

## Legislative History for Connecticut Act

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**Public Act:** 01-204  
**Bill Number:** 6997  
**Senate Pages:** 3744, 3750-3751 3  
**House Pages:** 6910-6956 47  
**Committee:** Environment: 1853-1855, 1861-1862, 1888-1890, 1893-1899, 1906-1907, 1908-1909, 1912-1923 31

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Transcripts from the Joint Standing Committee Public Hearing(s) and/or Senate  
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CONNECTICUT  
GEN. ASSEMBLY  
SENATE

PROCEEDINGS  
2001

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3509-3798

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Senate

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child as well as the photo listing service to check every three months rather than twice a year on the progress toward adoption of photo listed and registered children.

I urge my colleagues to support passage of the bill as amended.

THE CHAIR:

Will you remark further? If not, Senator Coleman.

SEN. COLEMAN:

May this item be moved to the Consent Calendar,  
Madam President.

THE CHAIR:

Motion is to refer this item to the Consent  
Calendar. Without objection, so ordered.

THE CLERK:

Madam President, that completes those items previously marked Go.

THE CHAIR:

Senator Jepsen.

SEN. JEPSEN:

Madam President, several markings. Page 7,  
Calendar 580, H.B. 6997, I move this item to the Consent  
Calendar.

THE CHAIR:

Without objection, so ordered.

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Madam President, we'll start with those items off the agenda placed on Consent Calendar No. 5. From Agenda No. 2, H.B. 6297.

Agenda No. 3, Substitute for S.B. 10, correction,  
1046.

Substitute for S.B. 1375.

Calendar Page 4, Calendar 562, H.B. 6175.

Calendar Page 6, Calendar 575, H.B. 5933.

Calendar Page 7, Calendar 577, Substitute for H.B.  
6931.

Calendar 580, Substitute for H.B. 6997.

And Calendar Page 29, Calendar 512, Substitute for  
H.B. 6967.

Madam President, that completes the Fifth Consent Calendar.

THE CHAIR:

Thank you, Sir. Would you once again announce a roll call vote. The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the  
Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the  
Consent Calendar. Will all Senators please return to the Chamber.

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THE CHAIR:

Have all members voted? Have all members voted?  
If all members have voted, the machine will be locked.  
The Clerk please announce the tally.

THE CLERK:

Motion is on adoption of Consent Calendar No. 5.  
Total number voting 35; necessary for adoption, 18.  
Those voting "yea", 35; those voting "nay", 0. Those  
absent and not voting, 1.

THE CHAIR:

The Consent Calendar is adopted.

SEN. JEPSSEN:

Madam President, at a moment we're going to stand  
at recess and await items to come up from the House but  
before we stand in recess, I would like to place on the  
Consent Calendar one additional item from Senate Agenda  
No. 2, Substitute for S.B. 1333. I move this item to  
the Consent Calendar.

THE CHAIR:

Motion is to refer this item to the Consent  
Calendar. Without objection, so ordered.

SEN. JEPSSEN:

If the Chamber could stand in recess, subject to  
the Call of the Chair.

THE CHAIR:

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for the immediate transmission to the Senate of all items acted upon today needing further action by that house.

DEPUTY SPEAKER CURREY:

Without objection, so ordered.

Will the Clerk please call Calendar 275?

THE CLERK:

On Page 25, Calendar 275, Substitute for H.B. No. 6997, AN ACT CONCERNING TECHNICAL REVISIONS TO THE ENVIRONMENTAL STATUTES. Favorable report of the Committee on Public Health.

DEPUTY SPEAKER CURREY:

Representative Stratton of the 17th.

REP. STRATTON: (17th)

Thank you, Madam Speaker. I move acceptance of the Joint Committee's favorable report and passage of the bill.

DEPUTY SPEAKER CURREY:

The question before us is on acceptance and passage.

Please proceed, Madam.

REP. STRATTON: (17th)

Thank you, Madam Speaker. This bill seeks to correct and in some instances add language to a variety of environmental statutes. Many of the provisions have

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been before this Chamber before. It seeks to clarify language with regard to conveyances of land for preservation purposes, to make it clear that those lands can also be conveyed to a Land Trust organization in addition to municipalities and water companies and the State.

I am tempted to sort of wait to go through the rest of the provisions until I call an amendment rather than explaining them in the file copy since the amendment changes that.

So at this point I would ask that the Clerk call LCO 8710 and I be allowed to summarize.

DEPUTY SPEAKER CURREY:

Would the Clerk please call LCO 8710, designated House "A"?

THE CLERK:

LCO No. 8710, House "A", offered by Representative Stratton.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. The first section of this amendment does strike the underlying sections in the file copy and makes the changes with regard to the permit for conveyance of Class 1 or 2 land to land

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conservation organizations.

And, secondly, the amendment deals with the issue of the continuing discrepancy between State hazardous waste regulations and Federal hazardous waste regulations and provides that the Federal regulations shall come effective in the State unless the Commissioner publishes Notice of Intent to adopt different regulations by June 30, 2002.

It clarifies or changes slightly the definition of Class 1 renewable energy resources by specifically saying that biomass plants which are already considered Class 1 if they generate that biomass from a -- excuse me -- a sustainably harvested source would also include biomass gassification plants that utilize other wood sources, such as clearing debris, tree stumps, et cetera, because they are renewable and not depleting resources and, therefore, have the same benefit as those that are sustainably harvested would have.

Pursuant to that, it also makes it clear that our other definitions of wood-burning facilities dealing with more conventional wood-burning facilities do not -- does not include biomass gassification plants that utilize these resources.

The amendment further provides that municipalities may -- distressed municipalities may establish a non-

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profit land trust within their boundaries and that they may thereby be subject to the 65-percent reimbursement for purchases that are approved by our Natural Heritage Direct Trust Fund.

It also changes slightly the language with regard to nuisance wildlife control operators by saying that any municipal animal control officer engaged in the activities for which others would be required to have a license must take the training which will be provided free of charge by the Department of Environmental Protection.

It extends the moratorium that is currently in place in the state of Connecticut on the building of asphalt batch plants or continuous mix plants but provides specifically for permitting upgrades or replacements of those facilities if such replacement or upgrade would improve environmental performance or reduce total emissions.

And -- let's see -- last, but not least, the amendment provides that the testing of sewage/sludge incinerators shall be for the presence of mercury, metals and hydrocarbons. And that deletes some earlier legislation that was before this body, dioxins.

And I would urge adoption of the amendment.

DEPUTY SPEAKER CURREY:

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The question before us is on adoption of the amendment. Would you care to remark? Would you care to remark on the amendment?

Representative Horton of the 2nd -- excuse me, sir.

Representative Boughton of the 138th.

REP. BOUGHTON: (138th)

Thank you, Madam Speaker. Through you, a question to the proponent of the amendment.

DEPUTY SPEAKER CURREY:

Please frame your question, sir.

REP. BOUGHTON: (138th)

Thank you, Madam Speaker. Madam Speaker, through you, to Representative Stratton. On Lines 157 to 168, is there anything substantially different from the bill we did, I believe last week, regarding this issue?

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Madam Speaker. Give me one moment to get there. Through you, Madam Speaker. I think we inserted the word "previously submitted" to make it clear that these were past submissions. Through you, Madam Speaker.

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Representative Boughton.

REP. BOUGHTON: (138th)

Thank you, Madam Speaker. Through you, Madam Speaker. So would it be your characterization that this is essentially the same piece of legislation that went through the process last week, including the amendment that was drawn upon the underlying bill? Through you, Madam Speaker.

REP. STRATTON: (17th)

Through you, Madam Speaker. I was looking at the wrong amendment when I answered that question. I was looking at the amendment I was about to call. And so, for clarity purposes -- I'm sorry -- the language on 5758. The change in that -- and I apologize for my other answer -- deletes the word "dioxins" in Line 159.

Other than that, it basically calls for the same provisions of the Commissioner establishing test procedures, et cetera, in order to test for the presence of mercury, metals and hydrocarbons.

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Thank you, Madam.

Representative Boughton.

REP. BOUGHTON: (138th)

Thank you, Madam Speaker. Very quickly, through

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you, Madam Speaker. Does that mean -- and you'll have to refresh my memory, Representative Stratton. Does that mean that dioxins was initially added in the amendment or was that deleted by the amendment that was run by Representative O'Rourke?

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Madam Speaker. The amendment that I believe was before us before included testing for dioxins. The amendment before us today would not make -- would not include testing for dioxins in the sewage/sludge incinerator testing.

DEPUTY SPEAKER CURREY:

Representative Boughton.

REP. BOUGHTON: (138th)

Through you, Madam Speaker, to Representative Stratton. Would -- is there a reason why we deleted dioxins? Did we find out through maybe through the research or whatever that it wasn't necessary? Or is there some reason why we didn't include that this time around?

Because the only reason I'm asking, through you, Madam Speaker, was that it was such an important

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discussion last week and now it seems to me that it's not so important this week. So I just want to understand why that was taken out or if there was some problem or maybe we're already doing it.

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Madam Speaker. Although I'm not the prime proponent of this particular measure, I believe that the testimony that we received in committee prior to this was that the levels of dioxins that had been found in testing were under what the department considered of great significance. And if one wants a further answer than that, I would suggest asking the proponent of the original amendment. But I think that this is an appropriate -- what do I want to say? -- an appropriate number or inclusion of the types of things that are appropriate to be testing for in our incinerators.

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Boughton.

REP. BOUGHTON: (138th)

Thank you, Madam Speaker. And I -- frankly, I'm

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not quite sure whether or not we need to test for dioxins. So perhaps, with the indulgence of the Chamber, if I could frame a question to Representative O'Rourke, who might better be able to explain that situation? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative O'Rourke, do you accept the question?

REP. O'ROURKE: (32nd)

Yes, I would, Madam Speaker. Thank you. Through you, to Representative Boughton. Last week when the bill was before us which was quite different, I had added the word "dioxin" into the bill in response to some information in the OLR report that I had found had been incorrect that stated that it was already current law that dioxin be tested for. I found out that wasn't true and I added it in. But, upon further research and talking to people that operate the plants and looking at the EPA dioxin reassessment, I found that right now there doesn't seem to be a great concern for dioxin in the emissions of sewage/sludge incinerators and thought that we should take that out at this point and wait until there's further science.

Through you, Madam Speaker.

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Representative Boughton.

REP. BOUGHTON: (138th)

Thank you, Madam Speaker. I rise in support of the amendment. Obviously, I'm supportive of what we're doing in the Environment Committee. I think we make basically what I consider to be -- I don't know how my colleagues feel -- but what I consider to be fairly minor changes in some of the environment statutes.

Frankly, I'm a little concerned that we're not testing for dioxin. I don't know a lot about the science of dioxins. But I do know that it was an issue last week. Now it's not an issue this week.

And I -- you know, it's a rhetorical question. But I just seem to want to know -- I guess thinking out loud -- why do we -- why does that happen sometimes where an issue becomes so important one week and the next week we say, "Oh, well, we don't need to do dioxins. That wasn't really a problem." Oftentimes that happens in this Chamber and that's part of the legislative process.

And certainly I urge the adoption of the amendment.

Thank you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Thank you, sir.

Representative Piscopo of the 76th.

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REP. PISCOPO: (76th)

Thank you, Madam Speaker. A question, through you, to the proponent of the amendment?

DEPUTY SPEAKER CURREY:

Representative Stratton, please prepare yourself.

Please proceed, sir.

REP. PISCOPO: (76th)

Thank you, Madam Speaker. My question goes to Sections 8 and 9 of the amendment. I don't remember this coming through the Environment Committee or at any of our public hearings.

And would the gentlewoman please explain the wood-burning facility language in both Sections 8 and 9?

REP. STRATTON: (17th)

Madam Speaker?

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. Through you. When we wrote the initial definitions of renewable energy sources, we included biomass facilities. Technology is continuing to evolve and change. And there is now technology that is marketable, that does biomass gassification not just from renewable, sustainably harvested biomass, which was what we envisioned when we

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wrote the definition. And so it seemed appropriate to expand the definition of Class 1 renewable resources to include biomass gassification for generation purposes for a fuel source that was not necessarily sustainably harvested but was renewable and was preventing or replacing the consumption of non-renewable resources or depletion of those resources.

And, similarly, the wood-burning facilities that have been a subject of much debate in my early years in this Chamber are not in any way, shape or form comparable to a biomass gassification plan. And so it seemed important to go back to that definition and make it clear that it did not include such facilities.

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Piscopo.

REP. PISCOPO: (76th)

Thank you, Madam Speaker. Just one more question, through you, to the proponent. Is there any proposed gassification plants proposed here in this state that you know of or are there any up operating?

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. Through you. There are

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none up and operating. I am aware of a company that is seeking to put that technology into use in the state of Connecticut. Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Piscopo.

REP. PISCOPO: (76th)

Thank you.

DEPUTY SPEAKER CURREY:

Representative Powers of the 151st.

REP. PISCOPO: (76th)

I'm sorry, Madam Speaker. My mike went off.

DEPUTY SPEAKER CURREY:

Oh. I'm sorry. I thought you were done, sir.

REP. PISCOPO: (76th)

Thank you, Madam Speaker. I was just kind of worried. A red flag went up here. When I first got elected, there were these wood-burning power plants going up near my district. And we were successful in getting a moratorium on them. I was worried over over-forest-- deforestation as a result of these because of the voracious appetite that these plants would acquire that actually produce electricity from them. So I was very concerned about this.

I'm concerned that it didn't come up in the Environment Committee. But I thank the woman, the

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Chairman of the Environment Committee, for her answers.

And thank you very much, Madam Speaker.

DEPUTY SPEAKER CURREY:

Thank you, sir.

Now Representative Powers from the 151st.

REP. POWERS: (151st)

Thank you, Madam Speaker. A few quick questions, through you, to the proponent of the amendment.

DEPUTY SPEAKER CURREY:

Please frame your questions.

REP. POWERS: (151st)

Thank you, Madam Speaker. Section 4(d), Lines 7, 8 and 9, 'at some point in the next, I guess, 36 hours we're going to be dealing with a budget and that kind of thing. And, hopefully, in that we will be dealing with the acquisition of the Kelda Water Company lands in Connecticut. And I just want to be sure that Lines 7, 8 and 9 don't interfere with our ability to do that.

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. Through you. What those lines would actually do would be to enable, in that situation, if it were the case, a non-profit land-

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holding conservation organization to be the recipient of title or a conservation easement to Class 2 lands or the access easement across Class 1 lands. Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Powers.

REP. POWERS: (151st)

Thank you, Madam Speaker. And then I heard, through you, Madam Speaker, part of what you were talking about was the biomass gassification plant. But there was a lot of chit-chat over here and I didn't hear all of it.

Is this an existing plant? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. No, this does not refer to any existing plant. Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Powers.

REP. POWERS: (151st)

Thank you, Madam Speaker. Are we building one or are we planning one? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

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Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. Through you. There are -- there is an entity that I am aware of in the state that is seeking funding and a site for such a facility.

Perhaps it would help the Chamber if, when we talk about biomass gassification, we're really talking about using the gassification of biomass in order to be the fuel source for a fuel cell. This is an extremely clean source of energy and really bears no relationship whatsoever to most of our concepts of wood-burning facilities, which was the reason for the second change in section -- or Sub-section 24 of Section 9.

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Powers.

REP. POWERS: (151st)

Thank you very much for the answer. And then just one last quick question. On Lines 67 through 71, we're adding -- for just -- it seems like just for distressed municipalities or targeted investment communities the approval of the chief elected official or the governing legislative body.

Through you, Madam Speaker. Is that not required for any of the other things? Through you.

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DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. By placing that language in there, we are enabling a land conservation organization created within a distressed municipality or targeted investment community to receive the 65-percent reimbursement rather than the 50-percent reimbursement that is true for other such entities. Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Powers.

REP. POWERS: (151st)

Thank you, Madam Speaker. So for the higher threshold, they've got to go through their local folks? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. Those entities would already be able to do that if it was just the municipality applying for the funding. This would enable a land conservation organization within that municipality to have access to that same level of funding. Through you, Madam Speaker.

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DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. POWERS: (151st)

Powers.

DEPUTY SPEAKER CURREY:

Representative Powers.

REP. POWERS: (151st)

That's okay. Sawyer, Powers, Stratton.

Thank you, Madam Speaker. And I thank the lady for her answers.

DEPUTY SPEAKER CURREY:

Representative Dickman of the 132nd.

REP. DICKMAN: (132nd)

Thank you, Madam Speaker. I have two quick questions to the proponent of the amendment.

DEPUTY SPEAKER CURREY:

Please frame your questions, sir.

REP. DICKMAN: (132nd)

Through you, Madam Speaker. Would the Chairman of the Environment Committee tell me -- I assume the answer is that through -- but are all these lands to be used for passive open space, no active open space at all? Through you, Madam Chairman.

DEPUTY SPEAKER CURREY:

Representative Stratton.

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REP. STRATTON: (17th)

Thank you, Madam Speaker. Any of the funds that are expended from existing programs, the National Heritage Trust Program and others, all have a requirement in them that that land be used for passive recreation purposes only. Through you, Madam Speaker.

REP. DICKMAN: (132nd)

Thank you --

DEPUTY SPEAKER CURREY:

Representative Dickman.

REP. DICKMAN: (132nd)

Thank you. And I have one other question, through you, Madam Speaker. Am I correct in reading in this amendment that there's going to be change in philosophy where Class 1 land will be sold to entities other than just other water companies? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you. Through you, Madam Speaker. It is not the actual sale of Class 1. It is the public access easement to that land if such use or public access is not inconsistent with protection of that water supply as determined by the Department of Public Health. Through you, Madam Speaker.

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DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. DICKMAN: (132nd)

No. Representative -- Madam Speaker, I believe I have the floor. Madam Speaker --

DEPUTY SPEAKER CURREY:

I'm sorry.

REP. DICKMAN: (132nd)

Madam Speaker, through you again. I guess that brings up one last question. In any event, any of these would have to get a permit from the Public -- from the Public Health Department? Am I correct in that? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Madam Speaker. The underlying existing language says that the Commissioner may grant a permit or access as long as such existing language says as long as such is consistent with protection of that water supply. Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Dickman.

REP. DICKMAN: (132nd)

Thank you, Madam Speaker. And I thank the gentle

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lady for her answers.

DEPUTY SPEAKER CURREY:

Thank you, sir.

Would you care to comment further on the amendment before us? Would you care to comment further? If not, I'll try your minds.

All those in favor please signify by saying Aye.

VOICES:

Aye.

DEPUTY SPEAKER CURREY:

All those opposed Nay?

The amendment is adopted.

Representative Winkler of the 41st.

REP. WINKLER: (41st)

Thank you, Madam Speaker. The Clerk has an amendment, LCO 8591. Would the clerk please call and may I be allowed to summarize?

DEPUTY SPEAKER CURREY:

Will the Clerk please call LCO 8591, designated House "B"?

THE CLERK:

LCO No. 8591, House "B", offered by Representatives Winkler, Stratton, et al.

DEPUTY SPEAKER CURREY:

Representative Winkler.

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REP. WINKLER: (41st)

Yes. Thank you, Madam Speaker. What this amendment would do is to reduce the littering fine from \$200.00 to \$199.00 and share the fines with municipalities. And I move adoption.

DEPUTY SPEAKER CURREY:

The question before us is on adoption.

Would you care to remark further, Madam?

REP. WINKLER: (41st)

Yes. Thank you, Madam Speaker. The reason I'm proposing to lower the fine from 200 to \$199.00 is the fact that people that are being -- receiving tickets and are arrested for littering are opting for jury trials. And because the courts are so bogged down, they're throwing the cases out of the court and the people are getting away without being fined. So if we're serious about cleaning up our roads and enforcing our littering laws, this would go a long way in doing so. And it would certainly have the municipality take an issue in enforcing it by sharing the fines.

I have some other information from OFA on this. And according to them, there was not one arrest last year for anyone in the state of Connecticut for littering.

So it's a minimal loss to the State and a minimal

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potential gain of revenue for the municipalities. And I urge the Chamber's support. Thank you.

DEPUTY SPEAKER CURREY:

Thank you, Madam.

Representative Backer of the 121st. Would you care to comment on the amendment before us? No? Thank you.

Would you care to comment on the amendment before us? Would you care to comment on the amendment before us? If not, I will try your minds.

All those in favor, please signify by saying Aye.

VOICES:

Aye.

DEPUTY' SPEAKER CURREY:

All those opposed Nay?

The amendment is adopted.

Representative Stratton of the 17th.

REP. STRATTON: (17th)

Thank you, Madam Speaker. The Clerk has an amendment, LCO 8766. If he would call and I be allowed to summarize?

DEPUTY SPEAKER CURREY:

Will the Clerk please call LCO 8766, designated House "C"?

THE CLERK:

LCO No. 8766, House "C", offered by Representative

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Stratton.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. This is a very lengthy amendment but it actually makes relatively minor, but very important, changes in our crucial Transfer Act which deals with the transfer of establishments or facilities that are potential sources of contamination or likely sources of contamination.

It seeks to clarify some of the times when a Transfer Act filing is not required. It also seeks to deal with an issue which is increasingly true; that an establishment has hazardous wastes on it which is covered and for which we have remediation/cleanup standards but that there are other substances, hazardous substances, which may not be cleaned up in the process, and would embrace them if a property is already an establishment.

It also just carries a lot of the language through and repeats that within the filing of a Form 1, Form 2, Form 3 or Form 4 in order to make that language consistent and, again, to try to embrace the cleanup of hazardous substances in addition to hazardous waste on these sites if there is significant quantity of them.

It also tries to deal with the issue of the fact that when you have these sites, often they are subject to a lot of public notice and other such kinds of things. And we have tried to clarify the provisions within that, just consistency changes in terms of designating parcels.

There is one other section of this amendment that deals with notice and permit requirements for very minor modifications in Title 5 sources or other sources that are subject to a general permit and does not require those individuals to go through the same kind of elaborate process to make those minor modifications.

And I would urge adoption of the amendment.

DEPUTY SPEAKER CURREY:

Thank you, Madam.

The question before us is on adoption of the amendment.

Representative Belden of the 113th.

REP. BELDEN: (113th)

Thank you, Madam Speaker. Madam Speaker, this amendment is rather lengthy and deals with conveyance of properties and interest in properties. And I just wonder, through you, to the lady bringing out the bill, did this particular proposal have a public hearing? Through you, Madam Speaker.

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DEPUTY SPEAKER CURREY:

Please proceed, sir.

REP. STRATTON: (17th)

Thank you, Madam Speaker. Through you. This did have a public hearing in the form of another bill number that actually has already passed this Chamber. Some of these language changes were not in the bill as it passed this Chamber and we were planning to correct them in this bill, anyway. It seemed cleaner to put it all together in one bill.

In addition to a public hearing, I will let the gentleman know that it has had continuous conversation in the halls between the Department of Environmental Protection and many of the entities that are the prime people trying to transfer these establishments.

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Belden.

REP. BELDEN: (113th)

Through you, Madam Speaker. Are any of these entities have had discussions related to the Judiciary Committee?

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

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Through you, Madam Speaker. I'm not sure I understand the intent of the question.

DEPUTY SPEAKER CURREY:

Representative Belden.

REP. BELDEN: (113th)

Madam Speaker, I'm just trying to determine whether or not anybody from the Judiciary Committee has had an opportunity to review these portions of the file before us that deal with conveyance, et cetera. Not that I'm going to ask that it be sent there.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Madam Speaker. I do not have the file of the Bill 6914 that had the other things in it. This does not change penalty provisions or anything of that sort. But it is my recollection that the other bill go to the Judiciary Committee. But I do not have that history in front of me. If it's important to the member, I would ask for us to stand at ease for me to check that file. But -- through you, Madam Speaker.

REP. BELDEN: (113th)

Madam Speaker, that's really not necessary.

It is quite a complex amendment and I just wanted to better understand, you know, how long the amendment

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with the changes -- through you, Madam Speaker, how long has this amendment been in print? Let me try that one.

I think my copy felt warm when I got it.

REP. STRATTON: (17th)

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

This particular file has been in print probably for about three hours. Very minor modifications of it. There were four lines that were deleted between the one that had been out for a longer period of time that embraced some properties we had no intention to embrace.

And, actually, as I was thinking about it, 6914 that I referred to earlier did include language that I know made that bill go to the Judiciary Committee. So it did, indeed, go to Judiciary.

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Belden.

REP. BELDEN: (113th)

I thank the lady for her response. You know, it was very difficult. These are all the amendments that have been filed. Each iteration, I've attempted to try

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to see what's been changed. And we're in that time frame right now. We're in the last couple of days. And amendments are everything. Believe me. I hope the membership will keep an eye on these as we move forward.

Madam Speaker, I rise in support of the bill before us.

DEPUTY SPEAKER CURREY:

Representative Knopp of the 137th.

REP. KNOPP: (137th)

Thank you, Madam Speaker. Madam Speaker, this bill has not been to the GAE Committee. And in the file copy reported out by the Environment Committee, which was certainly not just technical revisions, there was a conveyance matter, in my mind improperly, in the file copy.

And my question to the distinguished Chairwoman of the Environment Committee is is there anything in this bill, either the file copy or with the additional amendments, that deals with the status of the reverter clause that affects the Stratford Shakespeare Theater situation? Through you, Madam Speaker.

REP. STRATTON: (17th)

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

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REP. STRATTON: (17th)

No, there is not.

DEPUTY SPEAKER CURREY:

Representative Knopp.

REP. KNOPP: (137th)

Thank you, Madam Speaker. That matter was the last section in the file copy. So is it safe to assume, based on your answer, that one or another of these amendments has removed that entirely from the bill? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. KNOPP: (137th)

It was in the -- Madam Speaker, just to refresh her recollection, in the last section in the file copy as reported out by the Environment Committee.

REP. STRATTON: (17th)

I'm just trying to find Section 8 that deals with that. While I'm looking for it, I share the gentleman's concern about the issue. So I do want to make sure that we are correct here. But this is jumping from --

Madam Speaker, so I don't answer this without being certain, I think this section, the beginning part of the amendment before us says Section 8 in the statutes is repealed and -- but that is not the Section 8 that is in

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this. So if I could ask for us to stand at ease for a moment to be certain, I would appreciate it.

DEPUTY SPEAKER CURREY:

The Chamber will stand at ease, Madam.

REP. STRATTON: (17th)

Madam Speaker?

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you very much. And I appreciate the Chamber's indulgence.

As I indicated in my response to Representative Knopp, I share his concern. And that language did not come out in the amendments that we have yet dealt with on this bill. There are amendments that we yet plan to call on the bill that do address that issue.

Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Knopp.

REP. KNOPP: (137th)

Thank you, Madam Speaker. Madam Speaker, I thank the distinguished Chairwoman for her answer. And I'm just putting the Chamber on notice that if the section that was just referenced is not stricken from the bill, I will make a point of order at that time to refer this

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to the GAE Committee because this is a matter affecting a conveyance and it's not appropriate on a bill titled "technical revisions" to have a substantive revision that was not brought to the attention of the GAE Committee which has the duty to protect the public interest in conveyance matters.

So I will be glad to wait until an amendment is offered to strike Section 7 of the file copy. If that's not successful, the move to refer the bill.

Thank you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Thank you, sir.

Would you care to remark further on the amendment before us? Would you care to remark further on the amendment before us? If not, I'll try your minds.

All those in favor please signify by saying Aye.

VOICES:

Aye.

DEPUTY SPEAKER CURREY:

All those opposed Nay?

The Ayes have it. The amendment is adopted.

Representative Horton of the 2nd.

REP. HORTON: (2nd)

Thank you, Madam Speaker. Good evening, Madam Speaker. Madam Speaker, the Clerk is in possession of

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LCO 8366. Would he call and I be allowed to summarize?

DEPUTY SPEAKER CURREY:

Would the Clerk please call 8366, designated House "D"?

THE CLERK:

LCO No. 8366, House "D", offered by Representatives Cardin and Horton.

DEPUTY SPEAKER CURREY:

Representative Horton.

REP. HORTON: (2nd)

Thank you, Madam Speaker. This is just essentially a technical addition to the bill that we have before us.

What this amendment does is it --

DEPUTY SPEAKER CURREY:

Excuse me.

Representative Prelli, for what purpose do you rise, sir?

REP. PRELLI: (63rd)

Madam Speaker, we don't have copies of this amendment.

DEPUTY SPEAKER CURREY:

Well, the Chamber will stand at ease for a moment.

REP. HORTON: (2nd)

Madam Speaker?

DEPUTY SPEAKER CURREY:

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Does the Chamber now have copies?

The House will come back to order. And we will return to Representative Horton.

REP. HORTON: (2nd)

Thank you, Madam Speaker. For those of you smelling a rat here, I just wanted to say that this amendment actually should help us control some rats in our municipalities.

But in all seriousness, Madam Speaker, this is a brief amendment with the designation to keep the separation between those who get a nuisance wildlife control or animal control license from a municipality, if they use it in a municipal capacity, to keep them from not using it for a private or commercial use.

And I move its adoption.

DEPUTY SPEAKER CURREY:

The question before is on adoption of the amendment. Would you care to remark further on the amendment before us?

REP. HORTON: (2nd)

Madam Speaker, if you don't mind, I will. There is no fiscal -- there is no fiscal impact on this amendment. Thank you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Thank you, sir.

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Representative Bernhard of the 136th.

REP. BERNHARD: (136th)

Thank you, Madam Speaker. Good amendment. Should pass. Thank you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Thank you, Representative.

Representative Cardin of the 53rd.

REP. CARDIN: (53rd)

Yes. I'd just like to say ditto.

DEPUTY SPEAKER CURREY:

Thank you.

Would you care to remark further on the amendment before 'us? Would you care to remark further? If not, I'll try your minds.

All those in favor please signify by saying Aye.

VOICES:

Aye.

DEPUTY SPEAKER CURREY:

All those opposed Nay?

VOICES:

No.

DEPUTY SPEAKER CURREY:

The amendment is adopted.

Representative Backer of the 121st.

REP. BACKER: (121st)

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Thank you, Madam Speaker. The Clerk has LCO 8612. Would they please call and may I have leave to summarize?

DEPUTY SPEAKER CURREY:

Will the Clerk please call LCO 8612, designated House "E"?

THE CLERK:

LCO No. 8612, House "E", offered by Representative Backer.

DEPUTY SPEAKER CURREY:

Representative Backer.

REP. BACKER: (121st)

Thank you, Madam Speaker. This amendment serves to resolve a problem in this. It strikes Section 7 in its entirety. And, you know, I have a little mixed emotions about this. I think this bill is important enough to move on without any more problems here. So I urge adoption.

DEPUTY SPEAKER CURREY:

The question before us is on adoption. Would you care to remark further? Would you care to remark on the amendment before us? Would you care to remark on the amendment before us? If not, I'll try your minds.

All those in favor please signify by saying Aye.

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Aye.

DEPUTY SPEAKER CURREY:

All those opposed Nay?

The amendment is adopted.

Would you care to remark further on the bill before us as amended? Would you care to remark further on the bill as --

Representative Prelli of the 63rd.

REP. PRELLI: (63rd)

Madam Speaker -- excuse me. Madam Speaker, through you, a question to the proponent of the bill.

DEPUTY SPEAKER CURREY:

Frame your question, sir.

REP. PRELLI: (63rd)

Representative Stratton, I have an amendment and I'm not sure why we called it. So on Line 134 of the bill, it says Section 10 of Special Act 91-395. And I think in our screening we thought that should be a Public Act. Does the lady know whether it was a Special Act or a Public Act? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Through you, Madam Speaker. I do not know.

DEPUTY SPEAKER CURREY:

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Representative Prelli.

REP. PRELLI: (63rd)

Well, Madam Speaker, I think there are some other people who want to speak on this. So I'll let them go and I'll do a little more checking before we look at our amendment. Thank you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Thank you, sir.

Would you care to remark further on the bill before us as amended? Would you care to remark further --

Representative Dickman of the 132nd.

REP. DICKMAN: (132nd)

Thank you, Madam. Just for the second time. I just really want to express my disappointment that we're taking Class 1 lands away from water companies and putting them into other lands. I think that's a slippery slope we're going down and I'm concerned about what will happen in the future.

DEPUTY SPEAKER CURREY:

Thank you, sir.

Would you care to remark further?

Representative Carson of the 108th.

REP. CARSON: (108th)

Yes, Madam Speaker. The Clerk has an amendment, LCO No. 8304. Would the Clerk please call and I be

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allowed to summarize?

DEPUTY SPEAKER CURREY:

Would the Clerk please call LCO 8304, designated House "F"?

THE CLERK:

LCO NO. 8304, House "F", offered by Representatives Stratton, et al.

DEPUTY SPEAKER CURREY:

Representative Carson.

REP. CARSON: (108th)

Thank you, Madam Speaker. Madam Speaker, what this amendment seeks to do is basically give the proper tools to the Commissioner of Environmental Protection so that they can continue to offer the proper training to our lake patrol officers.

And I move adoption.

DEPUTY SPEAKER CURREY:

The question before us is on adoption.

Would you care to remark further, Madam?

Would you care to remark on the amendment before us?

Representative Boughton of the 138th.

REP. BOUGHTON: (138th)

Madam Speaker, we don't have the amendment.

DEPUTY SPEAKER CURREY:

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We'll wait while your side distributes it, sir.

Now, that they have the amendment, may we proceed?

Would you care to comment further, Representative -  
- would you care to comment further, Representative  
Boughton of the 138th?

REP. BOUGHTON: (138th)

Thank you, Madam Speaker. Madam Speaker, this amendment addresses a situation that has occurred in one of our local areas that Representative Carson, myself, Representative Godfrey, obviously everybody listed on the amendment. It's really a very minor technical change in our statute, to continue doing what we've always done on this lake. And I'd like to commend Representative Carson in really kind of taking the bull by the horns in getting this situation solved for the Candlewood Lake community.

I urge its adoption.

DEPUTY SPEAKER CURREY:

Thank you, sir.

Would you care to comment further on the amendment before us? Would you care to --

Representative Miner of the 66th.

REP. MINER: (66th)

Thank you, Madam Speaker. I guess, through you, to the proponent of this amendment. Will this allow any

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lake authority to have their people trained to carry batons? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Carson.

REP. CARSON: (108th)

Through you, Madam Speaker. Yes, it would.

DEPUTY SPEAKER CURREY:

Representative Miner.

REP. MINER: (66th)

And I guess I'm wondering out loud whether there's any -- with that certification, whether there's any requirement for additional insurance, such as a police type insurance rather than a boat patrolman's type insurance. Through you, to the proponent of the amendment. Do you have any knowledge of whether the insurance requirement might be different?

DEPUTY SPEAKER CURREY:

Representative Carson.

REP. CARSON: (108th)

Through you, Madam Speaker. I can speak for the towns that I represent. The particular lake authority here purchases their liability insurance.

DEPUTY SPEAKER CURREY:

Representative Miner.

REP. MINER: (66th)

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So I take that as meaning that the cost to the municipality -- there would actually be no cost to the municipality? Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Carson.

REP. CARSON: (108th)

No. Through you, Madam Speaker. Actually, the municipalities contribute toward the cost for that liability insurance. The municipalities are responsible and they have been for many years under the same statute.

DEPUTY SPEAKER CURREY:

Representative Miner.

REP. MINER: (66th)

Thank you, Madam Speaker. And I thank the maker of the amendment for her comments.

DEPUTY SPEAKER CURREY:

Would you care to comment further on the amendment before us?

Representative Boughton..

Would you care to comment further on the amendment before us? If not, I'll try your minds.

All those in favor please signify by saying Aye.

VOICES:

Aye.

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DEPUTY SPEAKER CURREY:

All those opposed Nay?

The Ayes have it. The amendment is adopted.

Would you care to comment further on the bill before us?

Representative Prelli of the 63rd.

REP. PRELLI: (63rd)

Madam Speaker, after some further investigation, it does appear that an amendment is necessary. And, Madam Speaker, with that in mind, the Clerk has an amendment.

It's LCO No. 7115. Could he please call and read?

DEPUTY SPEAKER CURREY:

Would the Clerk please call LCO 7115, designated House "G"?

THE CLERK:

LCO No. 7115, House "G", offered by Representative Prelli, et al.

DEPUTY SPEAKER CURREY:

Representative Prelli.

REP. PRELLI: (63rd)

Madam Speaker, I asked to have it read. Have it read?

DEPUTY SPEAKER CURREY:

Would the Clerk please read the amendment?

THE CLERK:

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In Line 134, strike "Special" and insert "Public" in lieu thereof.

DEPUTY SPEAKER CURREY:

Representative Prelli.

REP. PRELLI: (63rd)

Madam Speaker, I move adoption.

DEPUTY SPEAKER CURREY:

The question before us is on adoption.

Please proceed.

REP. PRELLI: (63rd)

Thank you, Madam Speaker. Madam Speaker, this is a technical amendment found by our screening team. It refers to a Public Act later on in that section. This should be a Public Act. So it's sort of self-explanatory.

DEPUTY SPEAKER CURREY:

Thank you, sir.

Would you care to comment further on the amendment before us? Would you care to comment further on the amendment before us?

Representative Carter.

REP. CARTER: (7th)

Madam Speaker, we don't have the amendment over here.

DEPUTY SPEAKER CURREY:

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We will pause while we have it distributed on this side of the House.

The amendment has been distributed.

Would you care to comment further? Would you care to comment further? If not, I'll try your minds.

All those in favor please signify by saying Aye.

VOICES:

Aye.

DEPUTY SPEAKER CURREY:

All those opposed Nay.

The amendment is adopted.

Representative Bernhard of the 136th.

REP. BERNHARD: (136th)

Thank you, Madam Speaker. Through you, Madam Speaker, just a quick question to the proponent of the bill.

DEPUTY SPEAKER CURREY:

Please frame your question, sir.

REP. BERNHARD: (136th)

Representative Stratton, we had an earlier conversation today with respect to the sale of Class 1 and Class 2 lands. And I wondered if you would just give me some assurance that in point of fact when we sell or if we're authorizing the sale of conservation easements on Class 1 lands or Class 2 lands, that

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outside of a water company or municipality or the State, that it would only be to a not-for-profit entity entrusted with the care and preservation of the conservation easement. Through you, Madam Speaker.

DEPUTY SPEAKER CURREY:

Representative Stratton.

REP. STRATTON: (17th)

Thank you, Madam Speaker. And through you. I actually thank the Representative for the question because it was obvious from another Representative's remarks that he was concerned about that.

The language in the amendment that we passed earlier, the first amendment, House "A", clearly states that that conveyance of either the land itself or public access in the case of Class 1 land, both of those would have to be -- the only thing we're adding is to a non-profit land-holding conservation organization. In all of those instances, that land would be accompanied by a permanent conservation easement.

Through you, Madam Speaker.

DEPUTY SPEAKER HYSLOP:

Representative Bernhard.

REP. BERNHARD: (136th)

I thank the distinguished Chair for that response.

DEPUTY SPEAKER HYSLOP:

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Will you remark further on the bill? Will you remark further on the bill? If not, staff and guests to the well of the House. The machine will be opened.

THE CLERK:

The House of Representatives is voting by Roll Call. Members to the Chamber. The House is voting by Roll Call. Members to the Chamber please.

(Whereupon, a Roll Call vote was taken.)

DEPUTY SPEAKER HYSLOP:

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

(Whereupon, a tally was taken of votes cast.)

DEPUTY SPEAKER HYSLOP:

The Clerk will announce the tally.

THE CLERK:

H.B. 6997, as amended by House "A", "B", "C", "D", "E", "F" and "G". Total number voting, 144; necessary for passage, 73; those voting Yea, 144; those voting Nay, zero; absent, not voting, six.

DEPUTY SPEAKER HYSLOP:

The bill as amended passes.

Representative Godfrey.

REP. GODFREY: (110th)

JOINT  
STANDING  
COMMITTEE  
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you mentioned instances where the other alternatives aren't real alternatives or maybe there's seven options and six are discarded because they're not realistic options. How do you get to a point where maybe you can, you know, reverse the flow to make people go back and find, or exhaust all avenues to find real alternatives.

KARL WAGENER: I'm not sure, but my reading of this bill in the first section is an attempt at that, by requiring the agency to identify by function what it needs. It needs a building with 200,000 square feet with access to mass transit or something like that and once you define this criteria then they shouldn't be considering alternatives that don't meet those functional criteria.

So you require the agency to identify it right up front what it needs and then there's other things, so you don't have these strong man alternatives that you can just knock over by saying, well, they don't really meet the need. They should have never been on the table in the first place. That's how I read that part of the bill. We haven't thought of any other way to do that, but there might be.

REP. STRATTON: Any questions? Thank you.

KARL WAGENER: Certainly.

REP. STRATTON: Jane Stahl.

DEP. COMM. JANE STAHL: Good morning again, Representative Stratton and good morning for the first time, members of the Committee. I'm here this morning to make some comments on several bills that are before you. the Department has submitted written testimony on H.B. 6997 AN ACT CONCERNING TECHNICAL REVISIONS TO THE ENVIRONMENTAL STATUTES, H.B. 7000 AN ACT CONCERNING WATER DIVERSIONS and H.B. 6999 AN ACT CONCERNING REVISIONS TO THE CONNECTICUT ENVIRONMENTAL POLICY ACT.

I had to name them off because if you'll recall, the last time I was here before you I forgot to comment on one of the bills that I had meant to, so perhaps this will keep me on the straight and

narrow..

Let me start with H.B. 6997 AN ACT CONCERNING TECHNICAL REVISIONS TO THE ENVIRONMENTAL STATUTES.

The Department would like to render its strong support for this bill. Sections 1 through 7 of the bill concern legislative changes to the Property Transfer Act.

We have had significant experience with the act at this point in time and have identified with the help of the people who are subject to this act and who guide people who are subject to this act, areas in need of clarification, areas in need of filling out, if you will. And that's, I think, what is actually accomplished by the recommended revisions to this bill.

We will providing better guidance to the regulated community, therefore lessening the confusion as to when the Transfer Act actually applies, creating of course, a better opportunity for environmental protection and removing barriers to economic development in the State of Connecticut.

We're also clarifying that petroleum contamination would be disclosed, looked for and disclosed as necessary, as part of the Transfer Act.

I have to deviate from the written testimony that we've provided to you to raise an issue which it seemed created some confusion as opposed to created clarification. It's been brought to our attention that by changing the definition of hazardous substances to include petroleum, there is concern that we have meant to increase the reach of the Transfer Act to gas stations that were not intended and are not intended to be included. And in fact, the language as proposed does not do that.

We have not modified, or the drafters have not modified the definition of hazardous waste and it is that definition which triggers those entities which are establishments subject to the Act. So I wanted to make that clear in case it was continuing to cause confusion or concern among the regulated community.

Another section of this bill addresses the Department's role in establishing hazardous waste regulations. My sense is that we share a great deal of frustration here and that this section, Section 15 was in fact to address the frustrations of the Department, the regulated community and I dare say this Committee, which has asked us on many occasions what the status of the Department's hazardous waste regulations are.

As you know, we are a federally delegated program in terms of many of our hazardous waste programs and when EPA changes its regulations there has been a great deal of lag time between the state's adoption of regulations that either strictly meet or deviate from those regulations.

So we are very pleased with the purpose of this section. We have provided some minor language modifications which we think will help to insure that the work that we have done to date to come, to bring the regulations in time with the federal regulations doesn't go unfulfilled and at the same time we maintain the opportunity to deviate from federal standards when it is necessary for the purposes of the State of Connecticut.

So we think with the slight modifications this is a section that we share your interest in and would in fact, support.

With regard to raised H.B. 7000 AN ACT CONCERNING WATER DIVERSIONS, here again I think we're sensing a great deal of frustration by the environmental community, by the regulated community and by the, you know, it's a frustration that the Department shares.

We think, however, that the bill needs to be looked at not at a stand alone and perhaps not alone at this time but in the context of the need for the state to develop a water resources allocation plan.

As many of you know and for those of you who don't, the Department responded to the Legislature's request last year by providing a report on the

usable by the Department without making us give something else up.

But to be honest, Senator, I cannot structure it, but we would look to work with you and with budget experts to see how best to structure such an increase.

SEN. LEBEAU: I'm going to say what you can't say which is this is another situation where the needs of the state are not being met, or are not adequately being met and that we may need to go off budget in order to solve the needs of the state or lift the cap. Thank you, Madam Chairman.

REP. STRATTON: I did not plant that question. (Laughter) For those of you who don't know, Jane and I were at a meeting earlier and I spoke about that exact same issue, so --

SEN. LEBEAU: Great minds!

REP. STRATTON: Actually, I want to return to a more specific question, Jane. In H.B. 6997 the technical bill, your proposal on the federal RCRA regs, the language that you have here, as I read it, and I know we can work on it more specifically, but my concern, what I read here looks like it would put us back into the never-never land that we are in, that if the federal government updates their regulations that prior to adoption which we certainly want to allow the Department to do new regs in the state, but merely when intent to adopt such regulations has been promulgated by the Commission, what is in force at that point?

Because the way this reads, it says, unless the Commission has published notice of intent. Does that mean that the federal regs, it seems like that's right back (inaudible-mike went off)

DEP. COMM. JANE STAHL: Right. By operational law, the federal regulations prevail unless and until Connecticut adopts specific regulations to address that same area.

One of our dilemmas is that we have to work within

the context of the federal system. The federal regulations are not updated in whole every time they're updated. It is part of what is so, you know, so damnably frustrating to the regulated community as well as to the Department and I dare say to EPA itself. It takes charts of the stars and GPS to navigate those retro regulations in order to understand specifically what is required.

Our goal will be to in fact, adopt the federal regulations, or have them be in place without change by the state so that there is one consistent body of law as set by the federal government unless in what we expect to be rare instances there are things that need to be made Connecticut specific. And that's why we're comfortable with, you know, what we'd like to do is give ourselves to 2002 to make the modifications that we have been working on, that are in fact Connecticut specific both for the benefit, by the way, of the regulated community in order to streamline some of the programs with which we regulate them as well as to further the protections for the community.

So, I understand your concern. It looks like we're just leaving ourselves you know, a total out, but the intent is to have the federal law prevail from 2002 forward unless we make the specific effort to publish a notice of intent.

And we do have prior knowledge and advance warning of what EPA is proposing when they're proposing it, so it could be a somewhat coterminous publication.

If we see what they're coming out with is not going to address the needs of Connecticut, we should be publishing right then and there our intent to make modifications.

REP. STRATTON: I think my only concern and we can deal with it semantically is that it's clear what is in force during that period of time. Other questions? If not, thank you very much. Timed that very well, too. Five minutes to spare.

At this point we will move into those members of the public signed up to testify. Again, we would ask that you limit your oral, your initial oral

year, your actual diversion --

JIM PERRY: No, what we --

REP. MUSHINSKY: -- your permitted diversion.

JIM PERRY: What we hand in every year is the water that's diverted from the waters of the state, the roll water that goes either through the wells and then is treated or through the treatment plant and is then sent out to the customers.

REP. MUSHINSKY: Okay. And is it the actual diversion or is it the permitted amount?

JIM PERRY: No, it's the actual amount used.

REP. MUSHINSKY: Okay. So you guys are already submitting that to at least one place.

JIM PERRY: That's correct.

REP. MUSHINSKY: But the grandfathered people are not submitting it.

JIM PERRY: We are grandfathered in some of our diversions and we are submitting that information.

REP. MUSHINSKY: No, but all the owners of a diversion are not currently submitting. You folks are --

JIM PERRY: That is correct.

REP. MUSHINSKY: -- to DPUC.

JIM PERRY: That is correct.

REP. MUSHINSKY: Okay, thank you.

REP. STRATTON: Other questions? Thank you. David Sutherland, followed by Bob Young.

DAVID SUTHERLAND: Good afternoon. My name is David Sutherland and I am here this afternoon representing the Nature Conservancy and we are here to thank you very much for raising and to urge your support with one modification that we're suggesting

HB 6997

for Section 16 of H.B. 6997 AN ACT CONCERNING  
TECHNICAL REVISIONS.

This suggestion, this section would enable and explicitly enable the Public Health Department to issue permits for, not for private nonprofit land holding conservation organizations to hold easement on Class 1 and Class 2 water company lands. The current statutes allow these organizations to be sold Class 2 land if there is an easement on those lands but the statutes don't explicitly enable these organizations to hold an easement on the land if another organization is sold the land such as the DEP or a municipality.

The current statutes also allow the outright sale of fee simple interest in Class 1 lands to the state, to municipalities and to another water company. And by enabling permits to be issued for nonprofit land conservation organizations to receive easements, we'd be enabling there to be greater flexibility in imposing truly permanent protection on these Class 1 and Class 2 lands.

This provision would in no way diminish the Health Department's ability and their requirement, actually, to regulate activities on this land. It would simply allow us to impose an additional layer of permanent protection on these lands.

When I made a suggestion as to how to address this issue, I suggested some language and didn't include some very important words in it and somebody foolishly took my advice, so we're making one suggested modification in our language here, with your indulgence, just adding a few words to the addition that you're proposing in the bill. So thank you again very much for raising this.

REP. STRATTON: You may give us foolish advice any time. You usually correct it, okay? Senator McKinney.

SEN. MCKINNEY: David, my understanding, in terms of a permit for the sale of Class 1 land, it can only be sold to a water company, agency, or a municipality. But with respect to state agency or municipality, it has to first be offered for sale to a water

company.

DAVID SUTHERLAND: Yes. Right. Yeah. Class 1, you're right. Yep.

SEN. MCKINNEY: So does that mean with respect to permits for the sale or assignment of conservation restrictions to nonprofit land holding that DPH would have, it would follow the same process so you'd first have to offer the conservation easement for sale to another water company?

DAVID SUTHERLAND: Good question. I haven't thought about that but yeah, we should address that. Yes.

SEN. MCKINNEY: Okay. Thanks.

DAVID SUTHERLAND: Be deliberate about that.

SEN. MCKINNEY: But that's not the intent, right?

DAVID SUTHERLAND: Right, it wasn't. But yeah, we should consider that, yeah. Thank you.

REP. STRATTON: Other questions? Thank you.

DAVID SUTHERLAND: Thank you.

REP. STRATTON: Bob Young, followed by Walter Jacowitz.

ROBERT YOUNG: Good morning, Senator Williams, Representative Stratton, members of the Committee. My name is Robert Young. I am here literally with two hats on this morning, both as the superintendent of the Town of Manchester Water and Sewer Department and as the Legislative Co-Chair of CWWA.

SB 1319

Manchester owns and operates and has done so for almost 70 years, a municipal water utility serving approximately 50,000 people in Manchester and Glastonbury. I am here to speak today in opposition to Raised H.B. 7000 AN ACT CONCERNING WATER DIVERSIONS and to indicate our support for the concepts and substance of the testimony previously submitted by the Connecticut Water Works Association.

The New Britain Board of Water Commissioners provides potable water and fire protection to 85,000 residents in central Connecticut, notably New Britain, Berlin, Farmington, Newington and Plainville. I'm here today on behalf of our Mayor, Mayor Pawlak and the Board of Water Commissioners to testify against H.B. 7000.

I'll be very brief. So many before me have testified on the same matter. The City of New Britain definitely shares the concerns expressed by the Connecticut Water Works Association in both their written and oral testimony.

You can be assured that the position of the City of New Britain is the same as CWWA on raised H.B. 7000. We believe also that it is legislation that would not solve a problem. We're not even sure of the problem that it's attempting to solve. The existing diversion process already has significant problems. It takes hundreds of hours and thousands of dollars and at best a year and a half to two years currently to process a diversion permit. To add hundreds, potentially thousands more diversion permit applications to this process, just simply would not work.

Again, my colleagues have testified to some of the other problems that this bill would raise and I won't take your time to repeat them but let you know that the City of New Britain definitely shares their concerns and definitely is opposed to this bill and we respectfully request that you reject this proposal.

REP. STRATTON: Thank you for your testimony.  
Questions? Thank you. Brian Freeman followed by Robert Carr.

BRIAN FREEMAN: Good afternoon, Representative Stratton, Senator Williams and members of the Committee. My name is Brian Freeman. I'm a lawyer with Robinson & Cole in the environmental section of our group and we are legal counsel for the Independent Connecticut Petroleum Association and that's who I'm speaking on behalf of this morning.

H86997

We're here to talk about raised H.B. 6997 AN ACT CONCERNING TECHNICAL REVISIONS TO ENVIRONMENTAL STATUTES and specifically to Sections 1 through 7 regarding the transfer act. We're not here to address any other sections.

We're speaking on behalf of ICPA but also informed by our extensive experience working with the Transfer Act as attorneys.

I'd like to just touch on three points. One, ICPA strongly supports nearly all the revisions proposed in the legislation to the Transfer Act.

Two, there is one provision of those proposed revisions that cause serious concerns that seem to cut against the clarification thrust of all the other revisions with respect to the Transfer Act.

Three, I'd like to address an apparent error in drafting and also there is another drafting issue that would cause significant headaches if they were not addressed now. But fortunately, we think they can be very quickly.

With respect to the revisions again, ICPA supports those revisions. Deputy Commissioner Stahl mentioned that the revisions are intended to provide better guidance to the regulated community. We agree with that heartily. This is a very complicated statute.

However, there is one provision in those revisions that we think cuts against that purpose and would have the exact opposite effect. That revision would be the expansion of the Transfer Act to hinge not just on the term hazardous waste, the releases of hazardous waste but releases of hazardous substances. That would greatly expand the scope of the Transfer Act and in particular, it would make it very difficult for parties to take routes that the Transfer Act currently provides, to get out of the Transfer Act and we think that would have an effect of undermining the great progress that was realized several years ago through the work of the Legislature and this Committee in particular, and of the Department.

And in particular, we're speaking about the effect that talking about hazardous substances would have on a party that's looking at a parcel through his consultant and trying to determine, can he file a Form 1 or a Form 2 which is Transfer Act lingo for saying there's never been a release on the property or there's been a release but it's been cleaned up and we have certification by our licensed environmental professional that the clean up complies with the Department's clean up criteria, the RSR, the remediation standard regulations.

That was a great accomplishment of this Committee and the Legislature several years ago. That has greatly simplified the Transfer Act's applicability to many sites. However, if we were to drop in the term hazardous substance into that analysis what would happen is two main things.

A party looking to determine if there has been a release of hazardous substance at the site, at the establishment, would now have a very difficult task. The list of hazardous substances is several hundred items long and within those several hundred items, there are families of items, compound families, etc. It's very difficult to get a full handle on the entire list of hazardous substances.

May I wrap up my remarks? That would mean that a party would have to assume that there has been a release. The next question becomes, has that release been remediated in accordance with the RSRs. The question then would be very difficult to answer if we were talking about hazardous substances and hazardous substances as I said are several hundred, the RSRs address only a small fraction.

For that, we'd urge the Committee to pass the bill but to take out the reference to hazardous substances.

REP. STRATTON: Thank you very much. If I could just follow up on that. There are RSRs that apply to hazardous substances as opposed to define hazardous waste, aren't there?

BRIAN FREEMAN: There are certain RSRs. That's to say, clean up criteria, that apply to approximately several dozen substances.

REP. STRATTON: So if this were narrowed to those hazardous substances that are subject to criteria under the RSRs limits, would that --

BRIAN FREEMAN: That would take care of the concern.

REP. STRATTON: Other questions? Thank you very much. Robert Carr followed by Gary Cluen.

ROBERT CARR: Good afternoon, Committee members. My name is Robert Carr. I'm a licensed environmental professional as well as a Connecticut professional engineer with the firm Geologic Services Corporation. We're an environmental consulting and engineering firm.

When I first had a chance to review, I'm here to talk about H.B. 6997, particularly an act concerning revisions to 22a-134 the Transfer Act regulations. With all due respect to the DEP and Deputy Commissioner Stahl on the DEP's intention of clarification of certain issues within the bill, there are a couple of items that will have some significant, what I feel significant unintended consequences, first of which is the actual change of the definition of an establishment.

What the regulation as proposed would delete vehicle painting facilities, basically and include the word vehicle facility. It's a big change, significant change and by the definition of just strictly from Webster's it is a facility is something that is built, installed or established to serve a particular purpose. And for vehicles that may include, from car washes, service stations, auto garages, radiator repair, drive through windows, maybe even parking lots and garages and the term is just way too vague.

A few years ago, a similar problem occurred with the term vehicle was subsequently amended a few years later with the definition that's in the

regulations now.

The fact that the comment that was made that gasoline service stations would not be affected, even given the current exemption there, by having the term vehicle facility in there our firm currently has approximately 95 service station cases and out of those, only two would be exempted as the bill is currently structured. So we feel that's a very large oversight.

Secondly is that the regulation as proposed in the breadth that it kind of throws a blanket or umbrella over, a bunch of different industries, commercial industrial facilities that was not originally intended, there has been a lot of changes in the environmental regulations themselves since this bill was first enacted in the mid to late eighties.

We have USD regulations, for instance, that handle releases from specifically underground storage tanks. There is a bill 22a-450 which is reporting of any spills or release on site that have to be taken care of and the DEP can actually issue liens if the spill is not investigated or remediated in accordance with the regulations.

And also there's a more recent enactment was the reporting of the significant environmental hazards, so there has been some amendments made to cover specific releases from commercial, severe, that may impact public health and the environment and we feel, I feel that this bill overlaps some of those other acts and regulations.

I think one of the things, you have to step back and I'd like the Committee to kind of take a look at it on a big picture view and a broader perspective on what are the objectives of the proposed regulative changes in this bill as it takes into account the other environmental acts and regulations currently on the books.

So, with that, I am looking to have at least this section of the bill rejected.

REP. STRATTON: Thank you for your testimony. Are there questions? Thank you. Gary Cluen followed by Paul Hrymiewicz.

GARY CLUEN: Good afternoon, Representative Stratton, Senator Williams and members of the Committee. My name is Gary Cluen. I am the President of the Environmental Professionals Organization of Connecticut. We have submitted some written comments regarding Raised H.B. 6997 and I'd like to discuss them briefly. HB 6997

EPOC is in favor of this bill since it would put contaminated properties which meet the definition of establishment into a position that requires the remediation of all the releases on those properties.

Currently only those properties where there has been a release of hazardous waste are in that position. If no release of hazardous waste occurred, then all other releases on the properties do not have to be addressed under the property transfer program and a Form 1 could be filed. Public perception is that a property with a Form 1 file is deemed to be clean property when the truth is, it could be far from it.

We have some specific comments that we believe should be addressed in the bill. The first one is Section 1-3, the definition of establishment. There is an exclusion for waste generated as a result of remediation in determining whether the site meets the definition of establishment.

It is currently worded to exclude soil but the revision would include ground water and sediment. However, the term sediment is not clearly defined in this context. Sediment can be a natural soil-like material in the beds of waterways or it can be an unnatural material which precipitates or is deposited in catch basins and pipe lines, tanks, containers at a facility from a waste water discharge system. We would like some clarification on that and what the intent is.

This section also contains the new definition of a

vehicle facility. We would like some clarification on that intent as well. We understand, however, there might be just an editorial mistake in the placement of the bracket in the version that we got but it should be clearly defined if that is just not a mistake.

We would also like to take the opportunity in this bill to suggest removing the requirement for the DEP to develop standards for performing site characterizations. The reference in the bill that states in accordance with standards adopted by the Commissioner and regulations adopted in accordance with the provisions of Chapter 54 or until January 1, 2002 should be taken out and we believe it's referenced in there six times.

The DEP regulation, in order to be protective of human health in the environment on all properties if developed, would necessarily have to be overprotective on most sites, resulting in higher costs of investigations. Also, the investigation field is rapidly evolving and new techniques are being devised routinely while regulations are in place. Such new techniques could not be used until the revision of the regulations were to occur, which could be several years after the technique was invented.

EPOC previously commented on Sections 2 and 3 of raised H.B. 6914. Those comments are more appropriate to be put into this current bill for consistency and to avoid bills with different requirements. Do you have any questions?

REP. STRATTON: Are there questions? Thank you very much, Gary. I think it is also our intent to put in this the repeal of the regulation requirement, the JFS language. Other questions? Paul Hryniewicz followed by Lisa Santacroce. Is Paul here? Lisa Santacroce followed by Robert Fromer.

LISA SANTACROCE: Good afternoon Senator Williams, Representative Stratton and members of the Environment Committee. My name is Lisa Santacroce and I'm representing the Connecticut Audubon Society and we are here today to support H.B. 6999

As a member utility of the Connecticut Water Works Association, we endorse their testimony and hope that the Committee will take steps to develop a truly comprehensive review and revision of the state's policy for water allocation.

REP. STRATTON: Thank you for your testimony. Questions? Representative Mushinsky.

REP. MUSHINSKY: Waterbury population is probably smaller than it was, say 30 years ago?

KENNETH SKOV: We just got the recent census data in the last ten years. It went down by about 1,000 people.

REP. MUSHINSKY: Okay, so --

KENNETH SKOV: Ten years ago, it's pretty even. I don't think it's changed so much.

REP. MUSHINSKY: So if you have less public consumption of your water, are you now selling your water to economic interests outside of Waterbury?

KENNETH SKOV: We also serve the Towns of Thomaston, Watertown, Middlebury and Wolcott. We sell water, wholesale water to those towns.

REP. MUSHINSKY: Okay, but public water supply aside, drinking water aside, are you selling water to industrial users outside of Waterbury?

KENNETH SKOV: We only sell to the other towns and they sell to industrial users. That's their own water department. We sell to the other water departments in the other four towns.

REP. MUSHINSKY: Okay.

REP. STRATTON: Other questions? Thank you very much for your testimony. Tom Turick followed by Hugh Rawson.

TOM TURICK: Representative Stratton, Senator Williams and distinguished members of the Environment

HB 7000  
SB 1319  
HB 6997

Committee, good afternoon. My name is Tom Turick.

I am the environmental manager with the Connecticut Business and Industry Association.

I thank you for the opportunity to present our position and comments on two bills before you today. First, some brief comments.

We are in opposition to H.B. 7000 on water diversion. In our opposition we align our remarks 100% and I don't know when the last time we agreed with DEP 100%, but both their oral and written testimony to you earlier today, and we also are in agreement with the central arguments with the Connecticut Water Works Association.

From the business point of view, this bill would present incredible costs to those water diversion holders that presently register for their diversion and under this bill would have to seek a permit.

The bill references ten items necessary in a permit under Section 22a-369. I really wish you would take a look at items 7, 8, 9 and 10. Any permit seeker in my view would almost be needing to do some serious environmental engineering studies and I venture to say, these 1800 or so new permit seekers virtually all of them would have engineering costs in the thousands of dollars to satisfy this requirement.

Also, this bill seems to be contrary to where the state policy that has been set since the early nineties where you have tried and succeeded and the DEP has also in expediting permits and streamlining the permit process. Putting this bill in place would be analogous to saying, no more general permits in the air area. Everyone who has any kind of an emission needs a full permit.

And in conclusion on this bill, we support S.B. 1319 which you heard a lot about today, the water planning council bill that this week was JFd out of the Energy Committee. This is an excellent bill. It is looking at the water usage, I don't want to use water diversion, but water use from a very global perspective, a very wide perspective taking

into account drinking water issues as primary issues. Not to say the environmental issues with water diversion are secondary, but we support S.B. 1319.

As to H.B. 6997, we are in 98% agreement with this bill and we'd love to be in 100% agreement. We have a singular issue. You heard it from other speakers today and that is in regard to the Sections 1 and 7 of the Property Transfer Act of which we are almost in total agreement with those sections except for the singular issue, and it's a very important one, of hazardous substances. Expanding the Transfer Act not totally to hazardous substances because definitions of establishment are pretty much the same, but including hazardous substances.

And you didn't hear this from DEP but the truth of the matter is, it's extended to 200 more surplus substances besides petroleum. And as you heard from earlier speakers and Representative Stratton questioned concerning RSRs, there are not standards for many of these items. Until RSRs are established for any item, be it on the (inaudible) list or petroleum, we think it makes sense not to include that item under the Transfer Act.

In conclusion, I would say, think about what it was like years ago when everybody at the Legislature was pushing brownfields clean ups. The singular issue both at DEP and from the regulated community was, what is the standard of clean up? And you must have that when you embark on a clean up.

So we would recommend DEP treat petroleum as they are now when it becomes an issue as part of a hazardous waste clean up. It's negotiated on a case by case basis and the environment is cleaner for it. But just including it on the Property Transfer Act at this time because there is no clean up standard we think will cause a nightmare. And thank you, I know my time is up.

Section 15 is in everyone's interest, the DEP, the business communities supports Section 15. We think it will be better for the environment. There's

efficiencies in having federal and state regulation go hand in hand. Thank you.

REP. STRATTON: Thank you very much, Tom. I appreciate your written comments also. Other questions? Representative Mushinsky.

REP. MUSHINSKY: Tom. Last year DEP was seeking accurate information on diversions so as to go to the next step which is to perhaps change the water policy or upgrade the water policy. Do you support that aspect of H.B. 7000.

TOM TURICK: Yes, and I should have mentioned that. In that bill, and I knew the intentions of the bill were to seek further data and I know there are large holes in the data base concerning how much water is used. I've heard stories where if everyone was drawing the water that they say they are, a river should have been dry already and that kind of thing.

So we do support data collection of a nature that it needed to take the next step in formulating policy. And perhaps a bill like this, after the planning council is through and years from now, maybe this bill becomes a good idea.

But to answer you specifically on the data collection, we support means of DEP collecting data in this area.

REP. MUSHINSKY: Okay, thank you.

HUGH RAWSON: Good afternoon, Representative Stratton, Senator Williams, members of the Committee. My name is Hugh Rawson. I am here as a member of the Rivers Alliance of Connecticut pinch hitting for our president, our executive director who as you know is deeply involved in a major conference on spring flow today.

I'd like to speak very briefly about both raised H.B. 6999 and H.B. 7000. On H.B. 6999, the Alliance supports the revisions proposed in the bill with the proviso that we've not seen the final language and so our comments, we're relying

TESTIMONY BY THE INDEPENDENT CONNECTICUT PETROLEUM ASSOCIATION  
BEFORE THE  
JOINT COMMITTEE ON ENVIRONMENT  
REGARDING  
RAISED BILL NO. 6997 -  
AAC TECHNICAL REVISIONS TO THE ENVIRONMENTAL STATUTES

presented by  
Brian Freeman, Esq.  
Robinson & Cole LLP

March 23, 2001

Good morning. My name is Brian Freeman. I am an attorney with the Environmental Practice Group at the law firm of Robinson & Cole, and am legal counsel for the Independent Connecticut Petroleum Association (ICPA). I am also here on behalf of Earl Phillips, the Chairman of our Environmental Group who has regularly appeared before this committee. t 1 HB 6914

Our comments this morning address Raised Bill 6997, "An Act Concerning Technical Revisions to the Environmental Statutes", and specifically sections 1-7 regarding the Transfer Act. These comments are offered in our capacity as ICPA's attorneys, and are also based on our firm's extensive experience in working with the Transfer Act.

ICPA supports nearly all the revisions to the Transfer Act proposed by the bill, as providing much-needed clarifications to a very complex statute. ICPA particularly supports revised definitions proposed in section 1 of the bill that would clarify that when the "establishment" being transferred is a business, the investigation and/or remediation duties imposed by the Act relate to only to any releases from that business, and not any and all prior releases that may have been caused by other parties at the same piece of real estate. This clarification will clear up longstanding uncertainty on a key point, and greatly simplify matters for regulated parties seeking to determine what the Act requires of them.

However, another proposed revision would have the direct opposite effect. This revision would expand the Transfer Act to address releases of not just "hazardous wastes", but also the much broader and problematic category of "hazardous substances". ICPA is very concerned that this expansion would greatly complicate the Act, and increase the uncertainty and costs to those subject to it. Such an expansion would also undermine the significant progress achieved by the legislature and this committee in particular in overhauling the Transfer Act in 1995.

These consequences stem from three basic points. First, since the 1995 overhaul, the duties imposed by the Transfer Act have hinged on determining if there has been a release of a "hazardous waste" at the establishment, and if that release has been remediated in compliance with DEP's Remediation Standard Regulations ("RSRs"; see R.C.S.A. § 22a-133k-1 et seq.). Second, the category of "hazardous waste" is defined by relatively longstanding protocols under state and federal law. Similarly, the standards for remediating "hazardous waste" is typically

governed by such regulations, and/or by the numeric criteria provided in the RSRs. Third, and by contrast, the category of "hazardous substances" is far broader than the category of "hazardous wastes", and there are currently no RSR criteria for the vast majority of "hazardous substances".

As a result, to expand the scope of the Transfer Act from "hazardous waste" to "hazardous substance" would effectively force nearly all establishment transfers into "Form III" investigation and remediation obligations under the Act, with no clear way to determine if and when those obligations could be satisfied.

That is, under the current Act a transferor may file a "Form I" negative declaration to certify that based on an investigation of the establishment, there has never been a release of a "hazardous waste" at the establishment. If the basis of this certification is changed to "hazardous substance", a party's practical ability to make such a certification shrinks dramatically. The category of "hazardous substance" is extremely broad, and includes several hundred substances. It should be recalled that the Act does not provide any de minimis thresholds for a "release". In addition, DEP to date has not yet adopted regulations or guidelines to define what constitutes an appropriate investigation for purposes of Transfer Act certifications. It is therefore very likely that very few parties could file a Form I, certifying that there has never been a release of any "hazardous substances" at the establishment.

The party's potential options would therefore shift to a "Form II" (which states that a release occurred, but has been remediated in accordance with the RSRs). Thanks to the efforts of this committee, the Transfer Act was revised several years ago to allow "Licensed Environmental Professionals" (LEPs) to make such a determination. But if this determination were required to address "hazardous substances", the lack of RSR cleanup criteria for the great majority of "hazardous substances" would often make such a determination impossible.

As a result, many transferors would be forced into filing a "Form III" (which states that a release has occurred and has not been remediated in accordance with the RSRs, or that it is unknown whether a release has ever occurred and that investigation is needed). The certifying party is then obligated to investigate and remediate the establishment. Again, the lack of investigation standards and RSR criteria for many "hazardous substances" would make it unclear if and how an LEP could determine that the RSRs have been met and that the remediation is complete. DEP would, once again, be put into the role of making all "closure" determinations, on a site-by-site basis.

The result would be an administrative logjam. The recent gains from creation of the LEP program and DEP's RSR regulations would be washed under. The uncertainty, delays and costs to parties subject to the Transfer Act would increase substantially.

As noted above, these results are at odds with the clarification and streamlining goals of the other amendments to the Transfer Act proposed in RB 6997. ICPA respectfully suggests that the committee might ask DEP (the apparent author of the proposed amendments) for its views on

how the expansion of the Act to address "hazardous substances", in the absence of RSR criteria for most such substances, would be consistent with these goals.

In conclusion, ICPA urges the committee to consider the practical consequences of the proposed reference to "hazardous substances" for the Act and its administration, and to remove references to "hazardous substance" from RB 6997.

ICPA also notes two additional issues that could be quickly remedied:

1. Apparent error in the revised definition of "establishment": Section 1(3) of the bill would revise the definition of "establishment" to include, among other things, "a vehicle body repair shop or vehicle [painting shop or] facility ...". The resulting reference to "vehicle facility" apparently is missing some language. By itself, "vehicle facility" is ambiguous. If taken literally, it would seem to render a broad array of vehicle-related facilities (parking lots, car dealerships, etc.) subject to the Transfer Act, for no apparent reason. This presumably is not the intent. It is anticipated that the intended wording of the phrase was "a vehicle body repair shop or vehicle painting [shop is or] facility ...".
2. Document submission requirements for certifying parties: Section 2(e) of the bill would create a new obligation for a certifying party to "provide to the commissioner copies of *all* technical plans, reports and other supporting documentation relating to the investigation of the parcel or remediation of the establishment" (emphasis supplied). This would impose significant burdens on certifying parties. For more complex sites, this could mean boxes of documents. This broad requirement would also set up an unrealistic scope of oversight duties on DEP, and overlook the availability of LEPs to play a role here. It should also be recalled that the certifying party to a Form III and IV is already required to submit an Environmental Conditions Assessment Form (ECAAF). (This duty would extend to Form I filings under pending RB 6914.) Accordingly, ICPA recommends that Section 2(e) be tailored to allow the commissioner to ask, where and to the extent appropriate, for additional documentation (e.g., a report by an LEP summarizing all relevant investigation and remediation efforts).

With these revisions, ICPA believes that Raised Bill 6997 would help clarify the Transfer Act and better serve its purposes, consistent with the legislature's prior amendments and the RSR regulations.

Thank you for your attention. I would be happy to answer any questions the Committee may have.



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**COMMENTS REGARDING RAISED HOUSE BILL NO. 6997: AN ACT CONCERNING  
TECHNICAL REVISIONS TO THE ENVIRONMENTAL STATUTES.**

March 23, 2001

The Environmental Professionals' Organization of Connecticut (EPOC) would like to provide the following comments regarding Raised House Bill No. 6997 (RHB-6997). We are generally in support of the Bill but upon review we note that there are several confusing items which could be easily misinterpreted.

We note that EPOC has previously provided comments on Sections 2 and 3 of RHB-6914 that are also pertinent to this current bill (RHB-6997). We recommend that these conflicting provisions of the Transfer Act in the current Bill be replaced with those recommended in RHB-6914.

**Section 1 (3):** *We note that the term "sediment" was added to the list of remediation wastes that are excluded from consideration in determining whether a facility meets the definition of "Establishment". However, this term is not clearly defined in this context. Sediments can exist in the natural beds of rivers, lakes, harbors, etc. and can require remediation if these waterways are impacted from pollution. However, sediment can also apply to materials found in pipelines, tanks, settlement lagoons, catch basins, etc., which are/were the result of direct precipitation or deposition from process wastewater streams. We do not believe that the language in the bill is intended to exempt all types of sediment from consideration. We believe the term "sediment" should be better defined in this context.*

*We also note that the phrase "vehicle painting shop" is to be replaced by "vehicle facility" in this same section. However, this change is not clear in its meaning and is far more encompassing than the concept of a painting shop. A vehicle facility could be interpreted to mean all parking lots, engine repair shops, fleet and rental storage yards, bus terminals, new or used car/truck dealerships, construction equipment yards, and many other such uses. We believe that a clearer definition of "vehicle facility" is needed.*

**Section 1 Definition (6):** *The last portion of line two should read "Form IV" not "Form VI."*

**Section 1 Definitions (6), (10), (11), (12) and (13), and Section 2 (m):** *Each of these six sections contain a phrase regarding site investigations being performed "...in accordance with standards adopted by the commissioner in regulations adopted in accordance with the provisions*

of chapter 54 or, until January 1, 2002, or the adoption of such regulations, whichever is sooner, in accordance with prevailing standards and guidelines." The EPOC strongly recommends that the requirements for the DEP to develop standards for performing investigation be removed from the regulations. EPOC provided its reasoning in previous letters we sent to the Environment Committee chairs last Autumn. Briefly stated, EPOC and DEP have spent considerable time and effort in developing training courses and educating LEPs in using appropriate site investigation techniques, application of conceptual site modeling methods, use and interpretation of the Remediation Standard Regulations (RSRs), and by discussing results of DEP audits and focusing on items that have been frequently overlooked during site investigations. The DEP has also developed a Draft Site Characterization Guidance Document on performing site investigations, which will be updated routinely as the professional community develops more effective investigatory techniques. EPOC believes that there is no need to develop regulations for site investigations and that it would be counter-productive to do so.

Each site is unique and each release is unique, and therefore a unique investigatory approach should be used to evaluate site conditions. For DEP to develop regulations, which are all encompassing and still protective of human health and the environment on all sites, those regulations would have to be far more conservative than the majority of sites require. This would then lead to significant increases in costs to perform investigations. Even if an investigation were to be performed in accordance with such specific regulations, there is still no guarantee that the site will be adequately investigated and all issues identified and fully characterized. This would lead to confusion on the responsibility for doing more work.

The State of Connecticut has invested a significant effort in identifying, testing, and licensing qualified environmental professionals to oversee site investigations and remediation and verify compliance with the RSRs. These LEPs should be allowed to use their experience and ingenuity in defining and performing investigations that are appropriate for a given site.

EPOC therefore requests that this language be revised to simply read "...in accordance with prevailing standards and guidelines."

**Section 1 Definitions (10), (11), (12, and (13):** EPOC agrees with the inclusion of the term "or hazardous substance" in each of these four sections. Our members have frequently encountered situations where releases of materials other than hazardous wastes have occurred at establishments, but they were not remediated and FORM I notifications were filed. The result is that the new buyer has the perception that the property is "clean" when a FORM I is filed, and is often left having the responsibility to remediate contamination that they did not cause.

**Section 1 Definition (17):** EPOC prefers combining the definitions in RHS-6914 and RHB-6997 as follows: "Environmental condition assessment form" means a form prescribed and provided by the commissioner and prepared under the supervision of a licensed environmental

*professional, licensed in accordance with section 22a-133v, and executed by (A) the certifying party under sections 22a-134 to 22a-134e, inclusive, or (B) the owner of the property under section 22a-133x which form describes the environmental conditions at the establishment.*

**Section 2 (d) {also Section 3 (e) of RHB-6914}**: *EPOC prefers that an environmental condition assessment form (ECAF) accompany all Form I filings as well as Forms III and IV. Since the revision to definition (17) above requires that ECAF forms be prepared under LEP supervision, the requirement for an ECAF to accompany a FORM I would require that an LEP concur that an appropriate level of investigation has been performed. This will allow the DEP to review the scope of work performed to support the certification that no releases have occurred on the establishment in a straightforward and consistent manner. Oftentimes several environmental studies may have been performed on a single parcel with each study addressing a specific area of concern. DEP personnel would have to review all submitted reports in detail, and summarize the consolidated findings themselves in order to determine whether all potential release areas were properly evaluated. The ECAF would summarize this information in a comprehensive manner for the DEP and therefore allow a quicker and more thorough review. It has been our experience that numerous FORM I filings have been made without evaluation of all potential release areas at the establishment and therefore are inappropriate.*

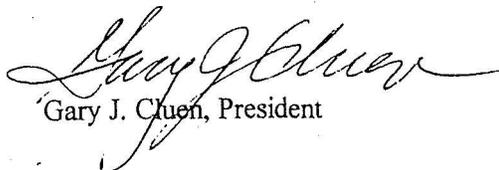
**Section 7:** *EPOC agrees with this provision allowing for a petition to withdraw a FORM filing which has been submitted when the property was not an establishment or the transaction was not a transfer. We also suggest that a petition to withdraw a FORM III and replace it with a FORM I be allowed when the purpose of the FORM III filing was because environmental conditions were not known at the time of transfer, and subsequent assessment confirms that no releases had occurred at the facility.*

We thank you for the opportunity to present our comments on this Bill. Should you wish to discuss it further, please contact Gary Cluen at 860-875-7655.

Respectfully,

On behalf of the Board of Directors of the

ENVIRONMENTAL PROFESSIONALS' ORGANIZATION OF CONNECTICUT

  
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**TESTIMONY of DAVID SUTHERLAND –  
DIRECTOR of GOVERNMENT RELATIONS  
before the ENVIRONMENT COMMITTEE – MARCH 23, 2001**

On behalf of The Nature Conservancy's 23,000 members here in Connecticut, I am here today to thank this committee for raising, and urge your support with modification, for Section 16 of Bill # 6997 AAC Technical Revisions to the Environmental Statutes.

This section, with our suggested modification, would enable the Commissioner of Public Health to grant a permit for the sale or assignment of a conservation restriction and/or a public access easement on Class I or II water company land to private, non-profit land conservation organizations. Current statutes permit the sale of Class II lands to these organizations as well as other water companies or municipalities if an easement is entered into as a condition of the sale. The statutes are not explicit that conservation organizations can hold an easement on lands sold to another entity. Statutes also currently allow for permits for the outright sale of Class I lands to another water company, the state, or a municipality if these entities agree, in maintaining the land, to abide by all regulations pertaining to Class I land.

Enabling the Department of Public Health (DPH) to permit the conveyance of conservation restrictions on Class I and II lands to conservation organizations would clarify a means through which a type of entity with experience in monitoring and enforcing easements could hold an additional and permanent layer of restriction against development on these lands. With a restriction arrangement, the water company would retain ownership along with the responsibility to pay local property taxes and manage the land. These restrictions would in no way diminish the authority of the DPH to regulate all activities on or uses of these lands, but would enable water companies, with the approval of the DPH, to voluntarily place conservation restrictions on the land.

We recommend the following wording to make explicit that private, non-profit land-holding conservation organizations can hold easements on both Class I and II lands. Words in capitals are those we are recommending be added to the underlined changes proposed in Bill 6997.

(d) The Commissioner may grant a permit for the sale of Class I or II land to another water company, to a state agency or to a municipality, or for the sale or assignment of a conservation restriction AND/or a public access easement on Class I OR CLASS II land TO A PRIVATE NON-PROFIT LAND-HOLDING CONSERVATION ORGANIZATION, if the purchasing entity or assignee agrees to maintain the land subject to the provisions of this section, any regulations adopted pursuant to this section and the terms of any permit issued pursuant to this section. Such purchasing entity or assignee may not sell, lease, assign or change the use of such land without obtaining a permit pursuant to this section.

# CONNECTICUT PETROLEUM COUNCIL

A DIVISION OF THE AMERICAN PETROLEUM INSTITUTE  
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Steven S. Guveyan, Executive Director

Stephen C. Dodge, Associate Director

March 23, 2001

Representative Jessie G. Stratton  
Senator Donald E. Williams  
Environment Committee  
Legislative Office Building  
Hartford, Connecticut 06106

**RE: HB-6997 PROPOSED CHANGES TO THE TRANSFER ACT**

Dear Chairwoman Stratton and Chairman Williams:

The Connecticut Petroleum Council---representing refiners and major oil companies doing business in Connecticut---offers the following comments regarding HB-6997 (changes to the Transfer Act).

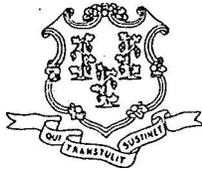
1. The proposed definition of "hazardous substance" (line 230) has been amended to include petroleum and petroleum by-products. That, in turn, will necessitate filing Form III's for gas stations and vehicle facilities, which mean slower and costlier cleanups. We recommend leaving out petroleum and its by-products, because such contamination is already covered under other state programs.
2. The bill broadens the definition of establishment (line 77) to include "vehicle facility", which could include car dealerships, bus garages, and perhaps even parking lots. We recommend leaving the current language untouched.
3. The bill appears to exclude governmental authorities (line 64); but private sector sites are brought into the system. We recommend changing this special exemption: either the rule is fit for everyone, or it is too harsh for everyone.
4. The bill will require more funding and/or DEP staff to oversee sites. If such money isn't provided for in the bill (and budget), we question the effectiveness of this legislation as drafted.

Thank you for considering our views. Please call us if you have questions or comments.

Most Sincerely,



Steven Guveyan  
Executive Director



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 23, 2001  
Environment Committee

Testimony Submitted by Commissioner Arthur J. Rocque, Jr.  
Department of Environmental Protection

House Raised Bill No. 6997  
An Act Concerning Technical Revisions to the Environmental Statutes

Thank you for the opportunity to present testimony regarding Raised Bill No. 6997. The Department would offer comments on several sections of this proposal.

Sections 1 through 7 of this bill concern legislative changes to the Property Transfer Act. The Department believes that the revisions to the Property Transfer Act that are included in Raised Bill 6997 represent a significant improvement to the process of investigating and remediating contaminated sites in the State of Connecticut. Six years have past since the last major revision of the Transfer Act. The simpler, more-streamlined process for evaluating sites and conducting remediation created by the 1995 amendments to the Transfer Act has been very effective. That streamlined process coupled with the Remediation Standard Regulations and the Licensed Environmental Professional Program, has resulted in a significant increase in the number of sites that have been or are now being investigated and remediated. However, there are other aspects of the Transfer Act that continue to generate questions and uncertainty among the various parties involved in the transfer of establishments. The proposed revisions to the Transfer Act in Raised Bill 6997 would clarify many of these issues.

The clarifications in this bill address such issues as when corporate reorganizations or transfers of parent corporations are exempt from the Transfer Act. The language of the bill would also clarify, among other things, the exemptions for foreclosures and for the termination of a lease.

In addition to providing better guidance to the regulated community on when transfers are exempt from the Act, the revisions also address the scope of remediation required at some establishments. These revisions would ensure that a party transferring only a business operation, but not the property, would be responsible for disclosing and addressing only the contamination resulting from the business operation, not contamination from unrelated businesses that may have operated on a different portion of the parcel. While the owner of the property has liability for environmental conditions on other portions of the property, the tenant should not have to address pollution that it did not create and is not maintaining.

At the same time, these revisions would ensure that petroleum contamination would, for all transfers, be disclosed and, as necessary, remediated. Currently petroleum releases must be addressed only if hazardous wastes have been released to the environment. As a result, currently a transferor can file a Form I provided no hazardous waste has been released at the site, even though the site is grossly polluted by components of gasoline: MTBE or other petroleum products.

The Department also strongly supports the provisions this bill that would allow the Commissioner more options for effectively enforcing the requirements of the Act. The bill would make violations of the Transfer Act subject to the same enforcement and penalty provisions as most other violations of environmental statutes, and at the same time would more clearly define the basic responsibilities of transferors, transferees and certifying parties.

Section 8 of this bill, as proposed, is repetitive of section 22a-134a(b) of the General Statutes. In addition the Department feels that the existing statutory language does not clearly articulate whether a lien could be placed against real estate in a situation where a spill occurs from a service station owned by a transferee.

However, the Department recommends that the legislature revisit this provision and consider deleting it from the general statutes. This provision is an artifact from a discussion in 1987 as to whether service stations should be subject to the Transfer Act. At that time, the legislature decided not to address gas stations within the framework of the Transfer Act. Further, the language of the provision is ambiguous as to whether a lien could be placed on the land records in a situation where a spill occurs after the transferee takes title. Section 22a-452a already provides a sufficient framework for recovering costs the State expends to address pollution from gasoline spills, which might be compromised under the existing statute.

Finally, the Department recommends that, in addition to the revision proposed in this bill, the Legislature consider raising the fees that are specified in the Transfer Act. The current fees have not been increased since they were originally created in 1990 and are not sufficient to support the administration of this program. For example, personnel costs associated with a typical engineer or analyst who is needed to support the program have increased approximately 30% since 1993. One method of addressing the fee issue is to authorize the Commissioner to periodically adjust the fees to reflect inflationary cost increases. We would be happy to work with the committee to develop a reasonable and fair fee structure.

Section 13. The Department supports section 13 of the bill, which strengthens the enforcement ability of state and local police for violations of the open burning provisions of subsection (f) of section 22a-174 of the general statutes. For consistency with other statutes, the Department suggests a less severe penalty than that envisioned in the bill; perhaps a lower level misdemeanor would be appropriate.

Section 15. The Department seeks clarification that this section would only apply to new regulations promulgated by the United States Environmental Protection Agency after June 1, 2002. As constructed, the section references regulations that implement the Resources Recovery and Conservation Act (RCRA). It further provides that this section will not infringe on the

Commissioner in accordance with section 22a-445 of the General Statutes which is the State's hazardous waste program. However, under RCRA both solid waste facilities and underground storage tanks are also regulated. At the State level, these programs are implemented pursuant to Chapters 446d and 446k. The Department is concerned that the mandated obligation to implement federal programs could result in the State being required to implement new federal mandates without the necessary resources.

The Department offers the following substitute language which would first provide the Commissioner the opportunity to adopt regulations to implement new federal requirements before statutorily mandating them.

If you should require any additional information, please contact Tom Tyler, the DEP Legislative Program Manager, at 424-3001

Raised House Bill #6997

Proposed Language

Sec. 15. (NEW) On and after June 1, 2002, federal regulations promulgated by the United States Environmental Protection Agency that implement Subtitle C of the Resource Conservation and Recovery Act of 1976 (42 USC 6901, et seq.), as amended from time to time shall, upon such promulgation, be controlling [in Connecticut and supercede conflicting Connecticut regulations, if any. References to the "Administrator" in any such federal regulations shall be deemed to mean the Commissioner of Environmental Protection for purposes of Connecticut law. Nothing in this section shall infringe on the authority of] unless the commissioner [to] has published notice of intent to adopt regulations in accordance with chapter 54 of the general statutes that implement [chapter 445] title 22a of the general statutes.