

ENVIRONMENT COMMITTEE

February 23, 2018

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 96% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities.

Senate Bill 103 “An Act Concerning Hydraulic Fracturing Waste in Connecticut.”

CCM requests that the Committee amend S.B 103 to require DEEP to regulate, evaluate and enforce fracturing waste in Connecticut.

By way of background, C.G.S. 22a-472, adopted in 2014, places a moratorium on the disposal of natural gas hydraulic fracturing waste in Connecticut and requires the Department of Energy and Environmental Protection to issue regulations regarding the handling of such waste by July 1, 2018. It appears that DEEP will not be prepared to issue regulations by that time. Additionally, in May 2017, the House adopted H.B. 6329, banning the storage of hydraulic fracturing waste in Connecticut, and the bill was subsequently referred to the Senate. However, the Senate was unable to adopt the bill before the close of the 2017 session. It is important to note that the current moratorium remains in effect until such time that DEEP issues regulations, or the General Assembly adopts overriding legislation.

Some advocacy organizations have indicated that the moratorium adopted in 2014 and the language contained in both H.B. 6329 and R.B. 103 is insufficient. Namely, in addition to the substances that are addressed under the moratorium and the proposed legislation, the organization recommends additional language that bans waste resulting from oil extraction activities; byproducts of the well drilling process which occurs prior to fracking; and products derived from solid waste products that may include construction fill, brownfield capping materials, or used frac/silica sand that is partially processed and reused.

Unsuccessful in advocacy for the inclusion of this language at the state level, the organization has been advocating for the adoption of local ordinances banning this waste. To date, over thirty municipalities have adopted language, with some variation, as recommended by this organization. In addition, a number of other communities are currently in the process of learning about the issue. Towns incur substantial costs in adopting local ordinances, including costs associated with retaining legal counsel and other consultants to research and draft the ordinance, holding and noticing public meetings and hearings, and convening and staffing meetings of the local governing

body to approve the ordinance, etc. As such, a statewide ban on the storage of hydraulic fracking waste is an appropriate mechanism to address concerns, however the ban does not go far enough.

CCM understands that there may be risks associated with the storage of hydraulic fracking waste, which may affect water and other natural resources and ecological habitats, have statewide implications. However, towns and cities **do not** have the expertise or resources to evaluate the science associated with this matter; that responsibility resides with DEEP. Additionally, it most certainly makes no sense, from a practical perspective, for 169 Town/Cities in a state of 5,500 square miles to legislate or regulate this issue individually. This current piecemeal approach only creates a confusing crazy quilt regulatory structure that will defy implementation. In addition, local laws may not be enforceable as, to date, the state has indicated an intent to occupy the regulatory space associated with this issue. In other words, any local ordinance would likely be preempted by the state's regulations/legislation when issued. Not to mention, the maximum fine that a municipality can impose for a violation of the ordinance is \$250, hardly a deterrent.

In a time when state government constantly requests that Towns regionalize and establish practices that prevent unnecessary duplications of effort, the state should take the lead in regulating/legislating this issue and prevent 169 communities from spending the time, effort, and money to individually investigate the science, legality, and enforceability behind this issue. While CCM understands the current statutory ban may need to do more to protect our state against the use of fracturing waste; without appropriate statewide regulations from the Department of Energy and Environmental Protection (DEEP) the current town by town system of regulation, evaluation and enforcement of fracturing waste in Connecticut is inefficient and costly for municipalities.

CCM requests that the Committee amend the bill to require DEEP to regulate, evaluate and enforce fracturing waste in Connecticut. Regulation of such materials should be handled on a statewide basis; municipalities do not have the resources and/or expertise to appropriately and effectively regulate, evaluate and enforce the use of fracturing waste in the state.

CCM urges the Committee to amend S.B 103 to require DEEP to regulate, evaluate and enforce fracturing waste in Connecticut.

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If you have any questions, please contact Donna Hamzy, Advocacy Manager of CCM at dhamzy@ccm-ct.org or (203) 843-0705.