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**TESTIMONY OF THE CITY OF BRIDGEPORT
TO THE
COMMITTEE ON PLANNING AND DEVELOPMENT
Monday, March 18, 2013**

RE: S.B. 1111 AN ACT CONCERNING RATE INCREASES BY WATER POLLUTION CONTROL AUTHORITIES RECEIVING STATE GRANTS FOR WATER POLLUTION CONTROL PROJECTS.

Members of the Committee on Planning and Development: Thank you for the opportunity to testify in **opposition** of Senate Bill 1111, which would revise chief elected officials of municipalities that utilize the WPCA's service the power to approve or disapprove of WPCA rate increase.

In communities that have waste water treatment facilities within their boundaries, often times elected officials in these municipalities shoulder the burden of management of these independently run operations. If streets flood or pipes back up, it is the elected officials, and not the waste water treatment authorities that have to deal with residents suffering from damage inflicted upon them or their property. When regional water pollution control authorities (WPCAs) deal with multiple municipalities, the issue of who is responsible for fixing, paying, and providing support for infrastructure alterations becomes a bit murkier due to asymmetric risk. Downstream communities host large non-taxable plants in their municipalities that are expensive to maintain, while upstream communities enjoy all the benefits but assume none of the risk of maintaining these plants. While rates do factor in day to day operations, they do not factor in the total costs of capital upgrades, let alone staff time - both of which the host municipality subsidizes.

Risk in this case is primarily downstream environmental water quality (that eventually transfers into economic development issues) and more costly infrastructure to maintain. Both of these factors can be attributed to runoff stressing the system's infrastructure via combined sewer systems. In downstream communities, this has a large impact because pipes are bigger and more costly to maintain. Upstream communities have smaller

diameter pipes and different land-use patterns that shield them from paying their fair share when their water reaches downstream plants.

Presumably, the proposed bill is meant to provide sufficient protections against arbitrary rate increases for municipalities that subscribe to WPCA services. However, this bill is not necessary to address this concern because state statute already exist that provides sufficient protection for such municipalities. Under the Statute, the WPCA may establish only "fair and reasonable charges" and is subject to rigorous notice and public hearing requirements. Municipalities that utilize the WPCA's services may present their legitimate concerns with any rate increases through the processes already established by the Statute.

From a water pollution control authority's perspective, it only needs to treat water to continue operating. If infrastructure breaks down in a given community, it will absorb some of the cost to fix it, but the municipality largely handles the social side of the issue, while also contributing financially. Water pollution control authorities are immune from the political fallout of these infrastructure crises and it needs to remain that way.

Below, you will find some of the concerns raised by S.B. 1111 that I believe needs to be thought through and addressed before proceeding with this bill:

- **Rates Are Based Upon the Cost of Providing Services.** The rates charged by the WPCA are based upon costs of providing services. Rate increases are invariably the result of increases in costs to the WPCA of providing services. Thus, the power granted to the chief elected officials of other municipalities by the Bill would provide such officials' the ability to "veto" rate increases that are absolutely necessary for the continued successful operation of the WPCA.
- **Uncertainty.** The Bill would provide outside municipalities that utilize the WPCA's services with the power to "veto" proposed WPCA rate increases. However, it does not provide any limitations upon such power except that rate increases proposed solely to fulfill obligations to bondholders may not be vetoed. Furthermore, the Bill does not provide any procedures to be followed in the event that these municipalities veto a proposed rate increase. Thus, it is unclear what would happen if the WPCA must increase its rates to cover increased costs, but is denied the ability to do so by outside municipalities. Who would bear the financial burden of these increased costs, if not all beneficiaries of the WPCA's services?
- **Conn. Gen. Stat. § 7-255 Already Provides Sufficient Protections Against Arbitrary Rate Increases.** Municipalities that subscribe to the WPCA's services admittedly have an interest in assuring that the WPCA does not arbitrarily raise its rates. Presumably, this is what the power granted to such municipalities by the Bill is meant to address. However, the Bill is not necessary to address this concern because the Statute already provides sufficient protection for such municipalities. Under the Statute, the WPCA may establish only "fair and reasonable charges" and is subject to rigorous notice and public hearing requirements. Municipalities that

utilize the WPCA's services may present their legitimate concerns with any rate increases through the processes already established by the Statute.

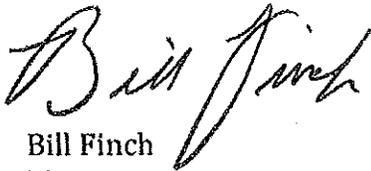
- **The Bill Would Place An Undue Burden Upon the WPCA's Dealings With Third Party Vendors.** The WPCA utilizes third party operators to operate and maintain the wastewater treatment plants. It has proven increasingly difficult to obtain providers of such services given the rapidly increasing costs of providing wastewater treatment services. Third party operators and other vendors expect the WPCA to be able to compensate them for such increases, and negotiations with these necessary third parties would likely be unduly burdened if they learn that outside municipalities have the power to arbitrarily disapprove of rate increases.
- **Inefficiency.** The WPCA often must respond swiftly and efficiently to emergency situations beyond its control, which responses may require rate increases. Subjecting the WPCA's discretionary responses to the review and approval of all the municipalities that utilize its services would add to what already can be a very inefficient process given the protections against rate increases that already exist for all persons that utilize the WPCA's services (see second bullet point, above).
- **Regulatory Compliance Would Be Undermined by "vetoed" Rate Increases.** A WPCA's ability to meet legally-enforceable requirements could be affected by a rate increase "veto." The municipality that vetoed the increase would be insulated from penalties and costs, while the service-providing municipality generally realizes no protection based on a lack of funds.
 - The CTDEEP wastewater discharge permits to WPCA's include a standard provision that requires the permittee to "maintain a system of user charges based on actual use sufficient to operate and maintain the POTW (including the collection system) and replace critical components." (Permit General Condition 4(c). Employing a user charge system that allowed another municipality to veto required charges may itself violate this enforceable requirement. If other municipalities could veto required charges, then it would seem appropriate that those municipalities also be made co-permittees on CTDEEP and similar permits so that all parties are fairly exposed to penalties attributable to insufficient funding.
 - CTDEEP Consent Orders do not allow a WPCA to maintain a defense in enforcement due to an inability to comply based on insufficient funds to address increasing compliance costs. The model language provides that "[i]ncreased cost shall not constitute an impossibility." The POTWs that lacked sufficient funding could not argue that the veto of a rate increase required compliance with an environmental order excused non-compliance. The POTW owner could be financially penalized but not the municipality that vetoed a required rate increase.
 - This same compliance exposure applies to all WPCA municipalities with respect to their obligation to comply with hundreds of regulations applicable

to their operations. Legal compliance measures have costs that must be met by the facility and its users. Providing other municipality, shielded from non-compliance penalties, to veto rate increases needed to meet costs of complying with environmental laws is indefensible.

- **Veto Authority Would Adversely Impact the Ability to Secure State Grant Approvals. (C.G.S. Sec 22a-439(a))** The CTDEEP is statutorily barred from approving grants to fund sewer and pollution abatement facility projects unless a municipality assures the CTDEEP commissioner “of the proper and efficient operation and maintenance of the facility after construction.” Proper operation and maintenance of a POTW facility relies on an ability to maintain appropriate and necessary service rates.

I thank you for allowing me the time to address this issue and for giving me the opportunity to provide testimony on this proposal. If you have any further questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Bill Finch". The signature is written in black ink and is positioned above the printed name and title.

Bill Finch
Mayor