



Testimony
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Before the Environment Committee
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The Connecticut Council of Small Towns (COST) **submits the following comments relative to SB-427, AN ACT CONCERNING PUBLIC TRUST COMPONENTS OF THE STATE WATER PLAN.**

Although the bill is improperly drafted, COST supports efforts to eliminate the reference to the concept of public trust in the State Water Plan. COST is very concerned that the Plan exceeds the scope of its authority by incorporating a reference to the public trust doctrine and the Connecticut Environmental Policy Act (CEPA) in a way that creates enormous uncertainty regarding how the Plan will affect established water rights.

Uncertainty regarding the misapplication of the public trust doctrine under the Plan could invite litigation regarding established water rights in ways that threaten the continued availability of water supplies needed to support existing businesses and new economic development initiatives. For example, proponents of the reference to public trust are using this concept to call for the revocation of registered diversions, which many municipal water departments and other public waters suppliers rely upon to meet the public health, safety and economic development needs of their communities. Moreover, municipal water departments and other public water suppliers have made long-term investment and planning decisions based upon the availability of registered diversions and any attempt to revoke such registrations would be considered a taking, requiring the state to fairly compensate registration holders.

Towns are struggling to grow their grand lists and attract new businesses to reduce the property tax burden on homeowners. Given the ongoing budget challenges facing the state and our municipalities, we are concerned that the Plan's reference to the public trust doctrine may undermine the availability of water supplies needed to support economic development opportunities, sustain existing businesses, and move forward with critical infrastructure and building projects.

The public trust doctrine is very complex and has been the subject of much discussion and litigation across the country. Recognizing that the application of the public trust doctrine in Connecticut could have significant policy implications for the state and municipalities, COST believes it is inappropriate for the Water Planning Council to insert this concept in the Plan in a way that purports to relate to the Plan's statutory goal of balancing water uses.



Coming at a time when most towns and cities don't have sufficient revenues and/or state aid to fill the potholes in their roads, allowing a State Water Plan to move forward with confusing references to the concept of public trust that may undermine the integrity of long established and relied upon water rights, makes little sense. State officials must refrain from imposing additional burdens on our towns and cities, which are facing brutal increases in costs at a time when revenues are shrinking.

COST urges lawmakers to support the deletion of the references to the public trust and CEPA statute in the State Water Plan.

COST is an advocacy organization committed to giving small towns a strong voice in the legislative process. COST champions the major policy needs and concerns of Connecticut's suburban and rural towns.