

Legislative History for Connecticut Act

SB 577 PA 287 (file 529) 1984
House 3792-3806 (15)
Senate 1353, 1461, 2585-2586, 2621 (5)
Judiciary 724-727, 798-799, 812, 833-834 (8)

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CONNECTICUT
GEN. ASSEMBLY
HOUSE

PROCEEDINGS
1984

VOL. 27

PART 10

3454-3849

kss

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House of Representatives

Monday, April 30, 1984

CLERK:

The House of Representatives is now voting by roll. Members please return to the Chamber immediately.

The House is now voting by roll. Members please return to the Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted and is your vote properly recorded? If so, the machine will be locked and the Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

Senate Bill 355, as amended by Senate Amendment Schedule "A".

Total number voting	147
Necessary for passage	74
Those voting yea	147
Those voting nay	0
Those absent and not voting	4

SPEAKER STOLBERG:

The bill is passed.

CLERK:

Page 24, Calendar 609, Substitute for Senate Bill 577, AN ACT CONCERNING CLEAN WATER. Favorable Report of the Committee on Judiciary.

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House of Representatives

Monday, April 30, 1984

SPEAKER STOLBERG:

Rep. Richard Tulisano.

REP. TULISANO: (29th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I move acceptance of the Joint Committee's Favorable Report and passage of the bill in concurrence with the Senate.

SPEAKER STOLBERG:

Will you remark?

REP. TULISANO: (29th)

Yes, Mr. Speaker. This bill first of all, makes some definitional statements with regards to environment what have you, chemical substances and what hazardous chemical substances, emissions are -- hazardous pollutants are, and then go down to say that any injuries, personal injuries or property damages that occur as a result of exposure to hazardous chemical substances or mixtures thereof may be brought within two years of the date it is discovered.

It would not apply to municipal water works which is an exception. I move for passage of the bill.

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SPEAKER STOLBERG:

Will you remark further on the bill. Rep. Jackel.

REP. JACKEL: (122nd)

Thank you, Mr. Speaker. Mr. Speaker, the Clerk has an amendment LCO No. 3926. Would the Clerk please call and read.

SPEAKER STOLBERG:

The Clerk has an amendment LCO 3926, House "A", will the Clerk please call and read.

CLERK:

LCO 3926 designated House "A" offered by Rep. Jackel.

In line 37, before the period insert the following: "or in the exercise of reasonable care should have been discovered"

SPEAKER STOLBERG:

Rep. Jackel.

REP. JACKEL: (122nd)

I move adoption of the amendment, Mr. Speaker.

SPEAKER STOLBERG:

Will you remark.

REP. JACKEL: (122nd)

Mr. Speaker, I don't want to end up in a debate similar to DES, but we have many statutes of limitation

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standards. One that is ordinary is the statute of limitations commences upon the discovery of an injury or upon the exercise of reasonable diligence that injury should have been discovered which starts the statute of limitations clock, this amendment is very similar to what is our ordinary statute of limitations language that the statute runs from the injury or from the time in which and the way the amendment reads, "in the exercise of reasonable care that injury should have been discovered".

And I urge its adoption.

SPEAKER STOLBERG:

Will you remark further on House "A". Rep. Tulisano.

REP. TULISANO: (29th)

Mr. Speaker, I think Rep. Jackel makes a nice observation and I would support the amendment.

SPEAKER STOLBERG:

Will you remark further on the amendment. If not, all those in favor of the amendment, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The amendment is adopted.

Will you remark further on the bill. If not, will members please be seated. Rep. Belden.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. I have read this file a number of times and if I might a question to Rep. Tulisano for intent purposes.

SPEAKER STOLBERG:

Please frame your question.

REP. BELDEN: (113th)

Through you, Mr. Speaker, the theoretical product liability section which is line 29 to 37, do they apply only to water pollution?

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker, I think it deals with any damages and personal injury resulting from exposure to a hazardous chemical substance and that could be -- generally I suppose, if some water pollution, but I believe it could be with regard to a chemical dump which is not necessarily water pollution. I suppose the allegation that exists in Love Canel, that might have been part of

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well water pollution, I'm not sure, but I'm sure there's others and I would not say it limits it, but it certainly would, if you can connect it to that substance then you had a noxious gas, I guess, and you inhaled it then you might have the cause of that also.

REP. BELDEN: (113th)

Through you, Mr. Speaker, another question to the proponent.

SPEAKER STOLBERG:

Please frame your question.

REP. BELDEN: (113th)

Thank you, Mr. Speaker. Based on your previous answer then I would assume that what this innocuous file does is does away with the statute of limitations on any exposure to environmental or hazardous substances in terms of the statute of limitations for as long as anyone lives.

REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

I would not consider this an innocuous file. I think this is a very serious piece of legislation. Statute

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of limitations for two years for being subjected to exposure to hazardous chemical substance or mixture of a hazardous pollutant which has injured somebody and at the same time injured the environment obviously. This is certainly a very serious --

REP. BELDEN: (113th)

Through you, Mr. Speaker. I would just like to discuss the issue before us. Ladies and gentlemen, I think it is not an innocuous piece of legislation. I think its been treated as such so far. And as best I can tell from my file here, it has not gone to Appropriations or anywhere else. The way I understand this file is that this will do away with the statute of limitations as we know now for all exposure to hazardous waste.

We had a long discussion here last week about one particular chemical DES and its relationship to a part of our population who took it for only a few years. This particular legislation before us and I could be wrong, that's why I asked the question, has extremely far reaching potential, in terms of cost to the State of Connecticut, and I think it's a backdoor approach that's being taken here in a very innocuous piece of legislation to change our whole law as it relates to occupational disease in the State of Connecticut.

And I think it deserves considerable more discussion and debate than has occurred for the file that's before us today. And Mr. Speaker, based on the interpretations that have been put forth by Rep. Tulisano, I believe that this particular file could have immediate financial impact upon the State of Connecticut and I believe the file should go to Appropriations and I would move that this particular piece of legislation be referred to the Committee on Appropriations.

SPEAKER STOLBERG:

The motion is a reference to the Committee on Appropriations. Will you remark on the motion to refer to the Committee on Appropriations. Rep. Tulisano.

REP. TULISANO: (29th)

Yes, Mr. Speaker. I would oppose the motion to Appropriations.

SPEAKER STOLBERG:

Will you remark further on the motion to refer to the Committee on Appropriations, Rep. Tulisano.

REP. TULISANO: (29th)

I think this is a statute of limitations bill. It belongs properly in the Judiciary Committee where it was and it belongs here on the Floor of the House for us to act on. I don't believe it needs to go to Appropriations

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for any reason whatsoever. A look in the fiscal impact statement, no fiscal impact. It belongs on the Floor. It deals with a particular issue which we should confront and vote for today.

SPEAKER STOLBERG:

Will you remark further on the motion to refer to Appropriations. Rep. Belden.

REP. BELDEN: (113th)

Mr. Speaker, I believe that nobody has really interpreted this file in the true context of what it's all about and it does and will have a significant impact on both the state and the municipalities in terms of cost in areas of workman's compensation. It will probably bring about an entirely new court action which will ultimately develop new common law with regard to the statute of limitations and environmental issues.

For that reason, Mr. Speaker, I believe that there will be considerable cost involved.

SPEAKER STOLBERG:

Rep. Polinsky.

REP. POLINSKY: (38th)

Much as I dislike disagreeing with one of colleagues on the other side of the aisle, I would have to agree with Rep. Tulisano. I don't think this belongs in Appropriations.

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I don't know that there would be any way whether it came direct or not that we could foresee that far into the future to see if there would be any significant impact. I just don't think it belongs in Appropriations at this time.

SPEAKER STOLBERG:

Will you remark further on the motion to refer to Appropriations. If not, all those in favor of the motion, please indicate by saying aye.

REPRESENTATIVES:

Aye.

SPEAKER STOLBERG:

All those to the contrary, nay.

REPRESENTATIVES:

No.

SPEAKER STOLBERG:

The no's clearly have it. The motion fails. Will you remark further on the bill. Rep. Flinn.

REP. FLINN: (149th)

Mr. Speaker. It occurs to me that there was a town in upstate New York called Love Cannel and it occurs to me that the bill that we are dealing with here could result in some enormous financial claims and that I hope everyone in this Chamber realizes what they're doing. Thank you.

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REP. WOLLENBERG: (21st)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

A question to Rep. Tulisano, through you, Mr. Speaker.

SPEAKER STOLBERG:

Please frame your question, sir.

REP. WOLLENBERG: (21st)

Rep. Tulisano, would auto emissions come under this law.

REP. TULISANO: (29th)

Through you, Mr. Speaker.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

I don't believe it does.

SPEAKER STOLBERG:

Rep. Wollenberg.

REP. WOLLENBERG: (21st)

Just a comment, Mr. Speaker. If it does we could be in extremely big trouble all over the place and I would -- I suppose we should know whether it does before we vote.

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I'll vote against it if we don't know.

SPEAKER STOLBERG:

Will you remark further. Will you remark further.

REP. BELDEN: (113th)

Mr. Speaker.

SPEAKER STOLBERG:

Rep. Belden.

REP. BELDEN: (113th)

Another question through you, if I might to the proponent.

SPEAKER STOLBERG:

Please frame your question.

REP. BELDEN: (113th)

Is the exposure that I have read about in the paper of our DOT employees to various chemicals which have been deposited throughout the state. Would that come under this file.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. It depends upon who they're bringing the action against.

SPEAKER STOLBERG:

Rep. Belden.

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REP. BELDEN: (113th)

Through you, Mr. Speaker, another question to the proponent. The toll takers in the State of Connecticut have been inhaling carbon monoxide and if that goes for years, if a toll taker were to be diagnosed as having asbestoses, would he be able under this statute to also file against the State of Connecticut.

SPEAKER STOLBERG:

Rep. Tulisano.

REP. TULISANO: (29th)

Through you, Mr. Speaker. I think I get the gist of what Rep. Belden's asking and if they are state or municipal employees and they're coming under something that came as part of their job they then become a workman's compensation claim. And under workman's compensation, they probably have that right now under workman's compensation claims. Workman's compensation claims are exclusive of the negligence of court claims and you may not bring the court claims against your employer, if in fact it's a workman's compensation act. But everybody in that instance probably already has the right to workman's comp claim against their employer.

On the other hand, if it is a workman's compensation claim, you do not have the right to sue. This would generally

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be addressed against the individuals who caused the problem unless it's part of your job. And you note that the particular exclusion I think is water works employees who have to deal with this.

REP. BELDEN: (113th)

Mr. Speaker, very briefly, I can understand why water works employees are exempted or water works period are exempted in the last section of the file because they supply water to a great proportion of the population and they are all kinds of safeguards already in place theoretically to protect the general population.

I just want every member of this Chamber to understand that we are embarking today on a major change in law in the State of Connecticut with this file. Change of statute of limitations on any hazardous waste issue is being dramatically changed and I believe there has been almost no discussion during the past three months along this line. I think everybody has been treating this file as if it was just something -- if some hazardous waste got in somebody's well, but it is much more far reaching than that.

SPEAKER STOLBERG:

Will you remark further. If not, will members please be seated. Staff and guests to the well of the House. The machine will be opened.

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House of Representatives

Monday, April 30, 1984

CLERK:

The House of Representatives is voting by roll.

Will the members please return to the Chamber immediately

The House of Representatives is voting by roll. Would the members return to the Chamber immediately.

SPEAKER STOLBERG:

Have all the members voted and is your vote properly recorded. Have all the members voted and is your vote properly recorded. If all the members have voted. Have all the members voted. Have all the members voted. Have all the members voted and is your vote properly recorded. If all the members have voted, the machine will be locked. The Clerk will take a tally.

Will the Clerk please announce the tally.

CLERK:

Senate Bill 577 as amended by House Amendment Schedule "A".

Total Number Voting	147
Necessary for Passage	74
Those Voting Yea	99
Those Voting Nay	48
Those Absent and Not Voting	4

SPEAKER STOLBERG:

The bill is passed.

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1984

PART 2

SENATE

SENATE

WEDNESDAY
APRIL 18, 1984

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THE CLERK:

Calendar 362, File 529, Substitute for Senate Bill 577, AN ACT CONCERNING CLEAN WATER, Favorable Report of the Committee on Judiciary.

THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, I move acceptance of the Joint Committee's Favorable Report and passage of the Bill.

THE CHAIR:

Will you remark?

SENATOR OWENS:

Yes. It would extend the statute of limitations for suits to recover damages caused by toxic waste pollution. I'd ask if there is no objection that this Bill be placed on Consent.

THE CHAIR:

Hearing no objection, so ordered.

THE CLERK:

Calendar 364, File 540, Substitute for Senate Bill 485, AN ACT CONCERNING THE UNFAIR SALES PRACTICES ACT AND THE UNFAIR TRADE PRACTICES ACT, Favorable Report of the Committee on Judiciary.

1984 GENERAL ASSEMBLY

SENATE

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WEDNESDAY
APRIL 18, 1984

234 SB284-SB351
LFU HB5166-SB367

Senate. Will all Senators please take their seats. An SB16-SB561
immediate Roll Call has been called for in the Senate. SB536-SB484
SB571-HB5536

Will all Senators please be seated. HB5656-HB5181
HB5596-H5503

THE CHAIR:

Please give your attention to the Clerk as he pro- HB5725-HB5204
ceeds with our rather extensive Consent Calendar. SB95-SB555
SB576-SB355

THE CLERK:

On page 1, Calendar 392. On page 2, Calendar 393, SB458-SB427
394, 395. On page 3, Calendar 167, 186, 214. On a e SB453-SB474
4, Calendar 231, 236. On page 5, Calendar 252. On page SB192-SB310
6, Calendar 277, 282, 286. On page 7, Calendar 290, 297, SB422-SB496
305. On page 8, Calendar 315, 323, 327. On page 9, SB577-SB197
Calendar 329, 333, 334. On page 10, Calendar 337, 339, SB276-SB227
340, page 11, Calendars 343, 344, 346. Page 12, Calendar SB266-SB495
349, 350. SB548-SB589

Page 13, Calendar 360, 361, 362, 364. Page 14, SB592-SB215
Calendar 368, 369, 370, 371, 372. Page 15, Calendar 373, SB281-SB331
374, 375, 376 and 378. Page 16, Calendar 379, 380, 381, SB400-SB578
383. On page 17, Calendar 386, 387, 388, 389, 390. Page SB456-SB194
18, Calendar 391, 396, 397, 398, 399, 400. Page 19, SB419-SB520
Calendar 401, 402, 403, 404, 405. Page 20, Calendar 406, SB603-SB606
Calendar 407, 409, and 410. HB5790-HB5600

Page 21, Calendar 413, 414, 416, 417. On page 22, HB5144-HB5358
Calendar 420 and 421. Page 23, 424, 425, 526, 427, 428, HB5639-HB5575
HB5644-HB5875
HB5173-HB5547
HB5649-HB5726

HB5758-H5760
HB5560-SB130
SB494-HB5872

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CONNECTICUT
GEN. ASSEMBLY
SENATE

PROCEEDINGS
1984

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SENATE

WEDNESDAY
MAY 2, 1984

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there, on line 55, after or, insert public or so that it qualifies both the public and the private. The way it was written, it leaves it out by putting public utility or private refuse collection. The Amendment clarifies it by saying public utility or public or private refuse collection so that it covers all aspects of the public-private sector and public utilities sector on garbage trucks.

THE CHAIR:

Remark further on House A? If not, the issue is adoption. All in favor will signify by saying aye. Those opposed, nay. The ayes have it. The Amendment is adopted. What is your pleasure on the Bill as amended?

SENATOR DI BELLA:

Mr. President, I believe the Amendment was the Bill and I think I've addressed myself to the Bill and I'd ask that this be placed on the Consent Calendar.

THE CHAIR:

Any objection to placing the Bill as amended on Consent? Hearing no objection, it will go on Consent.

THE CLERK:

Calendar 362, File 529, Substitute for Senate Bill 577, AN ACT CONCERNING CLEAN WATER, as amended by House Amendment, Schedule A, Favorable Report of the Committee on Judiciary.

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MAY 2, 1984

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THE CHAIR:

Senator Owens.

SENATOR OWENS:

Mr. President, I move acceptance of the Joint Committee's Favorable Report as amended by House Amendment A.

THE CHAIR:

Remark?

SENATOR OWENS:

Mr. President, this Bill would extend the statute of limitations for suits to recover damages caused by toxic waste pollution and language was deleted in the Amendment, language or with reasonable care should have been discovered. That was deleted. I ask if there is no objection, that this Bill as amended, be placed on Consent.

THE CHAIR:

Any objection to placing the item on Consent? Hearing no objection, the matter will go on Consent.

THE CHAIR:

On page 30, Calendar 354, under the heading Reconsideration, File 510, Substitute for Senate Bill 472, AN ACT CONCERNING POLITICAL ACTIVITY OF PUBLIC EMPLOYEES, as amended by Senate Amendment, Schedule C. Motions to

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WEDNESDAY
MAY 2, 1984

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Mr. Clerk.

THE CLERK:

On page 10, Calendar 605, 606, 607 and 608. On page HB5669-HB5224
 11, Calendar 611, 612, 613. On page 12, Calendar 614, 616 HB5876-HB5057
 617, on page 13, Calendar 620, 622, 623. On page 14, HB5476-HB5807
 Calendar 625, 626, 627, 628, 629. On page 15, Calendar HB5424-HB5949
 630, 631, 633, 634. On page 16, Calendar 635, 637, and HB5942-HB5886
 639. On page 17, Calendar 641, 643, 644. On page 18, HB5344-HB5836
 Calendar 645, 647, 648, 649. On page 19, Calendar 650, HB5246-HB5373
 651, 652, 653, 654. On page 27, Calendar 115 and on page HB5217-HB5779
 28, Calendar 209, 230, 252, 285. On page 29, Calendar 329 HB5592-HB5751
 337, 343. On page--I believe that--excuse me, on page 29, HB5711-HB5154
 Mr. President, Calendar 362. One moment Mr. President. HB5250-HB5305
 That completes the items on the Consent Calendar. HB5488-HB5216

THE CHAIR:

Senator Zinsser.

SENATOR ZINSSER:

Thank you Mr. PResident. I would like to, Mr. HB5229-HB5764
 President, remove from the Consent Calendar, on page 17, HB5780-HB5782
 Calendar 644, House Bill 5268, File 707. HB5255-HB5501

THE CHAIR:

Calendar 644 will be removed and we'll vote on it
 right after. Senator Matthews. HB5548-HB5554

SENATOR JOHN MATTHEWS:

Thank you Mr. President. Page 10, Calendar 607, Bill

JOINT
STANDING
COMMITTEE
HEARINGS

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PART 3
690-984

1984

REP. TULISANO: We must go to the public, due to the time restraints.

SEN. OWENS: The first one is Suzanne Langille. If she's not here, Karl Wagener. To be followed by Robert Kahn.

MS. SUZANNE LANGILLE: My name is Suzanne Langille. I'm a staff attorney with the Connecticut Fund for the Environment which I guess is evidenced by the fact that I'm carrying a backpack instead of a brief case today. I'm here to speak in favor of Bill 577, An Act Concerning Clean Water.

The purpose of this Bill is to expand the statute of limitations for actions to recover damages for injury caused by toxic waste pollution. What I would like to state in regard to this Bill is that the statute of limitations in the state of Connecticut currently under Section 52-584, reads that no action may be brought more than three years from the date of the act or omission complained of. That kind of a law makes lots of sense when you're talking about car accidents but does not make a whole lot of sense when you're talking about injuries from toxic pollutants because normally one does not know that one has been injured when the injury occurs. With toxic pollutants, you do not know until many years later that you have been injured at all.

So that in terms of fairness to the plaintiff in a situation like this, the statute of limitations needs to be designed differently because otherwise these people have absolutely no hope of bringing an action and even being given a chance to prove the connection between exposure to a chemical and an injury which they have suffered so what this is going to do, what this Bill can do, is make it possible for people to bring actions. It will still, of course, be up to them, to prove the causal connection, but this gives them the form, the right to a forum, which we think is very important.

There have been situations where courts have simply made, determined on their own volition that the statute of limitations should not apply to a chemical such as asbestos for example, but I don't think that that's a good way to approach it. I think it should be approached in a uniform

MS. LANGILLE: (continued)
 way rather than a somewhat capricious case by case basis.
 There is one--there are two ways in which I'd like to see
 this statute amended to make it more complete. Number one,
 I would like to see the definition for hazardous chemical
 substance or mixture, to include chemicals which are deemed
 hazardous under state law as well as federal law because
 we do have a very active Department of Environmental
 Protection and Health Department who do make their own
 determinations about the hazardous nature of chemicals,
 especially I think it's relevant that the State Department
 of Environmental Protection is looking at hazardous air
 emissions right now.

REP. TULISANO: Excuse me. Will the gentlemen from the
 departments who are leaving because we haven't reached
 them yet, I hope you will be back a little bit later? We
 think your presence this morning is going to be important
 and we'd like to--

SEN. OWENS: We have no idea, there are three or four pages of
 public ahead of you, so 2:00, 2:30 would be a fair guess.

REP. TULISANO: Thank you.

MS. LANGILLE: So, number one, I'd like to see the definition
 of hazardous substances or chemicals to include state
 standards. I would also like to see that section include
 a provision to allow a citizen to demonstrate to the
 court that a particular chemical is hazardous where no
 state or federal standard exists because the reality is
 that the new chemicals are being developed on almost a
 daily basis now. Things are being developed all the time
 and the government cannot always keep up with defining
 and determining the hazardous nature of this chemical.

REP. TULISANO: Are you sure you want the courts to be able to
 hear evidence of what is hazardous? Even if some agency
 has determined that it's hazardous, you want them to con-
 sider evidence and make an independent determination on a
 case by case basis that certain chemicals might, in fact,
 be hazardous?

MS. LANGILLE: For the purpose of the statute of limitations only. For the purpose of the right of the plaintiff to actually bring that action, I would like to see that. That's not in the law, the Bill as it's written right now. It's something that I think would be helpful. At a minimum I think that state standards should be included so I don't--that's something I would like to see there.

But at a minimum, I think that the state determination should be included in the Bill. The other thing that I would like to see in this Bill is right now it is written to state that no action shall be brought but within two years from the date of discovery, from the date when the injury or damage complained of is discovered, to make it consistent with Section 52-584. I believe that should be three years.

SEN. OWENS: Thank you. Karl Wagener to be followed by Mr. Kahn. Is Mr. Wagener here?

MR. KARL WAGENER: Good afternoon. My name is Karl Wagener. I'm speaking today on behalf of the Connecticut Audubon Society, 13000 members statewide conservation group and I too, just wish to remark very briefly in favor of Bill 577. We're not a litigation oriented environmental group, in fact, we've never filed a lawsuit. We do, however, get involved with a lot of environmental legislation, particularly with laws aimed at preventing pollution.

A particular concern of our organization is groundwater contamination. Changing the statute of limits so it runs from the date of discovery only makes sense in many pollution cases, groundwater contamination is a good example. Let's say there's a pollution incident at one end of an aquafir. It could well be many months, if not years, before the groundwater flows to the other end of the aquafier where you may have your well. Try as you might, you're not going to find any evidence of damage within two years after the pollution incident because the damage hasn't yet reached you.

Maybe it's years after that before any subsequent systems turn up. The attorneys on our board of directors assure me that this isn't going to flood the courts with any new

MR. WAGENER: (continued)
cases and it's not going to mean a lot of new business to them. The complainant would still have to show an awful lot in order to prove his case, that the pollution incident did result in some sort of injury but if he does in fact, have the evidence to document that, the door should not be shut to him and we favor this Bill.

SEN. OWENS: Representative Parker has a question and then we'll go to Mr. Kahn.

REP. PARKER: Karl, I'm sure you're familiar with the spraying of tobacco land and what has happened subsequently. Would you say that this Bill, if it were a law, could be used in that case even though at the time of the spraying such spraying was legal?

I am asking--you know, out of a sense of fairness.

MR. WAGENER: Right. I don't--that's a very good question. I guess a judge would have to decide that but I don't think--

REP. PARKER: The committee will have to decide with this Bill in front of us.

MR. WAGENER: I don't think so. This Bill would only allow the victims to take their case to the courts by extending the statute of limitations. It wouldn't necessarily decide the case beforehand. It would just keep the door open to the victims.

REP. PARKER: But if the material was not on a hazardous list at that time, then the judge would also be deciding if it were hazardous to allow the case to come into court.

MR. WAGENER: Yeah, the EDB case is a little bit unique though. There are a lot of chemicals for which there never was any question whether or not they were hazardous.

REP. PARKER: All right. Thank you.

SEN. OWENS: Thank you. Mr. Kahn, to be followed by Raphael Podolsky, if he's here.

MR. BURKE: Whether you've served as a juror, whether you've got a criminal conviction. That's about it.

SEN OWENS: And that's it. They don't go into matters, whether you've been burglarized, or that sort of thing, is that right?

MR. BURKE: Right. That's correct. And this would seem to be a little broader and allow the discretion of perhaps including those. But not if it could be arbitrarily denied to the litigants, and that was the objection we had.

On Bill 577, the Connecticut Waterworks Association, if you don't know, because we really haven't appeared before this committee, is composed of investor-owned, municipal water companies and regional water authorities and in the aggregate, members of that association serve two and a quarter million people approximately in the State of Connecticut. And as such obviously have a concern with the purity and quality of water.

The Bill 577 would seem to extend the statute of limitations from the date of injury to the date that injury was discovered if one were injured or damaged by pollutants in the environment, both of which are defined in the bill. And the Connecticut Waterworks Association well could be, conceivably, a beneficiary of this on the one hand, it could be a plaintiff, were its member companies subject to pollution. However, our greater concern is that we could unknowingly for an extended period of time be a defendant in the situation.

I conferred with Senator Dorr who is the sponsor of this bill. He indicated to me his concern is basically with pollution of wells, community wells, private wells, I believe in Naugatuck and other areas of his constituency. And that it is not aimed at public utility companies or other type of water companies.

I have proposed an amendment to Senator Dorr and now do so to the committee, that at the end of subsection b, in other words at the end of the bill, that we except water companies from this expanded statute of limitations. And it could be done in the fashion of indicating that the provisions of this subsection, excuse me, the

MR. BURKE: (continued)

provisions of this subsection do not apply to actions against, A, a municipal water works system, created and operated under Chapter 102 of the general statutes, --

REP. TULISANO: I have a question. Don't you then create an equal protection problem, or don't you?

MR. BURKE: Well, I don't know. I mean you raise the issue. I suppose --

REP. TULISANO: A lawyer is going to tell you that.

MR. BURKE: No, it's a public policy. There certainly could be a rational distinction and that I think is the test that's employed in equal protection cases, whether you can make a rational distinction between let's say toxic waste polluters and water companies that might by neglect or by accident have a high content of some substance in their water.

At any rate, my suggested amendment and the amendment that would allow the Waterworks Association to support the bill would be to exempt the municipal companies, regional water authorities and water companies that are defined under subsection 16-1. I think you can make a rational distinction between these entities and the casual polluter. And I'll leave copies with the clerk of my draft of an amendment.

SEN. OWENS: Anyone else, of Mr. Burke.

MR. BURKE: Thank you.

SEN. OWENS: Thank you. All right, Mr. Bartolini, to be followed by Gian Carl Casa. Mr. Bartolini here, Bartolini. Okay, Gian Carl Casa. To be followed by Matthew Perlstein. I believe that's the last of public speakers today, from the public. Proceeds, no, I think you're the last. Anyone else? Then we'll go back to the state officials. Go ahead.

GIAN-CARL CASA: My name is Gian-Carl Casa and I'm representing the Connecticut Conference of Municipalities. The Connecticut Conference of Municipalities urges the committee to give a joint favorable report to Senate Bill 534. This bill would specifically grant constables who, one,

MS. RIDDLE: (continued)

These cases can divert staff time from legal problems which require our attention.

Therefore, the purpose of this proposal is to allow the agency to have its own representative before the Claims Commissioner in those areas that the Attorney General's Office has determined can be handled by that agency. And of course we will assist the agency in learning how to present their case before the Claims Commission.

In the testimony I have attached some minor amendments that the Claims Commissioner and I have talked about and agreed on. Very quickly.

REP. TULISANO: Right now, because it's usually on the agenda for today.

MS. RIDDLE: Okay. Done.

SEN. OWENS: Thank you. How's the baby, Clarine?

MS. RIDDLE: Thank you very much. Very fine. Okay, the last one. Again, a very brief synopsis of the testimony for Committee Bill 577, An Act Concerning Clean Water.

This legislation was proposed by Senator Dorr and the Attorney General would like to commend him on a well-reasoned solution to the major obstacle to recovery and chemical --

REP. TULISANO: Come one. Let's see what he does on Charitable Trust.

MS. RIDDLE: This bill concerns private tort actions based on personal injuries or property damage caused by hazardous chemicals. The legislation will start the statute of limitations on the date upon which potential plaintiffs discover the injury or damage. The plaintiffs would then have two years from that date in which to commence tort actions against the defendants.

You've heard testimony on this one today and this is our testimony in support. Thank you very much.

COMM. LOPES: (continued)

or 30 day period. Rep. Lugo, you took the tour through our facilities, and I thought you were impressed with that overcrowding situation, and we have to have some out. There's no way to exist in the present situation.

REP. LUGO: But I insist the answer is not by releasing criminals.

COMM. LOPES: These are people who have already served sentences. It's at the end of their sentence, and we're talking up to a maximum of 90 days, 120 in certain situations.

For example, if a person is going to do a flat 50 months, then could conceivably get out in 46 months, and I really don't think that four extra months is going to endanger the public that much. I mean, we've got over 22,000 people on probation who are committing crimes every day. We don't have enough jail cells all the criminals in our state.

REP. TULISANO: Anyone else. Thank you very much, Commissioner and good luck to you. James Welch. Tom Cadden. After Mr. Cadden, we'll break for five minutes and then we'll have a committee meeting.

SEN. OWENS: There's no one else from the agencies or legislators to speak, is that correct? Hearing none, Mr. Cadden is the last speaker.

MR. THOMAS CADDEN: Thank you very much, Senator Owens, Rep. Tulisano, members of the committee, my name is Tom Cadden, I'm Executive Assistant to the Commissioner of DEP, and I'm here to support Raised Committee Bill 577.

REP. TULISANO: With the amendment?

MR. CADDEN: With Mr. Burk's amendment? I'm not prepared to support that amendment right now. I haven't seen it yet. I did hear it, but I haven't seen it yet. The department does support this legislation, and you've had a lot of testimony on it, and it gives the public a two year statute of limitations after the hazardous material that is in the ground water is located as opposed to the actual dispersal of the hazardous material onto the ground. The Department does support this and if there are any

