

## Resolution Concerning Purchase And Resale Of Providence Water By Municipal Water Supplies

WHEREAS, Providence Water sells water in bulk (at “wholesale” rates) to some customers at a discount from those rates charged to direct “retail” consumers, and

WHEREAS, the “wholesale” rates charged by Providence Water are set by the Public Utilities Commission for the benefit of ratepayers, and

WHEREAS, Providence Water, and other water utilities, currently sell water to municipal water supplies at “wholesale” rates for resale to their direct customers, and

WHEREAS, the resale price(s) charged by at least some of these municipal water supplies are not regulated by the Public Utilities Commission, and

WHEREAS, these municipal water supplies derive their authority to purchase and sell water pursuant to State enabling legislation, and

WHEREAS, at the time it was enacted, the State enabling legislation probably contemplated that municipal water supplies would purchase water at “wholesale” rates to serve users within the municipality (to whom they are accountable), but did not specify this within the legislation, and

WHEREAS, the current absence of State regulation creates a loophole through which municipal water supplies can purchase water at a State-regulated “wholesale” rate and sell it outside the municipality at an unregulated rate,

NOW, THEREFORE, BE IT RESOLVED, that the Providence City Council supports the introduction and passage of State legislation that requires municipal water supplies that purchase water from Providence Water or other water utilities at “wholesale” rates to limit resale of that water to customers located within the municipality. Attached as Exhibit A is a proposed sample bill that is designed to accomplish the goals identified in this Resolution.

# EXHIBIT A

**A N A C T**  
**RELATING TO WATERS AND NAVIGATION -- WATER CONSERVATION**

**Introduced By:**

**Date Introduced:**

It is enacted by the General Assembly as follows:

SECTION 1. Title 45, Chapter 39.1 of the General Laws entitled "MUNICIPAL WATER SUPPLIES" is hereby amended as follows:

**CHAPTER 39.1**  
**MUNICIPAL WATER SUPPLIES**

**45-39.1-1. Purpose.** -- The purpose of this chapter are:

- (1) To clarify the powers and duties of city and town councils with regard to water suppliers, and
- (2) To establish municipal water supplies as enterprise funds. This chapter shall not alter, abrogate, or diminish the duties of water suppliers established elsewhere in the general or public laws or supersede or alter or abrogate powers and duties set forth in chapter 39-15.1.

**45-39.1-2. Definitions.** -- (a) "Commission" means the public utilities commission established by chapter 39-1;

(b) "Council" means the city council of any city and the town council of any town;

(c) "Municipal water supply" means a department, board, commission, authority, or agency of a city or town, which does not have a separate corporate existence from the city or town, that is a water supplier as defined in subdivision 46-15.3-5.1(a)(2);

(d) “Water resources board” means the water resources board established pursuant to chapter 46-15; and

(e) “Water supply systems management plan” means a water supply systems management plan prepared in accordance with the requirements of sections 46-15.3-5.1 through 46-15.3-7

(f) “Agricultural” shall mean commercial agricultural producers as defined in 46-15.3-4(2).

**45-39.1-3. Power of councils.** -- In addition to and consistent with any power provided by a law or charter provision, councils shall have the power to:

(1) Plan, in a manner consistent with the provision of chapter 45-22.2, and provide for water supply or municipal water supply within the city or town or any portion or area thereof;

(2) Adopt, fix and amend rates as set forth by section 45-39.1-5, unless such rates are subject to the approval of the commission or are governed by another provision of law or charter;

(3) Control water usage within the city or town in order to provide for the adequacy, availability, and/or safety of water supply; and adopt such measures as may be necessary to make such restriction effective; such restrictions shall not be less than or inconsistent with any standards adopted by the water resources board and shall incorporate the priority given to agriculture pursuant to subdivision 46-15.7-1(b)(5); and

(4) Approve the submission, by the city or town, of a water supply system management plan to the water resources board pursuant to section 46-15.3-5.1.

**45-39.1-4. Organization.** -- Notwithstanding any provision of law, charter, or ordinance, to the contrary not later than July 1, 2010, each municipal water supply shall be organized, operated, and accounted for as an enterprise fund; provided, however, that the requirements of this section shall not be deemed to abrogate or impair any agreement, decision, rate, or order in effect on July 1, 2009.

**45-39.1-5. Rates.** -- (a) Adequacy. The rates of municipal water supplies shall be adequate to pay for all costs associated with the municipal water supply including, but not limited to, the costs of acquisition, treatment, transmission, distribution, and availability of water, and of system administration and overhead, including metering and billing, programs for the conservation and efficient use of water, including costs of developing, implementing, enforcing and evaluating such conservation programs and including conservation pricing as described in subsection (d), and the cost and/or value of any services or facilities provided by the city or town to the municipal water supply, testing, operation, maintenance, replacement, repair, debt service, and for sufficient operating reserves, revenue stabilization funds, debt service reserves and capital improvement/infrastructure replacement funds to implement water supply system management plans;

(b) Equitability. Except for service charges and other fixed fees and charges, rates:

(1) Shall be based on metered usage and fairly set among and within the classes and/or types of users;

(2) Shall provide that within any class of users the full costs of system capacity, administration, operation, and water supply costs for peak and/or seasonal use is borne by the users that contribute to such peak and/or seasonal use;

(3) May provide a basic residential use rate for water use that is designed to make a basic level of water use affordable, and

(4) May require implementation of demand management practices, consistent with the standards and guidelines of the water resources board, established pursuant to chapter 46-15.8, by wholesale and retail customers;

(c) Revenue stabilization. Municipal water suppliers shall in the absence of other sufficient funds available for similar purposes, establish as part of their next rate adjustment a revenue stabilization account to provide for adequacy during periods when revenues decline as a result of implementing water conservation programs, or due to circumstances beyond the reasonable control of the water supplier, including, but not limited to, the weather and drought. A

revenue stabilization account shall accumulate a maximum of ten percent (10%) of the annual operating expenses of the supplier and shall be used to supplement other revenues so that the supplier's reasonable costs are compensated;

(d) Conservation. Municipal water suppliers shall take effective action to reduce waste of water and to reduce non-agricultural seasonal increases in the use of water, and may adopt conservation pricing as part of a demand management program or otherwise revise their rates as a means to achieve their goals. For the purpose of encouraging conservation of water, suppliers are authorized to adopt increased rates based on quantity used either throughout the year or seasonally. Conservation pricing shall be designed to promote efficient water use, and to limit seasonal non-agricultural outdoor water use, and to the extent possible shall not increase prices for water users with no significant seasonal increase in water use. Revenues generated from the adoption of conservation rates shall be used to fund the revenue stabilization account established pursuant to subsection (c) above, operating reserves, debt service reserves or capital improvement/infrastructure replacement funds; ~~and~~

**(e) Service area: Notwithstanding any prior laws, statutes or legislative grants, any "municipal water supply" as that term is defined in Section 45-39.1-2(c), that purchases water from a "water supplier", as that term is defined at section 39-15.1-2(4), shall limit the sale of such water to customers located within the municipality; and**

(ef) Billing. Billing shall be, at a minimum, quarterly by December 31, 2013.

SECTION 2. This act will take effect on -----,