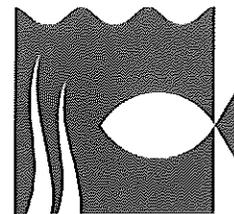


**Connecticut Fund
for the Environment**



Save the Sound[®]
A program of
Connecticut Fund for the Environment

**Testimony of Connecticut Fund for the Environment
Before the Planning and Development Committee**

*In Support of S.B. No. 90, AN ACT CONCERNING THE RECREATIONAL LAND USE
ACT*

Submitted by Jessica Morowitz, Legal Fellow
February 14, 2011

Connecticut Fund for the Environment ("CFE") is Connecticut's non-profit environmental advocate with over 6,500 members statewide. For over thirty years, CFE has fought to protect and preserve Connecticut's health and environment.

CFE strongly supports S.B. 90, An Act Concerning the Recreational Land Use Act. S.B. 90 is an important bill that would restore to municipalities and metropolitan districts the same liability protection currently afforded to the State and private landowners.

S.B. 90 is an important bill because municipalities and metropolitan districts are some of the largest open space landowners in the state. By ensuring that they receive the same liability protection as the State and private landowners such as individuals, corporations, nonprofits, and private utilities, we are encouraging them to open up this vast amount of land to the public to provide low-cost recreational opportunities. Without such protections, the fear of lawsuits could result in a large amount of open space being closed off to our citizens, and losing the extraordinary value these partnerships provide. Moreover, when a municipality incurs costs defending or settling such lawsuits, those costs are ultimately paid for by all of us.

In 1971, the General Assembly passed the Connecticut Land Use Recreation Act ("the Recreation Act"), Conn. Gen. Stat. § 52-557f *et seq.*, which recognized the importance of encouraging landowners to open up their land to the public for recreational purposes by

protecting landowners from liability for personal injury lawsuits as long as they do not charge a fee for access to the property. When originally enacted, municipalities and municipal entities were thought to be included in the definition of "owner" under the statute. After a 3-2 Supreme Court decision in *Conway v. Wilton* in 1996, however, municipalities were no longer considered "owners" under the statute and therefore did not receive the liability protection afforded by the Recreation Act.

Again, S.B. 90 is an important bill that would extend liability protection to municipalities and metropolitan districts. As some of the largest open space landowners in the state, it is critical to ensure that they can open up that land to the public to provide valuable recreational opportunities. S.B. 90 would ensure that the intent of the Recreation Act is carried out.

For the above stated reasons, CFE urges the Committee to vote favorably on S.B. 90, An Act Concerning the Recreational Land Use Act. CFE thanks the Committee for its time and attention to this matter.