority.

Sec. 25. (*Effective from passage*) The state of Connecticut does pledge to and agree with the holders of the bonds or notes of the authority that the state will not limit or alter the rights vested in the authority to acquire, construct, maintain, operate, reconstruct and improve the properties, to establish and collect the revenues, rates, rentals, fees and other charges referred to in sections 2 to 33, inclusive, of this act and to fulfill the terms of any agreements made with the holders of the bonds or notes, or in any way impair the rights and remedies of the bondholders or noteholders until the bonds or notes together with interest thereon, interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the bondholders or noteholders are fully met and discharged.

Sec. 26. (*Effective from passage*) The bonds, notes or other obligations of the authority shall not be a debt of the state of Connecticut or of any municipality, and neither the state nor any municipality shall be liable therefor, nor shall they be payable out of funds other than those of the authority.

Sec. 27. (*Effective from passage*) The bonds and notes of the authority

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shall be securities in which all public officers and bodies of this state and all municipalities, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings and loan associations, investment companies and other persons carrying on a banking business and all other persons whatever, except as provided in this section, who are now or may be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds, including capital in their control or belonging to them; provided, notwithstanding the provisions of any general statute or special act, such bonds shall not be eligible for the investment of funds, including capital, of trusts, estates or guardianships under the control of individual administrators, guardians, executors, trustees or other individual fiduciaries. The bonds shall also be securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of this state is now or may be authorized.

Sec. 28. (*Effective from passage*) The principal and interest of any bonds and notes issued under the provisions of section 23 of this act, their transfer and the income therefrom, including revenues derived from the sale thereof, shall at all times be free from taxation of every kind by the state of Connecticut or under its authority, except for estate or succession taxes, but the interest on such bonds and notes shall be included in the computation of any excise or franchise tax.

Sec. 29. (*Effective from passage*) Nothing in sections 2 to 33, inclusive, of this act, shall be construed to deprive the Commissioner of Environmental Protection, the Commissioner of Public Health, any representative review board or any successor commissioner or board of any jurisdiction which such commissioners or boards may now or hereafter have. Neither the Public Utilities Control Authority nor any

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successor board or commissioner shall have jurisdiction of any kind over the authority, a subsidiary corporation, the representative review board or the rates fixed or charges collected by the authority. The authority shall annually file the report required of municipalities pursuant to section 16-29 of the general statutes with the Public Utilities Control Authority or any successor board and the clerks of the towns and cities within the district.

Sec. 30. (*Effective from passage*) If the provisions of sections 2 to 33, inclusive, of this act are inconsistent with the provisions of any general statute or special act or any municipal ordinance, the provisions of said sections 2 to 33, inclusive, shall be controlling, except that nothing contained in said sections 2 to 33, inclusive, shall exempt the authority from compliance with zoning regulations lawfully established by any city or town.

Sec. 31. (*Effective from passage*) (a) The authority or any person who is aggrieved by a decision of the representative review board with respect to the establishment of rates or charges, the establishment of land use standards and disposition policies, the sale or other transfer or change of use of real property, the location of purification, filtration treatment plants, the commencement of any project costing more than two million dollars to repair, improve, construct, reconstruct, enlarge or extend any of the properties or systems of the authority or the acquisition by purchase, lease or otherwise of any existing water supply system, or part thereof, is entitled to review by the Superior Court as provided in this section. For the purposes of this section the holders of any bonds or notes of the authority and any trustee acting on behalf of such holders shall be deemed aggrieved persons with respect to any decision of the representative review board which violates any covenant or other provision of the resolution or resolutions authorizing such bonds or notes.

(b) Proceedings for review shall be instituted by filing a petition in

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the Superior Court for the judicial district of Litchfield not later than forty-five days after publication of the decision of the representative review board or, if a rehearing is requested, not later than forty-five days after the decision thereon. Copies of the petition shall be served upon the representative review board and published in a newspaper or newspapers having a general circulation in each town or city comprising the district.

(c) The filing of the petition shall not of itself stay enforcement of the decision of the representative review board. The representative review board may grant, or the reviewing court may order, a stay upon appropriate terms, provided enforcement of a decision respecting the establishment of rates or charges may be stayed only after issuance of a judgment for the appellant by the reviewing court.

(d) Not later than thirty days after service of the petition, or within such later time as may be allowed by the court, the representative review board shall transmit to the reviewing court the original or a certified copy of the entire record of the proceeding under review, which shall include the representative review board's findings of fact and conclusions of law, separately stated. By stipulation of all parties to the review proceedings, the record may be shortened. A party unreasonably refusing to stipulate to limit the record may be taxed by the court for the additional costs. The court may require or permit subsequent corrections or additions to the record.

(e) If, before the date set for hearing, application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the representative review board, the court may refer the case back to the board with instructions to take such evidence as the court directs. The representative review board may modify its findings and decision by reason of the additional evidence and shall file that

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evidence and any modifications, new findings or decisions with the reviewing court.

(f) The review shall be conducted by the court without a jury and shall be confined to the record. In cases of alleged irregularities in procedure before the representative review board, not shown in the record, proof thereon may be taken in the court. The court, upon request, shall hear oral argument and receive written briefs.

(g) The court shall not substitute its judgment for that of the representative review board as to the weight of the evidence on questions of fact. The court shall affirm the decision of the representative review board unless the court finds that the substantial rights of the appellant have been prejudiced because the representative review board's findings, inferences, conclusions or decisions are: (1) In violation of constitutional provisions, any general statute or special act or the provisions of this act; (2) in excess of the authority of the representative review board; (3) made upon unlawful procedure; (4) affected by other error of law; (5) clearly erroneous in view of the reliable probative, and substantial evidence on the whole record; or (6) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion. If the court finds such prejudice, it shall sustain the appeal and, if appropriate, may render a judgment under subsection (h) of this section or remand the case for further proceedings.

(h) If a particular representative review board action is required by law, the court, on sustaining the appeal, may render a judgment that modifies the representative review board decision, orders the representative review board action, or orders the representative review board to take such action as may be necessary to effect the particular action.

(i) In any case in which an aggrieved party claims that he cannot

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pay the costs of an appeal under this section and will thereby be deprived of a right to which he is entitled, he shall, within the time permitted for filing the appeal, file with the clerk of the court to which the appeal is to be taken an application for waiver of payment of such fees, costs and necessary expenses, including the requirements of bond, if any. The application shall conform to the requirements of section 28A of the Practice Book. After such hearing as the court determines is necessary, the court shall enter its judgment on the application, which judgment shall contain a statement of the facts the court has found, with its conclusions thereon. The filing of the application for the waiver shall toll the time limits for the filing of an appeal until such time as a judgment on such application is entered.

(j) Neither the authority nor the representative review board shall be construed to be an agency within the scope of chapter 54 of the general statutes.

Sec. 32. (*Effective from passage*) The State Bond Commission may insure in the name of the state and may make advance commitments to insure any sums borrowed by the authority, not exceeding in the aggregate five million dollars, for the purpose of providing working capital and organization funds for the authority. In the event the state becomes liable as a result of default with respect to any such sums borrowed by the authority which were so insured by the state, necessary payment shall be made by the state treasurer from funds appropriated for debt service. Whatever sums are borrowed by the authority under the provisions of this section shall be repaid to the lender or lenders of the same on or before July 1, 2016.

Sec. 33. (*Effective from passage*) Neither the members of the authority, nor any person acting on its behalf nor any member or employee of the representative review board, while acting within the scope of their authority shall be subject to any personal liability resulting from the erection, construction, reconstruction, maintenance or operation of the

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properties or any of the improvements of the authority or a subsidiary corporation or resulting from carrying out any of the powers expressly given in sections 2 to 33, inclusive, of this act.

Sec. 34. (*Effective July 1, 2006*) (a) The Department of Public Health, in consultation with the Departments of Consumer Protection and Environmental Protection, shall review and make recommendations regarding bore holes to be used for the development of closed loop geothermal heat pumps or similar systems, and specifically the abandonment, construction of and appropriate separating distances between such bore holes.

(b) On or before January 1, 2007, the Commissioner of Public Health shall submit the department's specific recommendations and findings based on such review to the joint standing committee of the General Assembly having cognizance of matters relating to public health, for review and appropriate action, in accordance with the provisions of section 11-4a of the general statutes.