



**FOR THE ENVIRONMENT COMMITTEE  
PUBLIC HEARING TESTIMONY OF RIVERS ALLIANCE OF CONNECTICUT  
MARCH 7, 2014**

**To the Chairmen, Sen. Ed Meyer and Rep. Linda Gentile,  
and Members of the Committee:**

*Rivers Alliance of Connecticut is the statewide, non-profit coalition of river organizations, individuals, and businesses formed to protect and enhance Connecticut's waters by promoting sound water policies, uniting and strengthening the state's many river groups, and educating the public about the importance of water stewardship. Our 450 members include almost all of the state's river and watershed conservation groups, representing many thousand Connecticut residents.*

**We write to express conditional support for HB 5424, AAC The Responsibilities of the Water Planning Council.** First, we are grateful to the committee for its attention to, and work on, this matter of vital importance to our state. This bill represents a recognition that we need to improve water planning and management in Connecticut. A major positive feature is vesting authority in the Water Planning Council (WPC). The bill also aims to cover the totality of water resources, not just water supply.

We are concerned, however, that the bill as written, does not rise above several barriers that Virginia de Lima (Scientist Emeritus at USGS), Rivers Alliance and others have suggested have thwarted comprehensive water planning in the past. These include fragmented, limited authorities; confusion and competition related to the missions of the Department of Energy and Environmental Protection (DEEP) and the Department of Public Health; lack of executive branch leadership; and lack of resources. The WPC was created to address some of these problems, but, despite many sincere efforts to cooperate, each agency has continued to pursue its own mission and interests, often acting at cross-purposes with the others.

The language in 5424 does not assure that the proposed state water plan will have any more authority than, say, the individual water supply plans, which are required to be written but not required to be implemented. Lines 75-76 do say that the WPC "shall oversee the implementation" of the state water plan. But how? The bill does not call for new governance structures, any mechanism for adjudication of disputes, any new regulations or other rules, or any clear means of enforcement.

Lines 44-46 say that the state water plan shall “include objectives and strategies to effectuate the purposes of this section” [Sec 1(b), a list of what must be in the state water plan]. But the requirements in 1(b) consist primarily of collecting (a formidable amount of) data and writing recommendations; it does not appear that “effectuate” necessitates and structural changes or any ongoing compliance with a plan.

Lines 40-43 require the WPC to “foster” intergovernmental communication on water conservation and planning. Rivers Alliance would prefer something on the lines of: “... *establish* a system of intergovernmental communication to enable adaptive management of the state water plan.”

One of the flaws in our state water planning and management up to now has been the imbalance between provision for water supply and protection for water resources in their natural conditions. In this bill, the former still receives much heavier attention than the latter. Yes, there are phrases here and there that refer to ecological, environmental, and recreational values, but they are tentative and overshadowed by supply considerations. For example, lines 37-38 in 1(b) require the WPC to “inform residents of the state about the importance of water-resource stewardship.” Most people in or associated with the WPC have been doing that for years. At this point, the state needs an action plan to implement water-resource stewardship. Education is always good but not good enough.

Another example is in line 204, in the section outlining 11 provisions that must be included in a WUCC plan. “environmental protection” is inserted in provision 9; that’s not adequate consideration.

The requirements for the WPC and the proposed funding seem to anticipate decisions that have yet to be made by the WPC, if we assume that the WPC will really be responsible for the planning. In particular, the directive in lines 20-21 to “integrate water utility coordinating plans [WUCCs]” is premature.

WUCCs were created more than 20 years ago (in 1985) to give water utilities, with the guidance and approval of DPH, the opportunity to meet, divide up the customer base, and agree upon supply arrangements in regional plans. Seven WUCC regions were designated. But only four WUCCs have been convened; only one has a completed, DPH-approved regional plan. The process has been confused at best.

For years, the WPC has been debating what to do about the WUCCs on fundamental questions: How many WUCCs should there be? Should the state go with just one WUCC? Should environmental agencies or interests be represented in the WUCCs? How so? Should they have a vote? Assuming the WUCCs remain focused exclusively on water supply, who gets to vote? What are the proper procedures for meetings? Is it prudent state policy to rely on guaranteed exclusive service areas, as the governmental scheme for water? What is the appropriate regional area for a WUCC -- a watershed? A COG area? Existing arrangements among suppliers? Within WUCCs, should all suppliers, public and private, have to meet the same standards? Who should create the

WUCC regional plans and who should pay? How should WUCC plans relate to other plans of conservation and development? How should plans be updated and when? Etc.

We believe that the future of the WUCCS should be decided by the WPC following a discussion of possible approaches. The history of problems and setbacks is not entirely for lack of trying. It appears that there are intrinsic problems in the design of the program.

The WUCCs need a fundamental review. As set out in the WUCC statute (see lines 192 ff), the main purpose of the WUCCS is to “promote cooperation among public water systems.” This is a benefit for water utilities but not necessarily for their customers or the waters in the public trust.

Rushing ahead to try to do WUCC plans ahead of working on the state plan is a mistake. Appropriating \$1 million to give to DPH for this purpose (only vaguely defined) threatens to exacerbate the friction between the agencies and to destabilize the planning process. In effect, it puts water companies in control of state water planning. Meanwhile DEEP, which has repeatedly stressed the importance of researching and managing the available water data, is delegated to a position a step or two lower than second fiddle. This puts enviros and water suppliers on a collision course, the very thing this bill was intended to avert.

We urge that any funding at this time be directed to the WPC to use for determining priorities and moving forward. For example, it appears in discussions with science stakeholders (and in following the WPC water-allocation flow chart) that identifying existing water data is a key early step. Then we need to know whether this data is or can be available in usable form for planning. But others might have other different first steps to recommend. So how to get started is one of the first decisions facing the WPC.

We would favor consideration of an independent status for the WPC, such that it could receive and spend funds. If that is not possible, then you could consider a set-up in which each agency would have a WPC budget line, and the WPC would have a voice in who gets what funding for what purpose.

Rivers Alliance and others have pointed out frequently that leadership from the governor’s office is probably essential for the success of water planning. This has been true in other states. Therefore we see logic in using OPM for major planning decisions agency. Lines 276-281 appropriate \$500,000 to OPM for “the purpose of providing the WPC with the requisite staff to develop the state water plan.”

This could work well if the WPC determines who is hired to do what. But if the staff is really working for the Secretary of OPM (classy as he is), they will sooner or later be diverted from water planning. At this time, it is more important to integrate decision-making than to elevate one WPC agency above the others.

The “licensed water professional” program described in Sec. 6 (l. 216 ff) is similar to the LEP (licensed environmental professional program). It is likely to have the same strengths and weaknesses. The strength is less work for DPH and water company regular staffs. Outside professionals in the field would take up part of the burden. But if the LWP is paid by the individual client or applicant, there is an inevitable conflict of interest.

Sec 7 Lines 262 ff), dealing with a drought disaster sets up another fragmented configuration of authorities. Drought response should be an integral part of the plan.

**Finally, the bill does not address the pervasive problem that the majority of the data needed for planning is not available to the public as a result of the FOI exemptions for water utilities passed in 2002-2003.**

Rivers Alliance supported *Public Act 02-102 An Act Concerning Water Supply Plans and Water Diversions*, which amended Section 25-32d of the general statutes. It is an attempt at common-sense enhancement of security against sabotage. This was followed by *Public Act 02-133 An Act Concerning the Disclosure of Security Information under the Freedom of Information Act*, which dramatically increased water secrecy. The final door closed on water-utility transparency was a section of the 2003 budget implementor bill (PA 03-6 passed in the summer special session).

These secrecy laws, unique to water utilities, have interfered with research on water supplies, DEEP’s responsibility to report to the federal government on dam safety, the USGS effort to collect data on water use in Connecticut, etc., etc.

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We would like to register general support for **RB 312**, the much-needed “Blue Plan” for L.I.Sound, and for **HB 5423**, which would limit boat speeds in some areas of the Connecticut River.

We oppose **RB 5421**, which would worsen the already imperfect planning for, and regulation of, the problematic alternative sewage treatment systems. Incidentally, these already are permissible in a decentralized wastewater district.

We have a question about **HB 5420**, which would amend 22a-471 relating to providing water supply in contaminated areas. The statute now refers to “potable” water. HB 5420 would mandate water supply for “water required to meet the public health, firefighting and economic development needs.” Shouldn’t the assistance be for existing, emergency needs of a community? This sounds as if the assistance might have to be extended into the unlimited future for development needs.



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