



Testimony
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Before the Public Health Committee
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**HB- 5151 - AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S
RECOMMENDATIONS REGARDING CONNECTICUT'S SAFE DRINKING WATER**

The Connecticut Water Works Association (CWVA), a trade association of municipal, regional, and private water utilities, is generally supportive of **HB-5151 with revisions**.

Penalty Provisions

HB-5151 provides the commissioner of public health with broad authority to establish and impose civil penalties outside of the formal rulemaking process. Although the bill requires the commissioner to publish a notice in the law journal and hold a public hearing on the proposed penalties, it does not appear that there is any process for considering or responding to comments regarding the appropriateness of the proposed civil penalties.

The state's Uniform Administrative Procedures Act (UAPA) provides appropriate and consistent public notice and comment provisions to ensure that concerns may be raised regarding the amount and scope of the penalty provisions. We are unclear why the department is proposing a process for notice and public hearing/comment outside the scope of UAPA. This raises questions regarding how the new provisions will impact the due process rights of the regulated community and their customers.

We would welcome the opportunity to further discuss this issue with lawmakers and DPH.

Small Community Water Systems

CWVA supports the department's efforts to move forward with language to help address concerns regarding the financial capacity and viability of small community water systems. Small community water systems include homeowner's associations, condo associations, senior housing complexes, mobile homes and other developments where providing water is not the primary function but are incidental activities of the owner(s). Not surprisingly, in Connecticut and other states throughout the United States, these small water systems often lack the financial, technical and managerial capacity to adequately maintain systems, make necessary system improvements and comply with rigorous state and federal public health and environmental laws.



Addressing concerns regarding the financial capacity and viability of small community water systems is clearly an important issue. However, we believe the language of the bill is confusing and would benefit from further clarification.

CWWA supports provisions included in Section 1 of the bill which require small water systems to prepare a fiscal and asset management plan for the capital assets that comprise each of the water company's small community water systems. We have attached suggested substitute language to further clarify the bill.

To clarify the proposed requirements and deadlines relative to the submittal of asset management plans and the assessment of hydropneumatic tanks, we recommend that the bill be revised so that these provisions are separated in the bill.

In addition, the language raises some confusion regarding which entities are subject to the asset management plan requirements because the exemption language is referenced at the tail end in subsection 4(c). We therefore suggest that the language in 4(b) be clarified to specifically reference "small community water system" rather than "water company", to ensure that water companies that serve more than 1,000 customers are clearly not subject to the provisions of this section. To avoid confusion regarding which entities are intended to be covered by this section, CWWA recommends that the language be clarified, as follows:

- "Each small community water system, shall prepare a fiscal and asset management plan. (and delete the definition water company in Section 1) - *OR*
- "Each water company, except those identified in subsection (c) of this section, shall prepare a fiscal and asset management plan.

In addition, it appears that this section is drafted incorrectly because there is no 4(a) in the bill.

CWWA is committed to addressing these issues with the department and committee members.

Thank you for the opportunity to comment.



Section 1

Section 1. (NEW) (*Effective October 1, 2018*) (a) As used in this section:

- (1) "Small community water system" means a water company that regularly serves at least twenty-five, but not more than one thousand, year-round residents;
- (2) "Unaccounted for water loss" means water that the small community water system supplies to its distribution system, but that never reaches its consumers;
- (3) "Useful life" means a manufacturer's recommended life or the estimated lifespan of a water company's capital asset, taking into consideration the service history and the condition of such capital asset at the time a fiscal and asset management plan is prepared; and

~~(4) "Water company" has the same meaning as provided in section 25-32a of the general statutes.~~

b) Each ~~water company~~ **small community water system** shall prepare a fiscal and asset management plan for all of the capital assets that comprise each of the ~~water company's~~ small community water systems. The fiscal and asset management plan shall include, but need not be limited to, (1) a list of all capital assets of the small community water system, (2) the useful life of such capital assets, which shall be based on the current condition of such capital assets, (3) the maintenance and service history of such capital assets, (4) the manufacturer's recommendation regarding such capital assets, and (5) the ~~water company~~ **small community water system's** plan for the reconditioning, refurbishment or replacement of such capital assets. Such fiscal and asset management plan shall also provide information regarding whether the ~~water company~~ **small community water system** has any unaccounted for water loss, the amount of such unaccounted for water loss, what is causing such unaccounted for water loss and the measures the water company is taking to reduce such unaccounted for water loss. Each ~~water company~~ **small community water system** shall make the assessment of its hydropneumatic pressure tanks its initial priority in its preparation of the fiscal and asset management plan.

(c) Each ~~water company~~ **small community water system** shall complete the fiscal and asset management plan for all of the capital assets of each of its small community water systems not later than January 1, 2021. ~~except each water company shall complete, on a~~



~~form prepared by the Department of Public Health, the fiscal and asset management plan assessment review of every hydropneumatic pressure tank at each of its small community water systems not later than May 1, 2019.~~ Following the completion of the initial fiscal and asset management plan, each water company shall update such fiscal and asset management plan annually and make such fiscal and asset management plan available to the department upon request.

(d) ~~Each water company~~ small community water system shall complete, on a form prepared by the Department of Public Health, the fiscal and asset management plan assessment review of every hydropneumatic pressure tank at each of its small community water systems not later than May 1, 2019.

(e) This section shall not apply to a water company that is (1) regulated by the Public Utilities Regulatory Authority, (2) subject to the requirements set forth in section 25-32d of the general statutes, or (3) a state agency.

(f) The provisions of this section shall be deemed to relate to the purity and adequacy of water supplies for the purposes of the imposition of a penalty under section 25-32e of the general statutes, as amended by this act.

(g) The Commissioner of Public Health may adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, to carry out the provisions of this section.