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Conserving Connecticut. Connecting people to the land.

Testimony of Eric Hammerling, Executive Director, Connecticut Forest & Park Association

Legislation before the Judiciary Committee on March 29, 2012	Support/ Oppose
S.B. 445: AN ACT CONCERNING LIABILITY FOR THE RECREATIONAL USE OF LAND.	Oppose

Chairmen Coleman, Fox, and Members of the Judiciary Committee:

My name is Eric Hammerling and I am the Executive Director of the Connecticut Forest & Park Association, the first conservation organization established in Connecticut in 1895. As you know, CFPA has offered testimony before the General Assembly on issues such as sustainable forestry, state parks and forests, trail recreation, natural resource protection, and land conservation every year since 1897.

CFPA was one of a number of organizations that came together in 1971 in support of the Connecticut Land Use Recreation Act (C.G.S. §52-557f - i), also known as the Recreational Liability Statute, to encourage landowners to provide free access to recreational lands and in return the landowner would receive some enhanced but not absolute protection against liability.

For almost 25 years, CFPA and many others believed the Statute included all landowners, including municipalities, but because of the Supreme Court ruling in Conway v. Wilton in 1996, it became necessary to clarify the status of municipalities as landowners. P.L. 11-211, which went into effect last October 1st, clarifies the status of municipalities and is the result of intense, good faith negotiations between advocates for outdoor recreation and the Connecticut Trial Lawyers Association. Although the resulting legislation is a compromise, we believe it is a sound one. Just last year, this legislation passed the Judiciary Committee unanimously.

What has changed since October 1, 2011 when P.L. 11-211 went into effect that would warrant re-opening the Recreational Liability Statute again?

We are strongly opposed to S.B. 445 for several reasons:

- It does not make sense to exclude municipalities (political subdivisions of the state) from the same incentive created under the Recreational Liability Statute to encourage free recreational activities on the lands of private landowners, businesses, utilities, land trusts, and the state;

- S.B. 445 would make boardwalks, public beaches, and paved sidewalks on municipal lands ineligible for protection under the Recreational Liability Statute. Doing this would have grave implications for outdoor recreation because the terms are so broadly defined, for example:

    - "Boardwalks" can apply to any walkway made out of wooden boards or planks (large or small). Small structures like wooden bridges, bog bridges, puncheon bridges, and others are essential for recreational users to view sensitive, ecologically rich wetland areas without damaging them. Municipal landowners could easily decide to close areas or not open new ones to promote access in these beautiful but fragile areas. In places like Stamford Landing in Stamford, the public would lose out;

    - "Public beaches" are found on municipal lands at the Sound, on lakes, or even alongside rivers. These beaches are critical for the public's enjoyment of and access to water for wading and swimming for free. A change in the liability for these areas would either encourage towns to close these areas, or they might start charging fees of residents to help cover their increased exposure to liability. What is currently a win-win for the public, would quickly become a lose-lose; and

    - "Paved sidewalks" could impact sections of bikeways and paved multiple-use trails throughout the state. Across the state, it has been a priority for towns and the state to install multiple-use trails that in some areas are sidewalks under the broad definition in SB 445. There are many places like the "sidewalk" along the Farmington River in Windsor or Farmington, along the Connecticut or Park Rivers in Hartford, and in many areas around the state where bikeways and sidewalks are co-terminous.

- Lastly, as you have heard from Eastern Mountain Sports, outdoor recreation is not just a "warm and fuzzy" activity. A recent study conducted by UConn documented an annual economic benefit to the state of over $1 billion and 9,000 jobs associated with outdoor activities in the state parks and forests. Discouraging recreation has an economic impact that you can avoid by voting against SB 445.

Thank you for the opportunity to testify on this bill, and I am glad to respond to any questions you may have.