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## **Solid Waste and Water Planning Dominate 2014 Connecticut Public Acts Concerning the Environment**

**August 13, 2014**

The Connecticut General Assembly's 2014 "short session" yielded a modest crop of public acts concerning the environment. Nevertheless, the bills introduced in the session included three sweeping initiatives with multi-year implementation horizons. Two of these passed – one to implement a pivot in solid waste policy toward recycling and away from incineration, and another to undertake a systematic review of statewide water policy. The third, concerning Long Island Sound resources, passed the Senate in the waning days of the session but failed to progress in the House.

In addition, the session saw the passage of more limited environmental and land use bills on diverse topics – hydraulic fracturing waste, brownfields, disposition of state property, private easements and rights of way, outdoor wood-burning furnaces, and "running" bamboo.

### **Solid Waste Change of Direction: "Materials Innovation and Recycling Authority"**

Public Act 14-94 (details here) creates a "Materials Innovation and Recycling Authority" (MIRA) as successor to the Connecticut Resource Recovery Authority (CRRRA). The bill sets ambitious goals for solid waste management and recycling – most notably, to increase the rate of recycling and reuse to at least 60% of the solid waste stream, as compared with the current level of 25%.

Implementation of these goals will have two major components. The first will be a new statewide solid waste management plan, to be proposed by July 1, 2016, to achieve the 60% target through source reduction, reuse and recycling. The second will involve redeveloping the Mid-Connecticut Project along lines defined by the increased emphasis on recycling. This component will begin with issuance of a request for proposals by January 1, 2016, and is to culminate by December 31, 2017, with selection of a preferred proposer for final contract negotiations.

The Act's vision for solid waste management diverges from the trash-to-energy model that has served the state for decades. In legislative testimony, DEEP Commissioner Robert Klee noted the state's "heavy reliance on waste-to-energy facilities" and its low recycling rate, arguing that "innovation, funding and development of

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infrastructure” could help Connecticut “optimize source reduction, reuse and recycling as well as recover materials that could be used in the production of new items rather than be recovered for energy.” In remarks at our firm’s “Breakfast with the Commissioner” on May 29, 2014, DEEP Deputy Commissioner Mackey McCleary stressed the global evolution of waste management away from incineration toward recycling and the potential of increased recycling to create jobs.

The transition to the new paradigm will not be without its challenges. Testimony of the Central Connecticut Solid Waste Authority (CCSWA), a coalition of sixteen Hartford-area municipalities within the Mid-Connecticut Project, expressed concern with the initial MIRA bill in three areas –impact on existing solid waste disposal contracts, the role of municipalities in mapping the future of solid waste management, and the ability of municipalities to benefit from evolution in the solid waste market and technological advancements. CCSWA’s comments also highlighted concern with the fate of existing contracts with CRRA, some of long duration.

The final bill incorporates minor modifications apparently intended to address these concerns. For example, mandatory consideration of the “best interests of the municipalities under contract” with MIRA must include “maintenance or reduction of current tipping fees for contracted waste.” And to eliminate doubt on one crucial point, the bill provides that selection of a final redevelopment proposal “shall not be construed as a legislative mandate as it relates to [MIRA]’s authority to obligate municipal customers to remain under contract.”

The CCSWA testimony was a reminder of long-standing tensions between CRRA and the communities served by the Mid-Connecticut Project. Reinvention of that project as a model of a new recycling paradigm provides a built-in opportunity for MIRA to make a fresh start. The long lead times on MIRA deliverables reflects the magnitude of the undertaking: PA 14-94 sets the state on a long path to a very different waste management future.

### **Covering the Waterfront: Comprehensive Water Resources Management**

Public Act 14-163 authorizes the Water Planning Council, established by Conn. Gen. Stat. § 22a-33o, to prepare a comprehensive state water plan.

The bill (details here) follows “water summit” meetings convened by state legislators in the fall of 2013 and a water conference at the University of Connecticut in February 2014. The Water Planning Council already existed, and a water plan was already required by Conn. Gen. Stat. § 22a-352. But the potential clearly existed to take a more purposeful, comprehensive and integrated approach to diverse water management challenges. P.A. 14-163 fleshes out the requirements for water planning in unprecedented detail.

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With the goal of developing a proposed plan by July 1, 2017, the Act contemplates a unified planning program that will consider water supply, water quality, stream flow, water utility and sewer facilities. Planning will integrate policy from the perspectives of the state plan of conservation and development, regional water and sewer plans, and potential climate change impact on water resources. The statute contains a distinct mandate to evaluate data and improve data acquisition as needed to support decision making.

The bill significantly expands and modifies the subject matter of the state water plan, enumerating a lengthy list of plan elements pertaining to water quality and availability for public water supply, recreational and other uses. The plan is to address demand, infrastructure needs, and land use and protection to maintain water quality. It will include an educational component to inform residents about stewardship and conservation as well as guidelines and incentives for consumer conservation. Plan implementation will balance ecological, environmental, public health and safety and economic impact. Its objectives and strategies are to be short and long term, and are to incorporate regional and local plans for water use and infrastructure. It must address climate resiliency and identify areas in which further revisions to existing statutes are needed.

This ambitious process will unfold in phases, with an initial progress report by January 1, 2016 and a public comment and hearing period after the July 2017 publication of an initial proposal. A final plan is to be submitted to the General Assembly's joint Environment Committee January 1, 2018. The legislative process would ordinarily determine what happens after that; remarkably, the Act provides that the proposed plan will be deemed approved if the General Assembly does not act before July 1, 2018.

Other portions of the Act provide for study in two areas – a “water professional” licensing program, and a general permit for minor activities with minimal impact and no adverse effect on water use or public health. Results of the studies are to be submitted to the General Assembly's committees on environment and public health by July 1, 2015. The Act also expands the Department of Public Health's authority to declare a water supply emergency when it “can reasonably be expected to occur without the immediate implementation of conservation practices.”

Public Act 14-163 represents a systematic, integrated approach to water resource management and strategy. The expanded list of issues to be addressed by the state water plan in particular integrates the full spectrum of water supply and water use issues, including sewage treatment, as well as collateral considerations from ecology to economic effects, and attempts to account for both short-term and long-range perspectives. Very briefly: if's wet, if it might get wet, or if it might dry out, some part of the proposed plan should cover it.

2018 may seem a long way off. For an undertaking of this scale – and considering the checkered history of water resources planning in Connecticut – 2018 will be here sooner than you might think.

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### Failed Third Big Idea: A “Blue Plan” for Long Island Sound

A third broad-spectrum environmental package failed to achieve passage. Senate Bill 312 called for a systematic inventory of Long Island Sound uses and natural resources and a plan to preserve and protect the Sound. Initially proposed for oversight by the Office of Policy and Management, this initiative was modified by Senate amendment to proceed under the Department of Energy and Environmental Protection, where a long-standing Office of Long Island Sound Programs provided a logical foundation for the effort. The bill contemplated a plan to establish state goals, priorities and standards for stewardship and integrate public access with ecological considerations, resource conservation, sustainability, and a variety of other factors. Like the MIRA and Water Planning bills, SB 312 contemplated a long period of preparation to culminate in delivery of a proposed plan by March 1, 2019 with review every five years thereafter.

The bill received favorable reports from the joint committees on the environment, planning and development, and government administration and elections. But the Senate did not act on it until April 30. By Thursday, May 1, when it appeared on the House calendar, only days remained until the end of the session on Wednesday, May 7. Time ran out without further action.

### Other Environmental and Land Use Legislation

In addition to the broad initiatives on solid waste and water planning, the General Assembly passed smaller but noteworthy bills on six diverse environmental and land use subjects.

- Hydraulic fracturing waste: P.A. 14-200.
- Brownfield remediation and development: P.A. 14-88.
- Disposition and conservation of state property: P.A. 14-169.
- Maintenance of private easements and rights of way: P.A. 14-67.
- Outdoor wood-burning furnaces: P.A. 14-92.
- “Running” bamboo: P.A. 14-100.

Details on these bills are here.

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