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April 4, 2011

Judiciary Committee  
Connecticut General Assembly  
Legislative Office Building  
Hartford, CT

Re: Public hearing on April 4, 2011 for R.B. No. 6557

Dear members of the Judiciary Committee:

I write in support of R.B. No. 6557. I have practiced environmental and land use law in Connecticut since 1981. For 18+ years I was an assistant attorney general in the Environment Department of the Attorney General's Office. There I had numerous occasions to defend the state from claims of injury from persons using state park lands. Statutory law provides immunity to the State of Connecticut from claims arising from recreational activities on state land, as it does for private owners of land. In claims alleged against the State of Connecticut, the Claims Commissioner, in accordance with General Statutes § 4-160 (a):

may authorize suit against the state on any claim which, in the opinion of the Claims Commission, presents an issue of law or fact under which the state, *were it a private person*, could be liable.

(emphasis added.) The State of Connecticut provides immunity to all owners of land (individual, state, corporate) who allow access to their property for recreational activities. With the issuance of *Conway v. Wilton*, 238 Conn. 653 (1996) the Connecticut Supreme Court reversed earlier precedent and construed the recreational liability statute providing immunity to landowners to *not* include municipalities. This bill would reestablish a municipality's immunity for recreational activities on open space land.

The purpose of granting immunity is to encourage landowners to make property available for recreational activities. It makes no sense to encourage private landowners and the state, while excluding municipalities, which are, after all, subdivisions of the state. This can be clearly understood by looking at ownership of the land comprising the newly designated national scenic trail, the New England Trail. I live next to municipal open space land through which a portion of the New England Trail runs. To the south are portions owned by the state, private individuals and a local land trust; to the north are portions in private ownership. No public policy is served by zigzagging the immunity from liability based solely on whether the land is owned by a municipality.

Thank you for your consideration of my comments.

Sincerely,

*Janet P. Brooks*

Janet P. Brooks

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