



CONNECTICUT

**TESTIMONY OF
NATIONAL FEDERATION OF INDEPENDENT BUSINESS (NFIB)
CONCERNING
SB-427, AAC PUBLIC TRUST COMPONENTS OF THE STATE WATER PLAN
BEFORE THE
ENVIRONMENT COMMITTEE
MARCH 14, 2018**

A non-profit, non-partisan organization founded in 1943, NFIB is Connecticut's and the nation's leading small-business association. In Connecticut, NFIB represents thousands of members and their employees. NFIB membership is scattered across the state and ranges from sophisticated high technology enterprises to "Main Street" small businesses to single-person "Mom & Pop" shops that operate in traditional ways. NFIB's mission is "To promote and protect the right of its members to own, operate, and grow their businesses." On behalf of those small- and independent- job-providers in Connecticut, NFIB/Connecticut offers the following comments:

NFIB/Connecticut has concerns with SB-427 as currently drafted and therefore opposes the bill at present, however we understand that this legislation is intended to address a troubling development in which the complex legal concept of "public trust" was inappropriately included at the last minute into the State Water Plan ("the Plan") despite the concerns voiced by NFIB/CT and others in the business community earlier this year. Therefore, NFIB/CT would support appropriate changes to the bill or another legislative vehicle that would remove the inappropriate references to public trust and CGS Sec. 22a-15 in the implementation of the State Water Plan.

NFIB has commended the legislature and the Water Planning Council for their work in calling for the development of a State Water Plan. It is important to note, however, that the parameters for the development and implementation of the Plan were clearly outlined by the legislature through the enabling statute (Public Act 14-163) and nowhere was it mentioned, contemplated or directed to include even any reference to the concept of public trust. Inclusion of this concept, which embodies longstanding and complex jurisprudence and precedents, is a significant legal and policy shift that exceeds not only the legislative intent behind the Plan, but also the scope of the Water Planning Council's authority.

Our member small businesses are engaged in all aspects of wholesale and retail commerce, professional services, construction, manufacturing and other core business sectors, including agriculture and restaurants. These small business owners depend on reliable water supplies at competitive prices to operate their businesses. As such, the importance to Connecticut and our economic growth in continuing to allow water utilities to meet the needs, both current and future, of their customers, cannot be underscored enough. Unfortunately, the potential misapplication of the public trust doctrine to the Plan raises



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serious questions and concerns about the continued availability of reliable and economically feasible water supplies.

Any policies that may be developed in response to the Plan that could significantly reduce the amount of water available to meet these needs by further subjecting water utilities to unpredictability and/or additional costly permitting processes, which is a serious concern given the potential for broad misapplication of the public trust doctrine, would only undermine our state's economy and seemingly fail to be in the spirit of the Plan as directed by the legislature to balance economic needs and considering economic impacts.

Unfortunately, NFIB is concerned that some advocates are calling for the public trust doctrine in the Plan to be an avenue which could undermine Connecticut's economy by potentially limiting the amount of water available to meet the public health, safety, economic development and agricultural needs of Connecticut's small businesses. Small businesses such as manufacturers, farmers, car washes, restaurants, laundry mats, nurseries and plumbing contractors all rely on a safe, adequate supply of potable water to operate their businesses and meet the needs of their customers. Homebuilders, realtors, excavation contractors, heavy equipment operators, and others all rely on a robust economy where there is certainty about the ability for expansion and new construction and development to take place.

It is critical to small businesses, and to the overall economic development interest of our state, that we continue to have access to affordable and reliable supplies of water in order to remain competitive. As conversations about water policy move forward, instead of the approach seemingly favored by some proponents which could jeopardize water rights by inappropriately injecting the concept of public trust into the discussions, it is important to focus on a targeted, manageable approach, consistent with the original legislative intent of the State Water Plan, to appropriately -- and backed by data -- balance public water supply needs, including economic considerations, with valid environmental concerns. Therefore again, NFIB/Connecticut urges the Environment Committee to remove the inclusion of or any reference to the concept or doctrine of "public trust" as part of the State Water Plan.

Thank you for the opportunity to comment. For questions or additional information, please contact Andy Markowski, NFIB/Connecticut State Director, at 860-248-NFIB.