



Testimony of: 29
Save the Sound
a program of Connecticut Fund for the Environment



In Support of
SB 705, AA Expanding Powers of Municipal Stormwater Authorities

In Opposition to
HB 5725, AAC the State-wide Phosphorous Reduction Plan

Before the Planning and Development Committee

February 13, 2013

Submitted by Leah Schmalz, Dir. of Legislative and Legal Affairs

Connecticut Fund for the Environment is a non-profit organization that, along with its regional program Save the Sound, works to protect and improve the land, air and water of Connecticut and Long Island Sound on behalf of its 5,500 members. We develop partnerships and use legal and scientific expertise to achieve results that benefit our environment for current and future generations.

Dear Senator Cassano, Representative Rojas, and members of the Planning and Development Committee:

Save the Sound, a program of Connecticut Fund for the Environment submits this testimony in *support* of the goal identified in SB 705 and opposition to HB 5725. If more fully developed, **SB 705** could provide two benefits, one localized and one statewide. First, by providing the additional tools enumerated in SB 705, the three municipalities (Norwalk, New Haven and New London) covered under the existing Stormwater Authority pilot program can move forward in the development of a system that will generate revenue, more fairly apportion fees for residents and encourage the urban greening techniques that will reduce water pollution. Second, while the authority to create a stormwater authority already exists, the three enabled towns need slightly expanded tools to effectively move forward with the development of a Stormwater Authority; once fully developed it can serve as a model for the enabling of other voluntary stormwater authorities statewide. These Authorities have the capacity to provide enormous economic support and environmental benefits for Connecticut's rivers and Long Island Sound. **HB 5725** duplicates phosphorous planning efforts already underway. It is unnecessary and could restart a process and reverse progress that has already been made.

SB 705: AA Expanding Powers of Municipal Stormwater Authorities

In 2007, the legislature created a pilot Stormwater Authority program for four towns to test the viability of statewide enabling legislation. Three, New Haven, New London and Norwalk participated in the process, submitting a report to the Planning and Development Committee in January 2009 (Joint Stormwater Pilot Program Interim Report). The report outlines their progress and the future legislative needs that would enhance opportunities for successful implementation. This concept bill could provide for that enhanced language.

1) Stormwater Authorities are successfully used throughout the Country, including the Northeast.

Stormwater Authorities are used nationwide to restore water quality, protect human health, and more fairly distribute the cost of stormwater operations. They are characterized by the following qualities:

- Fair: Charges would be based on average runoff rather than property value as is the case with general taxes. This would allow all types of developed property to pay their appropriate share.
- Dependable: Stormwater Authorities would be self-financed and would not compete with other governmental sources for general revenues. Instead, it would have consistent funding and would be easily projected. Revenues generated from the Stormwater Authority would be kept in separate, dedicated funds.
- Simple and Flexible: The Stormwater Authority would be similar to water and wastewater charges. Its fee would be adaptable to existing billing systems.
- Affordable: The small monthly charges (typically \$.30 to \$10) are minimal and would be locally assessed and managed.
- Incentives: Individuals and organizations who take steps to reduce runoff on their property would be able to receive credits for their positive actions. These steps include green infrastructure, which benefit the municipality by providing benefits—like urban greening, building energy efficiency, reduction of heat island sink—that go beyond stormwater reduction

Over the last three decades, Stormwater Authorities have provided municipalities nationwide both a framework and a revenue stream to combat water quality issues, to institute cutting-edge flood control, to provide aquifer recharging, and to protect habitat. As a result, they and their citizens have benefited greatly. New England examples include the following:

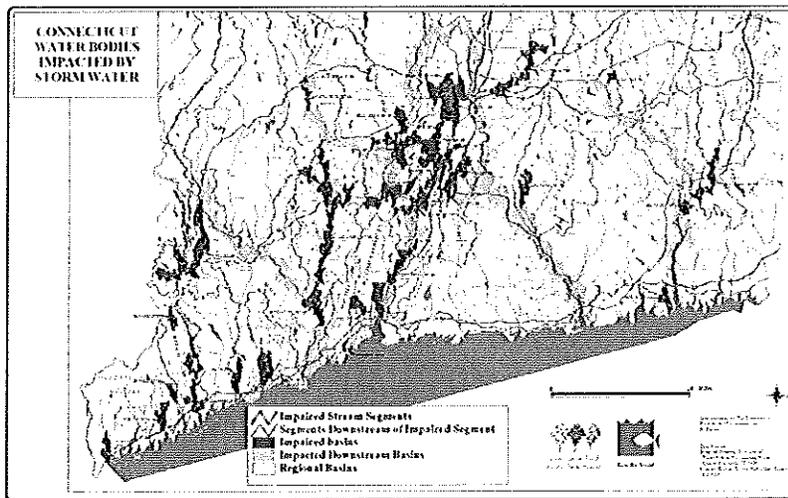
- Reading, Massachusetts Stormwater Enterprise Fund: The Stormwater Enterprise Fund charges residential units (single and duplex) a flat monthly fee. All other properties are charged \$39.84 per equivalent residential unit annually. Credits are provided to residential and non-residential units up to 50% of total assessment for runoff-reduction and state-of-the-art stormwater treatment.
Total paid per quarter by residences: \$9.22
- Newton, Massachusetts Stormwater Utility: The Massachusetts Stormwater Utility charges residential units a flat fee either quarterly or annually. All other units are charged either \$37.50 quarterly or \$150 annually per equivalent residential unit. Credits are provided to residential and non-residential credits for on-site stormwater management systems and stormwater quality treatment. Newton also provides an elderly reduced rate of \$4.38 quarterly or \$17.52 annually.
Total paid per month/year by residences: \$6.25/\$25.00
- Lewiston, Maine Stormwater Utility: The Maine Stormwater Utility charges single family and duplexes flat annual fees. All other properties are charged a base rate of \$40.00 for the first 2,900 square feet plus \$.045 per square foot for each additional square foot over 2,900 annually.
Total paid annually by single family/duplexes: \$40.00/\$60.00

- South Burlington, Vermont Stormwater Utility: The Vermont Stormwater Utility charges residential units a flat monthly fee. All other properties are billed a fee based on the amount of impervious space. Credits are provided for up to 50% of the charge for qualifying non-single residential properties who engage in on-site stormwater quality treatment.

Total paid per month by residencies: \$4.50

2) Stormwater Authorities are needed in Connecticut, and SB 705 could help implementation

Currently, rain running off our roads, parking lots, and roofs can overwhelm the sewer system, flood streets, carry pesticides into rivers, and lead to overflows of raw sewage into Long Island Sound. Discharges force summer beach closings, and make it hard for shellfishermen to earn a living. According to state data, New Haven Harbor and the Quinnipiac, Mill, and West Rivers, among many other shoreline waters, fail key water quality standards. Furthermore, stormwater pollution is also a major reason why people cannot enjoy many miles of rivers and streams north of the shoreline. Below a map graphically indicates rivers that the CT Department of Energy and Environmental Protection (CTDEEP) has identified as being primarily impaired by stormwater—these are waterbodies that the citizens can no longer fully use for fishing and swimming. This map underscores the opinion of both our CT DEEP and the U.S. Environmental Protection Agency that stormwater pollution remains a large un-abated source of water pollution for our state and our country.



Add to these impairments, new federal stormwater control requirements, and the writing on the wall is clear: costs are on the rise. The forward-thinking system of Stormwater Authorities—which is based on actual stormwater service use—will relieve that growing burden while ensuring that tax-paying residents do not disproportionately foot the bill. Under a Stormwater Authority framework, user fees, not taxes provide the revenue stream.

For illustration purposes, in New Haven residents currently pay for 59 percent of the city's stormwater activities in their tax bills. Because this cost is based on the current tax structure and not on actual impervious cover, residents are not only paying more than their fair share of the stormwater pollution problem, they also have no recourse to reduce their payment. By trading that faulty method in for a new arrangement that puts stormwater related activities to an independent budget with a separate user-fee revenue stream, moving forward, the Stormwater Authority could apportion the costs to all entities contributing to the problem and provide all service users with green infrastructure options to reduce their fee. In the long run, this would reduce residents' burden by at least 36 percent. As an example, had a Stormwater Authority always been in use for these activities, instead of paying 59 percent of the costs (\$128/year), residents could be paying 23 percent (\$50/year) — even less if they chose to implement fee reducing techniques like rain barrels and asphalt minimization.

The reality is that costs for stormwater controls are increasing because of legal requirements. The choice is not between paying or not paying, the choice is between creating a separate entity that charges residents based on actual stormwater costs and provides them with opportunities to reduce that cost, or sticking with the current system and charging them ever increasing taxes. Over time, approving the Stormwater Authority could save residents hundreds of dollars.

3) Cutting-edge Green Infrastructure techniques, incentivized through Stormwater Authorities, can create new jobs.

In addition to providing a local revenue stream for stormwater management costs, the Stormwater Authority can also incentivize green infrastructure. By providing user fee credits, Stormwater Authorities can encourage customers to save green by going green. These credits allow homeowners and businesses to lower costs by reducing their runoff with techniques like rain barrels, rain gardens, permeable pavers and green roofs. Further, innovative green infrastructure credits have the added benefit of limiting high volume, untreated combined sewer over flow that discharges into our local waterways in older cities like New Haven. In the communities of Philadelphia, Washington D.C., New York City, and Portland, these types of projects have also demonstrated ancillary benefits like increased urban greening and livability, reduced summer heat sink, and energy efficiency.

Planning successful green infrastructure demands coordination among a range of experts. New professional partnerships are needed in the green design process to choose attractive, low maintenance vegetation that absorbs rainwater effectively. Specialists qualified to verify soil amendment and planting plans can work with town planners and engineers who may be concerned that vegetated swales will not be as fail-safe as conventional curbs and drains. Collaborative efforts of professionals, non-profits, scientists, and community members are needed to assess complex urban environmental conditions and cultural interests that influence realistic opportunities. As we institute tools necessary to advance urban green infrastructure retrofits and low impact development techniques, like SB 705 can provide, Connecticut can position itself as a leader in the new “green gardeners” field, creating design, construction, and landscape jobs. And the resulting improved water quality will: 1) grow local businesses’ access to sustainable fisheries and open prime state shellfish beds, and 2) promote healthy tourism by maintaining open beaches.

In conclusion, while this water pollution problem is not limited to New Haven, Norwalk and New London, unlike most other communities in Connecticut, these cities are permitted (under 22a-497) to expand their current management tools and address its local stormwater impacts. SB 705 could enhance the three pilot municipalities’ ability to develop a fee-based approach that provides a steady and predictable source of funding for stormwater management.

For your review, I am also attaching a 2009 letter from these three towns’ mayors requesting stormwater authority tools.

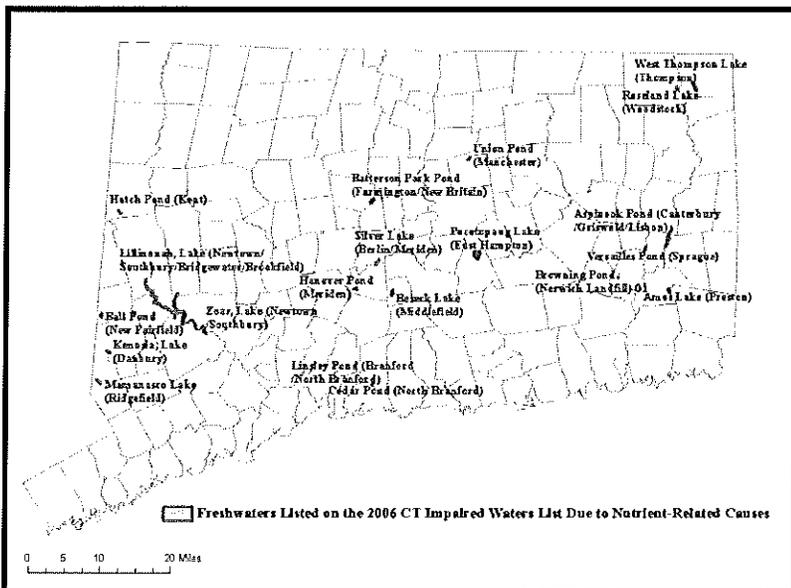
HB 5725: AAC the State-wide Phosphorous Reduction Plan

1) Excess phosphorous impairs water quality

Nitrogen has long been a pollutant targeted for reduction at Connecticut's wastewater treatment facilities. Impacts of the nutrient on Long Island Sound are well established and publicized. Phosphorus on the other hand has not acquired the same level of focus.

Nutrients, like nitrogen and phosphorus are essential to plants and animals. But, increased inputs from agriculture and lawn care fertilizers can cause excessive algae growth. This leads to decreased oxygen, making it difficult or even impossible for fish and other wildlife to survive. Excess algae also limit recreational fishing, boating and swimming. The United States Environmental Protection Agency (EPA) has declared nutrients as one of the leading causes of water quality impairment in our country's rivers, lakes and estuaries and has required states to develop water quality criteria.

CTDEEP has identified 20 waterbodies throughout the state that are currently impaired for nutrients. These waterbodies do not meet water quality standards, the foundation of pollution control under the Clean Water Act, and are listed on the state's 303d list.



Additionally, while phosphorus' effect on freshwater systems is known, concerns about its impact on Long Island Sound are growing. For example, phosphorus inputs to Long Island Sound salt marshes could be accelerating decomposition, reducing the accumulation of organic matter and contributing to salt marsh drowning.

2) A state-wide process is already exists.

Steps to curb phosphorus have been taken. Connecticut has limited phosphorus in detergents and lawn care. CTDEEP has identified 34 WPCF that will require phosphorous upgrades; these

range from minor to major projects. More than five years ago, CFE and its permanent program, Save the Sound, began intervening in permit proceedings in Cheshire, Killingly, Beacon Falls and elsewhere when DEEP issued permits without appropriate phosphorus limits. The response, universally, had been to withdraw such permits and to work on a phosphorus strategy. This phosphorus strategy has undergone many changes but has not, to date, been implemented. We believe the time has come to move forward and begin to implement the phosphorus limits that are required by the Clean Water Act. To assist with upgrade efforts, Save the Sound advocated that the state provide 30%/70% grant and low interest loan support through the Clean Water Fund. This is the same ratio that has worked well for similar mandated nitrogen upgrades. And last session the legislature formally expanded the reach of the Clean Water Fund to phosphorus upgrades, providing for 30% grant opportunities. This session, HB 5800 a separate bill related to phosphorus grant to loan ratios, could severely diminish DEEP's capacity in apportioning general obligation and revenue bonds to the maximum extent possible under the Clean Water Fund.

Last year the legislature passed P.A. 12-155 to set up a process for DEEP to consult, communicate and collaborate with towns in refining a statewide phosphorus strategy. CFE/Save the Sound supported the final version of this bill. This process has begun and is ongoing. Thus far, DEEP and

EPA have given presentations regarding efforts to limit non-point pollution and legal requirements for point source pollution. We understand that DEEP is considering a continuing process of meetings and collaboration under this statute with all relevant stakeholders. Thus, there is no need, at this point, for another statute requiring a process that is already ongoing. Indeed, such a mandate might restart a process and reverse progress that has already been made

For these reasons, we support the general concept raised in SB 705 and oppose HB5725.

Thank you for your consideration

Sincerely,

_____/s/_____

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JANUARY 5, 2009
 TO THE ENVIRONMENT AND PLANNING AND DEVELOPMENT COMMITTEES
 OF THE CONNECTICUT STATE GENERAL ASSEMBLY
 AND OTHER READERS OF THIS REPORT

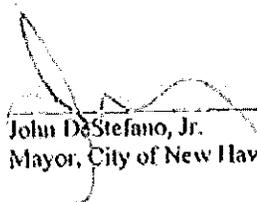
As the Mayors of New Haven and Norwalk and the City Manager of New London, we strongly support the goals of clean water, protection of natural resources and sustainable growth that were advanced by Connecticut's General Assembly when it enacted Public Act 07-154, the Municipal Stormwater Authority Pilot Program. The initial findings and recommendations – are set forth in the attached Stormwater Pilot Program Interim Report.

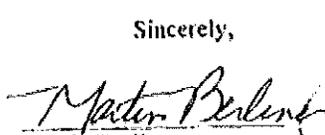
In order for the goals of Public Act 07-154 to be fully realized for the residents, businesses and institutions in our communities, several critical issues must be addressed. Some require legislative amendments to Public Act 07-154. Others, such as incentives for regionalization, require the General Assembly's support for the Connecticut DEP as it continues to work cooperatively with us in implementing better management of stormwater quality for the people and resources of Connecticut. These issues include:

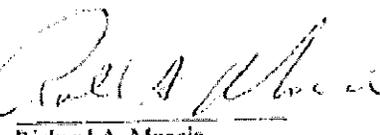
- Increased implementation funding, for example:
 - Establish Clean Water Funds for stormwater and make it a recognized DEP priority
 - Provide grants to finance authority start-up costs
 - Develop other financial incentives for communities to participate
 - Allocate the balance of the Public Act 07-154 pilot funds to the participating communities;
- Incentives to address stormwater management on a regional, watershed basis;
- Additional powers to borrow money, set, charge and collect fees and deal with land use issues;
- Authority powers to retain revenues in a stormwater account separate from a municipality's general fund;
- Authority powers to enter into contracts without requiring pre-approval from DEP as currently required in Public Act 07-154 ; and
- DEP resources to assist municipalities (i.e. promotion of public awareness and education, technical guidance, regional coordination, data management, etc.).

The Stormwater Pilot Program Interim Report discusses the above and related issues. We entrust this report to you, and look forward to working with you in making its suggestions a reality.

Sincerely,


 John DeStefano, Jr.
 Mayor, City of New Haven


 Martin Berliner
 City Manager of New London


 Richard A. Moccia
 Mayor, City of Norwalk