

**Testimony by Michael A. Milone
Town Manager, Town of Cheshire
State of Connecticut Judiciary Committee
Monday, March 17, 2014
Legislative Office Building**

Re: Raised Bill No. 5484 – An Act Concerning The Claim Against The State Of The Town of Cheshire

Honorable Committee Members, good day and thank you for allowing me to testify. I am Michael A. Milone, the Town Manager for the Town of Cheshire. I am here to speak in support of Raised Bill No. 5484 which would allow the Town of Cheshire to present a claim to the Claims Commissioner after the current one year time limitation imposed by State Statute.

The enabling legislation for this Raised Bill is in Section 4-148(b) of the Statutes which states that *"the General Assembly may, by special act, authorize a person to present a claim to the Claims Commissioner after the time limitations set forth in subsection (a) of this section have expired if it deems such authorization to be just and equitable and makes an express finding that such authorization is supported by compelling equitable circumstances and would serve a public purpose."*

We are requesting this legislation to permit us to pursue a claim for back billing totaling \$1,453,607.30 without interest owed by the Department of Corrections (DOC) to our Wastewater Treatment Plant for the treatment of effluent that was discharged by the DOC's Cheshire prison facility over an eight-year period.

The sanitary sewer metering station that measures the flow of effluent from the Prison to our Treatment Plant is on the grounds of the Prison, and it is maintained by the Prison. It measures the volume of waste discharged, upon which the annual billing is based.

In March 2011 it was discovered that this meter was not functioning properly and only had the ability to measure a maximum of 500 gallons per minute. Once a new meter was installed, we began to receive accurate discharge flow data, which showed a significant increase from the flow which was previously reported.

As a result of the installation of this new, accurate flow meter, we were able to determine that the flow had been underreported for the previous eight years, going back to January 2003. We analyzed the data from this eight-year period of underreporting along with the new accurate measurement data to calculate the billable amount for this underreported flow.

The Town billed DOC \$180,000 for this underreported flow for the calendar year 2011, and DOC paid that bill. The Town then billed DOC \$1,453,607.30 for the previous eight years of underreported flow, basing this amount on the same methodology that was used to calculate the fee for 2011, which again the DOC had paid.

(see over)

Repeated attempts to collect this back due amount of \$1,453,607.30 have been unsuccessful. The DOC has refused to meet or to discuss our claim and the methodology used to calculate this charge. In May 2013, then Interim Commissioner Dzurenda wrote to the Town stating, *“This letter serves as notice that this Agency does not agree with Town of Cheshire’s estimation of sewer flows above the amount metered over the period in question and its assertion that money is owed by DOC and as such will not pay the above referenced invoice.”* Apparently, however, the DOC had agreed, based on their payment of the 2011 invoice.

Cheshire taxpayers have subsidized the waste water services provided to the Prison complex for these eight years in question. We feel this is an egregious inequity and we simply want the authority to make a claim for this past due amount and to be allowed to bring our case before the Claims Commissioner.

Thank you for allowing me to testify, and I would appreciate your support of this proposed legislation.