

South Central Connecticut Regional Water Authority  
90 Sargent Drive, New Haven, Connecticut 06511-5966 203.562.4020  
<http://www.rwater.com>

## Testimony to the Judiciary Committee

### **Raised Bill 491, An Act Concerning Liens on Real Property Related to Taxes, Assessments and Charges**

March 26, 2010

*The South Central Connecticut Regional Water Authority (SCCRWA) is a non-profit, public corporation and political subdivision of the State. Our mission is to provide our customers with high quality water at a reasonable cost while promoting the preservation of watershed land and aquifers. We provide approximately 51 million gallons of water per day to an estimated 430,000 consumers in our 15 town service area. Within the 20 member towns of our water district, we own and operate a public water system, which includes 10 active reservoirs, 4 surface water treatment plants and 7 ground water treatment plants.*

The South Central Connecticut Regional Water Authority (SCCRWA) would like to thank the Judiciary Committee for giving us the opportunity to provide comments in opposition to SB 491, An Act Concerning Liens on Real Property Related to Taxes, Assessments and Charges. It would appear from the stated purpose of SB 491 that the intent of the proposed legislation is to try to make accurate information available on water, sewerage and other services by requiring "tax collectors" to provide a lien certificate that establishes the amount due as of the date of the certificate for the purpose of filing on the land records and discharging amounts not included in the certificate. While this may seem appropriate, we need to draw your attention to some significant problems this proposed law would impose on the SCCRWA.

This bill states that a prospective buyer could go to a tax office and ask for a lien certificate and the Town has to provide it within 5 days. If the town clerk fails to indicate to the prospective buyer that the amount of the lien is not fixed, the prospective buyer would only be liable for the amount quoted. This proposed requirement potentially impacts the RWA's ability to collect the remainder of the debt. RWA liens are not fixed as additional debt accrues with each subsequent billing and is affected by payment and other adjustment activity including interest.

The first paragraph of SB 491 states that the tax collector collects on behalf of "(7) a regional water authority..." or "(8) any other entity providing water...". We believe this language needs to be clarified so that the SCCRWA is excluded because the tax collector does not collect our debt.

Section 14 of the SCCRWA's enabling legislation, CT Special Act 77-98 as amended, provides that any "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 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.**"

Because of these provisions in our enabling legislation which state that rates and charges not paid when due shall constitute a lien upon the premise served, our lien is not static. The language in SB 491 appears to indicate that the lien certificate is a document that the town clerk would provide to the requester and is not a modification to the lien document that is filed by the entity. Therefore, we would have to rely upon the town clerk to convey to the requestor that the RWA lien is not a fixed lien and does not necessarily represent the total debt outstanding. The town clerk cannot represent the debt on behalf of the SCCRWA and this puts the RWA at risk to lose its in-choate lien status and the right to collect the full debt owed on the property. It is imperative that no proposed legislation jeopardize SCCRWA's lien provisions which run with the land.

Though the SCCRWA is not required to file formal liens, it does so for select accounts and currently has on file with 15 towns within the district, over 1,000 liens at a value of \$1.5 million. To accurately reflect the continually changing debt, the SCCRWA would need resources to manage the additional work required to generate liens. There is an adverse affect to customers as well in that they would bear the burden of additional fees.

The SCCRWA handles debt payment at the time of property closing. Attorneys obtain a statement of debt up to the date of closing to allow for adjustments between the buyer and seller at closing.

The SCCRWA thanks the Committee for allowing us time to present our concerns and respectfully asks that the Committee make appropriate changes to SB 491 to address our concerns and preserve the lien procedures that were created by Connecticut's legislature when they created the South Central Connecticut Regional Water Authority by special act in 1977.