

PA13-203

HB6538

Energy & Tech.	751, 758, (759), 760	4
Environment	1443, 1446-1447, (1493), (1494-1495), 1520-1531, 1763-1770, (1771), 1772- 1773	29
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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
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We changed up. 229 is first. And then 510.

SPEAKER SHARKEY:

Are there any other announcements or
introductions?

Chamber will stand at ease for just a moment.

(Chamber at ease.)

A VOICE:

Let me know when you're ready.

SPEAKER SHARKEY:

We have another busy day today, so let's get to
it. Will the Calendar -- will the Clerk please call
Calendar 229?

THE CLERK:

On Page 41 of today's Calendar -- House Calendar
2291, Favorable Report of the Joint Standing Committee
on Judiciary, Substitute House Bill 6538, AN ACT
CONCERNING --

SPEAKER SHARKEY:

Who am I recognizing?

THE CLERK:

-- ARBORISTS AND TREE WARDENS.

SPEAKER SHARKEY:

Who?

Representative Gentile.

REP. GENTILE (104th):

Thank you, Mr. Speaker, and good morning.

SPEAKER SHARKEY:

Good morning, Madam.

REP. GENTILE (104th):

Mr. Speaker, I move for acceptance of the Joint Committee's Favorable Report, and passage of the bill.

SPEAKER SHARKEY:

The question before the Chamber is the acceptance of the Joint Committee's Favorable Report and passage of the bill. Will you remark, Madam?

REP. GENTILE (104th):

Yes. Thank you, Mr. Speaker. Mr. Speaker, this bill is actually in response to the impact that our state has felt from falling trees that we've experienced over the last few years because of the severe storms that we've had. Connecticut also has experienced several very severe power outages as a result of the falling trees. And, as a result, municipalities are looking forward to their tree wardens ensuring that these trees are being properly maintained and protecting danger from citizens and

property.

And, Mr. Speaker, this particular bill has gone through several iterations and we've taken out a lot of the parts that were a little -- met with a little more objection and we've come down to what I believe is a reasonable bill. And with that, Mr. Speaker, the Clerk is in possession of LCO Number 7547. I ask that the Clerk please call that, and that I be granted leave to summarize.

SPEAKER SHARKEY:

Will the Clerk please call LCO 7547 which will be designated House Amendment "A"?

THE CLERK:

House Amendment "A", LCO 7547, introduced by
Representative Gentile, et al.

SPEAKER SHARKEY:

The gentlewoman seeks leave of the Chamber to summarize. Is there objection? Seeing none, you may proceed with summarization, Madam.

REP. GENTILE (104th):

Thank you, Mr. Speaker. What this basically does is it allows arborists and tree wardens to register annually with the Department of Energy and Environmental Protection, and it requires municipal

tree wardens to complete certain course work which is administered by DEEP within one year after being appointed or reappointed to the position of tree warden. And then they would have to -- they would be given a certificate for the completion of their course work, and furthermore, Mr. Speaker, this does allow a provision for any existing tree wardens or arborists to be grandfathered, and Mr. Speaker, I would move for adoption.

SPEAKER SHARKEY:

The question before the Chamber is adoption of House Amendment "A". Do you care to remark?

Representative Sawyer.

REP. SAWYER (55th):

Good morning, Mr. Speaker.

SPEAKER SHARKEY:

Good morning, madam.

REP. SAWYER (55th):

Lovely tie you're wearing this morning.

SPEAKER SHARKEY:

Thank you, madam. Not dressed down as -- as you are, which I -- is something that we're doing today by tradition, so --

REP. SAWYER (55th):

Yes, sir.

SPEAKER SHARKEY:

-- I'm being a little stodgy today. I'm sorry.

You may proceed.

REP. SAWYER (55th):

It's a lovely shade of yellow, so I'm going to say no, it's not.

SPEAKER SHARKEY:

Thank you. Thank you, madam.

REP. SAWYER (55th):

A question through you to the good Chairman of the Environment Committee.

SPEAKER SHARKEY:

Please, Representative Gentile, please prepare yourself. You may proceed, madam.

REP. SAWYER (55th):

Thank you. And I was trying to quickly look at this amendment because I had not seen it before, just being handed it, and I was looking at the -- listening to your description and reading it, also. My -- if I heard correctly, you said that the tree wardens would have to re-up with -- with the DEEP once a year, and yet we have that "such tree wardens shall be appointed to a term of two years and until their successors are

appointed" in Line 68. So perhaps I misunderstood something or if you could clarify the difference between having to go to the DEEP every year, and then being appointed for a term of two years. Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Mr. Speaker. I apologize. The gentle lady is correct. I misspoke. It is two years.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

Thank you, Mr. Speaker. So if we -- we look at this more carefully, it then is equal to what is expected through the DEEP and through the towns? The same length of time? Through you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Mr. Speaker. That is correct. It is consistent.

SPEAKER SHARKEY:

Representative Sawyer.

REP. SAWYER (55th):

I would like to thank the Chairwoman for her answers and for that clarification.

SPEAKER SHARKEY:

Thank you, madam. Do you care to remark further on House Amendment "A"?

Representative Candelora of the 86th.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. If I may, just a quick question to the proponent of the amendment.

SPEAKER SHARKEY:

Please proceed, sir.

REP. CANDELORA (86th):

Thank you, Mr. Speaker. I'm not sure if this was just asked, but in terms of the grandfathering. As I read here, the tree warden would have to complete the course upon appointment or reappointment. There are some municipalities that appoint a tree warden, and their term does not expire. And they may be serving until they are reappointed. Maybe they lose their job, you know, they retire or something like that. Otherwise their term is sort of indefinite. In that type of circumstance then, would they be grandfathered and not need to complete this course work? Through

you, Mr. Speaker.

SPEAKER SHARKEY:

Representative Gentile.

REP. GENTILE (104th):

Through you, Mr. Speaker. Yes, I believe that they would be grandfathered.

SPEAKER SHARKEY:

Representative Candelora.

REP. CANDELORA (86th):

Thank you, Mr. Speaker, I appreciate that answer.

SPEAKER SHARKEY:

Thank you, sir.

Do you care to remark further on House Amendment "A"?

Representative Phil Miller of the 36th.

REP. PHILIP MILLER (36th):

Good morning, Mr. Speaker.

SPEAKER SHARKEY:

Good morning, sir.

REP. PHILIP MILLER (36th):

I rise in support of this amendment. I think it's become clear to us in the last several years, what with extensive tree damage throughout the state from the various storms and other unusual

precipitation events, that our tree wardens in all of our municipalities have become increasingly valuable to us and increasingly active, not just in cleaning up storm damage, but in also looking at preventative damage for the future. And this is a nice, worked-out deal that gives the state some oversight of the tree wardens and makes sure that our tree wardens are trained, and that they're up to par with the latest equipment and such. And all of our tree wardens, even in small towns are very busy conducting work on behalf of the town.

And I know that in past years there has been a transition as we've seen in other areas of municipal government where, at one time, small towns in particular may have had well-intentioned volunteers doing a position like this, but in the past years we've come to see that this is a position that does require some formal training and indeed, in many of our towns, our tree wardens are people who do have some professional background that makes them really well suited to this often appointed job.

So I stand in -- in support of this, and I thank the Chairwoman and the agency for working through this and coming up with something that will help our tree

wardens be well trained and make the right decisions for our towns. So, thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, sir. Do you care to remark further on House Amendment "A"?

Representative Floren of the 149th.

REP. FLOREN (149th):

Thank you, Mr. Speaker, and good morning.

SPEAKER SHARKEY:

Good morning, madam.

REP. FLOREN (149th):

I -- I, too, rise in support of this amendment, and I would love to associate my comments with those of Representative Miller. He said it all, and he said it well. We need our tree wardens to be recognized and trained as the professionals that they are. It couldn't be more important given what we've been facing with the devastation from various storms, and then just general maintenance going forward. So thank you to the Chairwoman of Environment, and thank you for all the hard work, and I am totally in support. Thank you.

SPEAKER SHARKEY:

Thank you, madam.

Do you care to remark further on House Amendment "A"? If not, let me try your minds.

All those in favor of House Amendment "A", please signify by saying Aye.

REPRESENTATIVES:

Aye.

SPEAKER SHARKEY:

Those opposed, Nay.

REPRESENTATIVES:

Nay.

SPEAKER SHARKEY:

The Ayes have it. The amendment is adopted.

Would you care to remark further on the bill as amended? Do you care to remark further on the bill as amended? If not, staff and guests to the Well of the House. Members take your seats. The machine will be open.

THE CLERK:

The House of Representatives is voting by roll.

The House of Representatives is voting by roll. Will Members please report to the Chamber immediately?

(Deputy Speaker Orange in the Chair)

DEPUTY SPEAKER ORANGE:

Have all Members voted? Have all Members voted?

If all the Members are voted -- have voted, the machine will be locked and the Clerk will take a tally, please.

A VOICE:

128, 0, 22

DEPUTY SPEAKER ORANGE:

Will the Clerk please announce the tally?

THE CLERK:

Substitute House Bill 6538, as amended by House

"A":

Total Number Voting	128
Necessary for Passage	65
Those voting Aye	128
Those voting Nay	0
Absent and Not Voting	22

DEPUTY SPEAKER ORANGE:

The bill as amended passes.

Will the Clerk please call Calendar Number 585?

THE CLERK:

On Page 46 of today's Calendar, Calendar Number 585, Favorable Report of the Joint Standing Committee on Judiciary, Substitute Senate Bill 952, AN ACT

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If not, Senator Meyer?

SENATOR MEYER:

If there's no objection, may it kindly go on our consent calendar?

THE CHAIR:

Seeing no objection, so ordered.

Mr. Clerk.

THE CLERK:

On page 19, Calendar 690, Substitute for House Bill Number 6538, AN ACT CONCERNING ARBORISTS AND TREE WARDENS, favorable report of the Committee on Environment.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

For the last time, Madam President, I do move acceptance of the joint committee's favorable report and passage of the bill again in concurrence with the House.

THE CHAIR:

The motion is on acceptance and passage in concurrence.

Will you remark, sir?

SENATOR MEYER:

Colleagues, this bill has two parts. The first is that it creates an arborist business. Arboretum and arborists, of course, are people who service, protect and preserve trees. And it does create a business and a license to be an arborist and a fee, initial fee of \$240. And the bill provides that arborist businesses will maintain records and perform their

responsibilities.

The second thing it does is perhaps more significant and that is it addresses tree wardens. I don't know about you, but I assume that tree wardens are very professional and trained. So it turns out that under current law there are no specific training or qualifications to be a tree warden in our towns. Virtually every town has a tree warden.

So what this bill does is a couple of things. It requires tree wardens to take some course work and there is fortunately already a manual that can serve as the coursework. And if they -- there's no testing requirement, but if they take the coursework, meaning this manual, they will qualify as tree wardens and have -- be able to have a term of actually two years. The bill extends the current term from one year to two years, which seems to make some sense.

The bill also, in some flexibility provides an exemption -- exemptions from the coursework or requirement for tree wardens who actually have completed the coursework, because many of them have read the manual when they started without requirement of law. It also exempts existing arborists, and so those are the exemptions again that make sense.

So in dealing with a new business called arborists and dealing with the training of our tree wardens in a responsible manner, I think we're moving things forward in Connecticut and I urge support.

THE CHAIR:

Will you remark?

Senator Chapin.

SENATOR CHAPIN:

Thank you, Madam President.

Madam President, I also rise in support of the bill before us. I think the tree warden piece, as described by the good chairman of the Environment Committee came to us out of the two-storm panel, if

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I'm remembering correctly.

And there was a concern raised at that point that perhaps some towns could benefit by having tree wardens that had taken some coursework. I asked the Connecticut forest and parks who also worked on this bill for a list of those towns that had tree wardens that had already complied with the coursework requirement. And as I recall it was somewhere around a hundred or so tree wardens that would comply if this law were to pass.

I know in my own hometown, one of the 14 towns that I represent, our tree warden is actually a licensed arborist. And after discussing that as a -- its own qualification we came to an agreement that somebody who is licensed as an arborist does have enough expertise and experience to do a good job as a tree warden, so therefore they wouldn't have to take the coursework.

Also under our current tree warden statutes, a tree warden has the authority once they're appointed tree warden by the municipality to appoint as many deputies -- one deputy or as many deputies as they feel is necessary.

So the way the bill is written now, if the tree warden doesn't actually have the coursework and can't comply with the requirements and they're also not a licensed arborist, they can appoint a deputy who is, who is either a licensed arborist or who has taken the coursework or is willing to take the coursework. I think that does two very good things. One is that it does bring a higher level of professionalism to the job in each municipality, but equally as important, it doesn't place an unnecessary burden, financial burden on a municipality to have their tree warden go take this coursework, because they can very simply appoint a deputy who already meets the qualifications.

Sections 1 through 8 of the bill did have some opposition during the Environment Committee, creating a new licensure for arborists, an arborist business. At the time I thought it was redundant. We already license arborists and now we're going to license the arborist business. It came to my attention that under

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current law if the licensed arborist is doing tree work and he has three or four employees, they may not all be -- they may all have chainsaws in their hand, but they really may not all qualify to be a licensed arborist.

What this bill, I believe, is intended to do is to create this new licensure as an arborist business and actually relieve them from that requirement, thinking that we're actually increasing the standard through this new license. I think it's a good effort and it certainly made any opposition I had during the environment committee process, it alleviated the concerns I had. So again, I encourage my colleagues in the circle to support the bill before us.

Thank you, Madam President.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

I do have a few questions for the proponent of the bill, through you.

THE CHAIR:

Please proceed, sir.

SENATOR WELCH:

If I could just -- I mean, there's two parts to this bill, obviously. And although somewhat related they are unique and distinct and I'd like to just start, if I may, through you, Madam President, with the arborist business provision?

Under current law given the situation that Senator Chapin just described where you have a licensed

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arborist and then two people working for him or her who are not licensed, are those two people violating any statute by working for the arborist?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Madam President, just to throw a question back.

You mean under current practice before this bill?

THE CHAIR:

Senator Welch.

SENATOR WELCH:

That's correct, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Yeah. Through you, Madam President.

There's no violation as far as I'm aware.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Through you, Madam President.

And I appreciate that answer. And so then what advantage do we gain by having a licensed arborist business when one can already work for a licensed arborist and do the same thing?

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Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

What it does is as the arborists -- some arborists testified at the public hearing -- it gives more reputation to the business. It's like becoming a licensed professional. It add a stature and a reputation and a definition. And in doing that an arborist, like other professions -- and this really is becoming like a profession -- will gain stature, reputation in their community and hopefully be a more attractive and desirable service.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And I appreciate Senator Meyer's desire for professionalism here. I -- actually, my wife has three brothers who have been working with trees all their lives and one of them is now a tree warden for the State with the Department of Transportation. So by osmosis I've picked up a bit about trees and taking care of them through Thanksgiving dinners and Christmas dinners and having the cousins over and whatnot, which kinds of leads me to one of my concerns.

And that is, while I appreciate the need for professionalism, I think there have been a number of individuals working in a professional manner in this regard under the current structure, and that's, in my mind anyways, has seemed to work out okay. And so when I look at the business of arborists and the additional fees and revenues that we'll be collecting is a State, I'm concerned that the cost to business

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isn't necessarily commensurate with the gain to society through this program.

If I may now, Madam President, through you, shift to the second half of the bill which has to do with the tree wardens. Under the construction of the legislation before us is it conceivable that there would be a situation where a municipal tree warden might have been a municipal tree warden for, say, 20 years or so. And now when they're reappointed, as it were, this legislation would require them to take their coursework. Is that possible?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Yes. Through you, Madam President.

We found, as you're pointing out, two types of tree wardens. One were tree wardens that definitely had read this manual. It's a well-recognized manual for tree wardens. And we found tree wardens that had not read the manual. So there will be a bunch of them that have to take the course requirement by reading the manual, yes.

THE CHAIR:

Senator Welch.

SENATOR WELCH:

Thank you, Madam President.

And I thank Senator Meyer for the answers to these questions. I don't have any more. I will not be supporting this legislation.

I just think it is a somewhat incumbent -- let me restate that. I think it's somewhat in line with the trend that I've seen in this State for a number of years now, even prior to coming to the Senate, where

we just think that licensing and instruction and education with respect to certain professions will cure the problems that might not necessarily be problems, or might not necessarily be problems that pervade our society as such that it warrants that regulation.

And so not that I find this particular legislation onerous, but in stating that objection that I have with respect to state government at large, a no vote on this I think is appropriate for me.

Thank you, Madam President.

THE CHAIR:

Will you remark?

Senator Meyer.

SENATOR MEYER:

Yes, in brief response to Senator Welch's remarks, one of the witnesses at a public hearing was an officer with Bartlett Tree Experts, perhaps in our State the most significant tree experts, Bartlett Tree Experts. And he spoke enthusiastically in favor of creating this business, licensed business.

Here's what he said in pertinent part -- I'm quoting -- part of it recognizes what Senator Welch says -- he said, it is not often that an organization is in favor of more regulation or increased expense. However, because this legislation allows for better enforcement it will benefit the professionalism of our arborists and protection of the consumer. And I think that that Bartlett Tree Expert captured the spirit of what we're trying to do here.

And Madam President, let me just say in conclusion, as you can see from the remarks of Senator Chapin, this is probably our last environment bill this session. Maybe not, but probably, and I just want to say that -- you can see -- and saying this to members of the circle -- you can see that confidence and professionalism of Senator Chapin.

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He and I are partners in trying to build a better environment for Connecticut and it's been a pleasure to work with him. He makes an immense contribution to the public interest in Connecticut.

THE CHAIR:

Thank you.

Will you remark? Will you remark?

If not, Mr. Clerk will you call for -- oops. Sorry.

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

If this is going to be the last Environment Committee bill we do this session, I can't let that moment pass without asking a question or two of the good Senator.

THE CHAIR:

Please proceed, sir.

SENATOR MCKINNEY:

Thank you, Madam President.

Some of my confusion, Senator Meyer, is in the creation of the arborist business. If the owner of the business is a licensed arborist, licensed by the State, paying a fee, is that owner also required to pay an additional fee for his or her arborist business?

Through you.

THE CHAIR:

Senator Meyer.

THE CHAIR:

Through you, Madam President.

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What the bill says is that to become an arborist -- just give me a second -- to become an arborist there will be a license application fee starting with \$50. And that's the application fee.

The bill then says that there will be an initial license fee -- this is not the application fee -- but an initial license fee of \$285. So that is the fee structure that this bill creates.

SENATOR MCKINNEY:

Thank you, Madam President.

And through you, Madam President, is there an annual registration required for the licensed arborist business?

Through you Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

There appears to be an annual registration fee as an arborist and that that fee appears to be \$240.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

And is that a one-time fee?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

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SENATOR MEYER:

The bill provides that it's an annual fee.

THE CHAIR:

Senator McKinney.

SENATOR MEYER:

Just like lawyers pay an annual fee -- they pay more than this.

SENATOR MCKINNEY:

And that's an annual be for the new arborist business?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Yeah. Through you, Madam President.

That's correct.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

So a licensed arborist who starts his or her own business has to pay their own license fee and a license fee on an annual basis for their business. Is that correct?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

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SENATOR MEYER:

As I understand the bill, through you, Madam President, that is correct.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you.

And so you mentioned Bartlett, from my experience an exceptional company with great service and good employees. There's a good 30-second public service announcement on behalf of Bartlett Tree Experts.

But through you, Madam President, am I correct that under current law all of the employees who work for Bartlett who work on trees have to be licensed arborists?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

I can't answer that factually. I don't know the answer to that question.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Well, we're being told that by establishing a new licensed arborist business, that the business is required to have at least one licensed arborist. Is that correct?

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Through you.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

That's what the bill provides.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

And so -- thank you, Madam President.

And so what give Bartlett Tree Experts right now, if they're not the arborist business that we're creating right here, what are they?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

Again, I'm not sure I know this, but I would say that from the bill and the public hearing we had, that we did not have in Connecticut what we will now call, if this bill passes, an arborist business registered with the State.

This will do that.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

So I'm trying to figure out, Madam President, what we are creating that's new, or if we are simply taking the existing structure and saying that will create a new, quote, arborist business, unquote, charge a \$240 fee because it's a new, quote, unquote, arborist business, even though the business that our arborists right now will be the exact same and identical tomorrow.

I'm being told that we're creating this new arborist business. So what is new about what we're doing beyond the annual license fee?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Okay. Through you, Madam President.

Okay. Let's go through the bill here, because the bill has a lot to say in answer to your question. Section 2 of the bill says, no person shall engage in the operation of an arborist business unless the person has a certificate of registration. And then it goes forward in subparagraph B to describe the contents of the application. It goes on to describe the fee.

And then in Section 3 it sets up standards for getting the certificate of registration or being denied the certificate of registration. And you'll see some standards set in there that relate to, you know, false or misleading information, use -- illegal uses of pesticides, lots of reference to that, aiding or abetting an unlicensed person -- performance of this business which without meeting generally accepted standards -- a whole bunch of standards are set up here for a new business.

So I think that it's adding, not just the paperwork of registration, and I understand why that itself is not that significant, but it's adding the trappings of a

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business containing quality standards.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

So through you, we have business that either in whole or in part hold themselves out for hire to perform arboriculture, arborists. We have those businesses currently in Connecticut. Is it accurate to state that those businesses currently do not have to employ a licensed arborist?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Madam President, that's the question I can't answer. I just don't know the answer to that.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

That's what I'm having a hard time understanding, Madam President. If we're creating a new business of a licensed arborist and at least one person employed by the business has to be licensed arborist, is that different than current law?

And it could be different in one of two ways. It can be different in the way where right now no one employed has to be licensed arborist. And I don't know the answer. Usually they say, don't ask a question you don't know the answer to, but I'm asking it. The other way it could be different is we could have companies right now that perform this business

where everyone who works for the company has to be licensed arborist.

Now if it's the former and no one has to be licensed, this is an improvement because we're requiring someone who performs this business to at least, someone in the business, have a license. If it's the latter, that at least one person employed has to have a license when right now everybody would, I can see how that would be a new beneficial structure of arborist business, because not everybody needs to be licensed, but I can't see how the State is going to see an increase in revenue if we would be going from a world where everybody has to have a license and pay the fee where only one person has to have a license and pay the fee.

So I guess if I can't get an answer I'll just vote no, but -- and I certainly appreciate the work that has gone into this, especially the work that Senator Chapin has put in.

It's kind of mind boggling that the State of Connecticut gets involved with our tree wardens. I mean, this bill actually says that they can, thanks to the House amendment, extend the appointment of a tree warden from one year to two. Why is it State's business how long a town appoints a tree warden?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

Senator McKinney is raising two questions. The first is the creation of an arborist business. And I felt that the testimony of the Bartlett Tree expert was significant with respect to the benefit of creating a business, as he testified, that it would add a professionalism and a discipline that arborists don't have now. And I can see you can reject that or not, but that, that is the reason the Environment Committee moved forward and created this business.

With respect to tree wardens, tree wardens are administered by state law in part and therefore the State has the power to set a term. And you know, we could look at a bill next year if we want to that turns over that power to the towns. I think that may be a good idea. But right now the town has that response -- I'm sorry, the State has that responsibility and we're doing something that I think makes good sense, and that's extending the term from one to two years particularly because we're now adding some professional coursework.

(Senator Duff in the Chair.)

SENATOR MCKINNEY:

Thank you, Mr. President.

And so I guess I'm just trying to find out, look, you know, I think most people -- well, in my neck of the woods we're very familiar with the Bartlett Tree Company. And I said it before and I'll say it again, they do a great job. Without even being at the public hearing, I feel comfortable saying that I know that they did not come up to testify against their self-interest and that they're testifying on behalf of something that helps them because they've testified in favor of this bill.

And I guess I'm just trying to figure out how, and I can only think of two examples. Does it help them because they have licensed arborists working for them and there are companies out there that do this that do not and therefore they believe they are at a competitive advantage by passing this law? Or does our current law require them to have everybody who works for them be a licensed arborist and since this only requires them to have at least one person, that relieves them from a burden of having more people licensed?

My assumption of the two hypotheticals -- and there may be a third or a fourth, but I think those are the only two -- is that it's probably the former, but I'm just curious as to which it is. Is it that there are companies that perform arborist arboriculture work

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that don't have any licensed employees and the bigger better companies clearly do, and they believe they'll get a competitive advantage because the other companies will have to get someone unlicensed or maybe go out of business? Or is it that they'll be relieved of the burden of having everybody in their employee licensed?

Through you, Mr. President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Yeah. Through you, Mr. President, I think Senator McKinney, you'd be helped if you read the full testimony of the Bartlett vice president, because let me read an additional part of his testimony because it goes right to what you're saying.

He said, this bill will result in protecting consumers from unregulated and non-licensed -- your point -- and non-licensed tree care, and streamline the process of DEEP investigations, saving time and money. What this efficiency it should allow the inspectors to perform more inspections and provide better protection of the people and trees of Connecticut. This bill is a major step forward with respect to enforcement -- it goes on.

So -- and it goes on to talk about non-licensed individuals. So from the standpoint of this tree expert he was concentrating, as you are, on the importance of having licensed arborists and this bill will protect that in this new business.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Mr. President.

And I've just pulled up to the committee report to

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look at a synopsis of the testimony that Senator Meyer has referenced. And I see here that an individual whom I know by the name of Doug Williams testified on behalf of Bartlett Tree Experts. And I appreciate that explanation.

Is it, through you, Mr. President, what is the requirement or what would someone have to become a licensed arborist once this bill passes?

Through you, Mr. President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Okay. We've been over that, but we'll look at it again. What the bill says is that the applicant will have to file an application for certification -- for a certificate of registration on a form as described in Section 2 of the bill.

And then that will be reviewed by the commissioner's office and will be subject to various standards that I mentioned before relating to false and misleading information relating to misuse of pesticides, relating to prior criminal records. And so, you know, a whole bunch of things here are set out on page 4 of the bill at great length.

And then it goes on to say that after it has been registered that it must maintain records and that it describes in Section 5 the extent of the recordkeeping requirements. So that's pretty much the answer to your questions as far as I can tell.

The President in the Chair.

SENATOR MCKINNEY:

Thank you, Madam President.

I think you're trying to play a trick on me here. I

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went from Madam President to Mr. President to Madam President, and I haven't been up here asking that many questions. Thank you, Madam President.

And through you, Senator Meyer, because I'm trying to read that section of the bill. Is there a time requirement within which the commissioner must respond to an application?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

I don't require -- I don't recall any particular time requirement.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

And through you, is there -- this bill requires businesses to keep records for five years. Do you know if that is a standard practice within the industry?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

I don't know that there is any standard practice in the arborist industry. I know that for lawyers licensed in the state of New York we have to keep records for seven years. In Connecticut it's the same

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seven years, so five years sounds more reasonable.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

And I guess I know the answer to this question because Senator Meyer supports the bill, but how many -- there would appear to be a number of very small companies involved in the arboriculture business and then there are bigger ones like Bartlett. It would seem to me that the imposition of keeping records for five years is one that is perhaps not as burdensome on the larger companies as it is on a really small companies.

And I guess my question is -- I don't see anything in the committee report, but through you, was there any objection to or any concern expressed that a small company would have a difficult time maintaining records for five years that they currently now don't have to do?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you Madam President.

I'm just looking at our bill file and I don't see any objection to the five-year requirement.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

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Senator Meyer, it says in Section 6 that any person -- and I'll refer you to line 150 through 153 -- any person who violates any provision of Sections 2 through 7 inclusive of this act shall forfeit to the State a sum not to exceed \$5,000 per day for each day of a violation.

Do you under -- do you see that section there, sir?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

Yes, I do.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank You, Madam President.

And Senator, in the section immediately preceding that Section 5, subsection B, lines 146 of 149, we talk again about the arborist business. It says, there shall upon a written request provide any customer with a copy of the record which is required to be kept pursuant to this section and which pertains to an arboriculture performed for such customer.

So I guess, Senator, through you, my hypothetical would be is that if an arborist business received a written request from a customer for a copy of a record, they are required to give that customer a copy of the record. I don't see in here when that has to be given, but I do see in the next section that if they don't give a copy they could be fined up to \$5,000 a day for every day that they don't give the copy of the record to the customer.

Is that a fair reading of the penalty section?

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Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

I think it's a fair reading, but I'm not sure it's a fair interpretation, because the -- clearly there's a rule of reason here and it's discretionary with respect to the fine, if any, and the fine could be \$1. It would depend upon the facts of the case.

This particular fine was drafted by the legislative commissioner's office which is trying to make it consistent with similar kinds of statutes and given that and given the fact that the it could be anywhere -- a fine could be anywhere from 1 to 5 thousand dollars, it seems to me that fairness and justice is likely to be done.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

So -- and I think you're correct that the per day penalty for a violation, for any violation within Sections 2 through 7 is not to exceed a sum of \$5,000 per day. How do we know what the department or commissioner is going to charge in terms of the penalty?

Are we going to get regs that would outline what the penalties would be? Or is it completely at the discretion of the department to punish someone for one violation up to 5,000 dollars, perhaps 5,000 dollars, and then punish a similarly situated person for the same violation in a different instance, perhaps only a thousand dollars?

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Through you Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

Well, you can see if you read Section 6 that the penalty phase is initially under the administration of the Attorney General of Connecticut as a result of a complaint from the commissioner of DEEP. And you know, my experience with the attorneys general in Connecticut has been that they are responsible law-enforcement officers who will be doing something with the facts of the particular case.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

And I guess with all due respect to the commissioner and the Attorney General, this is one of the things that scares me. We're allowing the State -- through the commissioner making a complaint, we're allowing the Attorney General to institute a civil action to recover such forfeiture in superior court for up to \$5,00 a day for any violation in Sections 2 through 7. Even the most innocent of violations can be up to \$5,000 a day. And I don't think this section --

There is a breadth and almost a generic language within this section that could be used to significantly punish small-business owners. That's what I read. We're now requiring small-business owners -- because that's who most of these arborists are -- to, for example, hold documents from customers for up to five years. And if they don't produce that document upon request of a customer they may be subject for a violation in civil court up to \$5,000 a day.

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Now there are more serious things arborists do, pesticide applications, for example being one of them for which if they make a violation I would think the penalties could be quite severe. But there is a section in here which just talks about maintaining records and turning over records at the request of a customer and if you don't you could be brought to court by the Attorney General's office. I'm just not sure I understand that, Madam President, to be honest with you.

Madam President, the Section 4 refers to the new requirement that each arborist business shall employ at each place of business no fewer than one arborist licensed pursuant to our general statutes. So does that mean if one business has four office -- four offices throughout an area or throughout the state, or within the state, that they have to have a licensed arborist in each of those offices?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

That's the way I interpret the bill. It's pretty clear on its face.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

So if you have a hundred employees at one office, you have to have one licensed arborist, and if you have a total of 20 employees spread throughout ten different offices you have to have ten different licensed arborists. Is that correct?

Through you.

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THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

I'm not sure what Senator McKinney said, but what the bill says is clear. It says that there has to be at least one licensed arborist at each place of business that the business has. So if there's a place of business in Hartford, there's got to be licensed arborist here. If there's one in Fairfield, there's got to be one there. If there's one in Guilford, there's got to be one there. And with respect to the practice of this business, I think that makes eminent sense.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you.

And so I'll -- let me give you a hypothetical to make sure I understand it. Arborist ABC employs a hundred people in the state of Connecticut, all of whom work out of an office in Bradford. Under this bill they would only be required to have one licensed arborist. Correct?

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, that's correct.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you.

So that's ABC company with a hundred people in Branford.

XYZ company with 20 people employed throughout the state of Connecticut, say, in four different offices throughout the state of Connecticut would have to have four licensed arborists. Is that correct?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Not exactly, Madam President. That arborist business of 20 with four different offices would have to have one licensed arborist at each of the four offices.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Okay. So that business owner would have to have one licensed arborist at each office. If they had four offices and only 20 employees, as a company they would have to have -- employ four licensed arborists. And I guess so the answer is yes to that.

I guess my question is, does it make sense that a company could employ a hundred people and have only one licensed arborist solely because they're cited in one location and another company could have multiple locations with far fewer employees and be required to have many more licensed arborists? And I guess I'm wondering what the logic of that is, Madam President.

THE CHAIR:

Is that a question, sir?

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SENATOR MCKINNEY:

Yes, it is.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

I look at from the standpoint of any professional. If we're -- I'm a lawyer. Senator McKinney is a lawyer. If we -- if a law firm has an office in Hartford, another office in Guilford and another office in Fairfield, we will be able to serve better and we will be -- we will provide a much more effective professional service if we have a licensed attorney at each one of those offices, and not just a secretary or an intern.

I think the bill make sense for arborists, the same way it makes sense for law offices. So I think there is a logic to this.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Well, thank you, Madam President.

I'm not sure I see it that way, but I stopped practicing law about 13 years ago and it was one of the best days of my life. So luckily I don't have to get into that argument about whether law firms and arborists are the same.

Madam President, the fees that are collected for the licensed arborist business of \$240 which is a recurring annual fee, does that money go straight into the Department of Energy and Environmental Protection budget? Or does it go into our general fund of the state of Connecticut?

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THE CHAIR:

Senator Meyer.

So, could you repeat the question, please, sir.

SENATOR MCKINNEY:

Thank you, Madam President.

And I apologize because I have the bill currently picked up and not the fiscal note. There is a fee increase in here and a net positive flow of money to the State of Connecticut. Does that money go to the general fund or does it go to department -- the agency, for use by the agency?

Through you, Madam President.

THE CHAIR:

Senator Meyer.

SENATOR MEYER:

Yeah. Through you, Madam President.

Again, Rob LaFrance has come to our aid here and tells us that it goes to the general fund.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

And thank you, Madam President.

And am I correct in understanding that if there are any civil actions brought by the Attorney General and any penalties imposed and collected, those penalties, would they go to the general fund? Or would they go to the department.

Through you, Madam President.

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Senator Meyer.

SENATOR MEYER:

Through you, Madam President.

To the general fund.

THE CHAIR:

Senator McKinney.

SENATOR MCKINNEY:

Thank you, Madam President.

I have to admit that it's also frustrating and disappointing. DEP -- or now DEEP, as an agency probably -- well, I'm not sure if this is correct, but it seems from my experience, more than any other state in state government is very dependent on fees and penalties for its operations. They don't get a lot from the State of Connecticut.

So here we are creating a new license with a new fee with potentially extremely harsh penalties and yet we're not even letting the agency avail themselves of the benefit of that. Madam President, I want to thank Senator Meyer for answering my questions.

You know, I just think this is a case where we continue to go too far. It's mind-boggling to me that the State of Connecticut can tell towns that you can only appoint a tree warden for one year. Thanks to the House amendment you can only appoint a tree warden for two years. Why does the State even have the right to do that? Let our towns and cities pick their own tree wardens. Let the towns and cities be responsible for what the duties and obligations and professional abilities or not of our tree wardens are.

Senator Chapin indicated that he thought about a hundred or 101 of the tree wardens in our municipalities, 169 throughout the state, already meet the criteria. What about the other 68 or 69 towns and cities? What do they do? I guess it says here they

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can appoint a deputy tree warden who has that licensing and that certificate. What if they can't find one? Does that deputy have to be from the municipality in which the tree warden lives? What about some of our small towns in the northwest corner, for example?

This is just a continuation of government meddling into places where it shouldn't meddle. And I have great respect for the Bartlett Tree Company and the work that they do, but I also suspect they like the idea that all businesses that do what they do have a much tightened licensing arrangement, a much higher licensing fee, because they're a very large, very good company that gets a lot of business. And perhaps they don't like the competition that might come from smaller businesses.

And you know, we spent almost as much time in this Senate talking about the \$250 business entity tax than just about any single idea that I can remember. And I in fact, I think almost everyone, Democrat and Republican, is on record as saying we don't like the \$250 business entity tax, and we want to cut or eliminate the \$250 business entity tax because each and every one of us represents those job creators, those small business owners who employ three, four, five, six people.

Make no mistake, they are the engine of job creation of Connecticut. And they've all said to us, what a nuisance it is to have to pay this \$250 annual fee. And what here we have a new created license of \$240 for people in the business of arboriculture who hold themselves out as arborists. And perhaps the biggest and best one in the industry says, this is a good thing, and I understand that because it's clearly to their competitive advantage.

They won't have a problem paying the \$240 fee, but what about the business that employs two or three people? Are they going to be able to pay the fee? Are they going to be able to go through the licensing process? Has there been a demonstrated need that people who engage in this activity who aren't licensed are somehow not doing the work properly?

And to be honest with you, I would kind of use the average person on the street test. In 15 years as a State Senator I haven't had a single person come up to me and say, you know, we hired somebody to come do some tree work on our property and they did a terrible job because they weren't licensed arborists, licensed by the State of Connecticut, paying a fee, and you better do something to clean it up. I haven't heard it. And my gut tells me I haven't heard it because it's not a problem.

And I remember Senator Hartley who had a great line after -- in a public hearing after one of our storms. We were talking about the need to engage in a serious conversation about tree trimming. Because after so many of our storms, the significant loss of power was due to trees, either tree limbs falling down or trees falling down. And Senator Hartley had a great line where she said, we in Connecticut are very covetous of our trees.

And I could tell you in my neighborhood we are very covetous of our trees. And a lot of people take great care of their trees. And that's why I say to you, knowing how much people care for their trees, knowing that they take care of them, knowing that many times when people have the means to do so they do hire people to care for those trees. And I've never heard one complaint in 15 years.

So here we are creating a licensing scheme, telling people that they have to pay the annual license fee and we need licensed arborists because having licensed arborists is going to solve a problem, but the next part of that sentence is the problem doesn't exist. It sounds great. It's a typical government speak.

Well, we have people who are doing something out there and they're not licensed by the government so let's rush in and license them because if we license them they will do their job better. There's no evidence that they don't do the job well now. Is there?

Has anybody gotten a complaint that there are rogue tree care companies out there? Has anybody gotten a letter, an e-mail, a phone call, or a tap on the shoulder from a constituent in their district, that

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the state of Connecticut, with 8 percent unemployment, with billion-dollar budget deficits, with incredibly high taxes, with a regulatory system which, from this one person's opinion, tends to be a little on the heavy side, with all of that going on we need to rush and license the arborists because there's a big problem out there.

And -- and the best part is if you're a big company, keep all your people in one office and you only have to have one arborist. But if you're a relatively medium-sized company with two offices or three officers, you have to have more arborists. And I know that's not the intention of the bill and I don't know if that's what would happen in practice, but the reality of the bill before is that you could have the largest company in the tree business, have one licensed arborists and one of the smallest have two or three.

So how have we made the world safer, the world of those trees that we are so covetous of? How have we made the world safer if you have, say, a 50-person company with one licensed arborists working at it? Does that make sense? Let's assume the problem, which I don't believe exists -- does exist -- have we solved the problem by saying to a company, you have to have only one licensed arborists?

Well, if that company has to do five, six, seven, eight jobs during the day, maybe many jobs at the same time. Maybe multiple truck are going to multiple sites to work on trees. We know that you can't be in more than one place at a time, so is the licensed arborist actually going to be overseeing the work done by people who are employed by this company? The answer obviously is no. So if we need to license these arborists because somehow unlicensed arborists are damaging and not doing the job they need to do, but we don't require that a licensed arborist be on the job, what have we solved?

It seems like we've gone a long trip to get to what this is about. We're creating a new business structure with a license fee of \$240 and the best part is it's \$10 less than the business entity fee. But guess what? That arborist company that now has to

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have a licensed arborists business with a licensed arborist which has to pay the \$240 fee the year also has to pay the \$250 business entity tax, most likely.

So if you're opposed to this company having to pay the annoying \$250 business entity tax, why would you say, we've got great news for you, now you've got to be licensed and pay an additional \$240? And none of the money is going to DEP. Even better, the agency which perhaps probably needs more money desperately than any other agency in state government is going to create this licensed structure and they don't get to keep any of it.

There's the old saying, save your best for last. I don't think the Environment Committee saved their best for last in this session. I don't get this bill. I don't see the need for the new licensing scheme. I don't see the need for a \$240 fee. For the life of me, other than someone just picking the number 240 as being a nice round number, I don't understand where it came from. I don't understand why we as a State tell towns how long they can hire a tree warden for. Does that make any sense?

In my hometown we've had the same tree warden for, it seems like forever. And I have no idea if he meets the license requirements under here. And if he doesn't, I would stack him up against any licensed tree warden anywhere. So I'm going to vote no.

THE CHAIR:

Will you remark further? Will you remark further?

If not, Mr. Clerk, would you please call for a roll call vote? The machine is open.

THE CLERK:

Immediate roll call has been ordered in the Senate.
Senators, please return to the chamber. Immediate roll call has been ordered in the Senate.

THE CHAIR:

All members have voted. All members have voted. The

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machine is closed.

Mr. Clerk, will you please call the tally.

THE CLERK:

House Bill 6538.

Total Number Voting	34
Necessary for Adoption	18
Those voting Yea	22
Those voting Nay	12
Those absent and not voting	2

THE CHAIR:

The bill passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, at this point I have a few items to move to the consent calendar.

THE CHAIR:

Please proceed sir.

SENATOR LOONEY:

Thank you, Madam President.

Madam President, beginning calendar page 8, Calendar 567, House Bill 6387, move to place that item on the consent calendar.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you Madam President.

**JOINT
STANDING
COMMITTEE
HEARINGS**

**ENERGY AND
TECHNOLOGY
PART 3
679 - 997**

2013

House Bill 6471 – OPPOSED

As the Tree Warden for the Town of Glastonbury, I stand opposed to HB 6471. This is also the position of the CT Tree Wardens Association, of which I am a member. The bill is onerous and represents an unfunded mandate.

The Town has all it can do to maintain its own trees without taking on the task of assessing the condition of private trees as well. Under current conditions, there is already a need, to look at some private trees which may endanger public ways, but this legislation significantly increases the scale of that responsibility. Currently, as advised by our attorney, when the situation dictates that further assessment of a privately owned tree may be needed, we notify the property owner that they should contact an arborist to get a professional opinion as to the condition of their tree. By letting them know that they may have a tree with defects, the responsibility of the assessment, and any needed work to mitigate the hazard, falls on the property owner. The problem is solved, with the responsibility and the liability where it belongs, on the owner. I suggest that the utilities incorporate a similar practice where they feel that trees jeopardize their lines and public safety.

While I have found that the former Northeast Utilities and its affiliates have been proactive in their line maintenance, it has also been my experience that both residents and I have had to urge the other utilities to provide maintenance of their lines. Consequently, I don't see what gain there would be to give them more authority to maintain their lines when there seems such reluctance to do so now.

Another aspect of this bill which is disconcerting is that it ignores the rights of private property owners, in that it doesn't even encourage good communication with them, let alone requiring permission to do the work. There is no other asset on a property which would be managed by simple "notification". Further, the bill does not require that the utility practice good arboriculture in its maintenance. This could prove very damaging to the trees and public trust.

A tree is both an asset and a liability to a property owner, whether it be a municipal or a private owner. Having managed public trees, I know that these issues can be very emotional for abutting property owners, and the Town of Glastonbury is very sensitive to these feelings. This legislation would seem to be a kneejerk reaction to events brought about by recent storms, and is altogether too far reaching. Instead, I would suggest that we continue to utilize our existing tree laws under the guidance of capably trained, certified tree wardens, working in concert with residents and utility arborists. Such certification already exists as a voluntary measure and over 100 Towns in CT already have certified tree wardens. Let's treat our trees as the assets that they are to our communities and work together to minimize those which threaten public safety.

Another bill is forthcoming for a hearing later this week (HB 6538 in Environment), which would require tree wardens to be certified. This certification would promote the kinds of skills needed to manage public trees and those which pose an unreasonable risk to the public rights of way.

Please do not enact HB 6471. If you have any questions or need of further information, please feel free to contact me. Thank you.

Sincerely,

Gregory A. Foran
Park Superintendent and Tree Warden
Town of Glastonbury
2155 Main Street
Glastonbury, CT 06033
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860-652-7686 – Ph; 860-652-7692 – Fax



Connecticut Department of
**ENERGY &
 ENVIRONMENTAL
 PROTECTION**

STATE OF CONNECTICUT
 DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

HB6538

Public Hearing – March 5, 2013
 Energy and Technology Committee

Testimony Submitted by Commissioner Dan Esty
 Presented by Deputy Commissioners Katie Dykes and Susan Whalen

RAISED HOUSE BILL 6471 - AN ACT CONCERNING TREE TRIMMING BY UTILITIES

Thank you for the opportunity to present testimony regarding Raised House Bill No. 6471 – AN ACT CONCERNING TREE TRIMMING BY UTILITIES. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to offer the following testimony.

DEEP has serious concerns with this bill as drafted. We remain committed to continuing the state-wide efforts being made by all parties to improve the resiliency of Connecticut's utility infrastructure, but Raised House Bill 6471 significantly and negatively impacts the role of Connecticut's municipal partners in this effort. It also raises practical, fiscal, administrative, and due process concerns that require additional collaboration between DEEP, the utilities, municipal officials and others before any action is taken to advance the procedures proposed in House Bill 6471. In addition, the issue of the proper balance of allocating the costs associated with these resiliency efforts must also be examined to ensure that rate-payers, shareholders, municipalities, and property owners are appropriately contributing adequate resources to this resiliency effort.

As background, on September 13, 2011, Governor Malloy announced the formation of The State Team Organized for the Review of Management (STORM) of Tropical Storm Irene. The eight member Panel was charged with the following mission, "a broad, objective evaluation reviewing how Irene was handled in the state both in preparation and recovery, identify areas that can be improved upon and, most importantly, make recommendations for future disaster preparedness and response." Following the October snow storm, the Governor expanded the work of the Panel, renamed it The Two Storm Panel, and directed it to report its findings to him by the first week of January, 2012.

The Two Storm Panel Report included the following recommendations concerning tree trimming:

- Conduct a state-wide tree risk assessment and prioritization schedule particularly targeting hazardous trees.
- Establish a state-wide Hazardous Tree Removal Fund that will provide matching grants to homeowners for the removal of trees on private property that endanger utility wires.

- 1.5% of all funds approved for utility vegetation management by PURA should be used to fund the private property Hazardous Tree program for 5 years.
- Establish a State Vegetation Management Task Force (SVMTF) that will develop standards for road side tree care in Connecticut, vegetation management practices and schedules for utility rights of way, right tree/right place standards, licensing standards for tree wardens, municipal tree inventories and pruning schedules. This Task Force should consist of State, municipal, utility and nonprofit environmental organizations. The Commissioner of the DEEP or his/her designee should be its Chairperson.
- DEEP should convene appropriate State agencies, municipalities and utilities for the purpose of creating a five year collaborative effort for an enhanced tree maintenance program and the development of an educational effort regarding the use of appropriate and diverse tree species in both public and private spaces.
- At least four entities—electric utilities, municipalities, telecom utilities, and the State of Connecticut—engage in tree trimming/removal activities that may protect the necessary infrastructure. On a semiannual basis, these activities should be coordinated amongst them to maximize the effectiveness of each entity and goals/targets should be established. This activity would be monitored through the SVMTF.
- Increase DOT Tree Maintenance budget by \$1 million a year for three years for road/ tree safety program.
- Legislation should be adopted providing for the removal of “hazard trees” from private property by utilities or municipalities, which should include reasonable protections for property owners.

On March 22, 2012, DEEP Commissioner Daniel C. Esty announced the formation of a Vegetative Management Taskforce noting that “This task force was wisely recommended by Governor Malloy’s Two Storm Panel and we believe the time is right to move forward with it. While the work of this task force is underway, ongoing efforts to address tree maintenance should continue. In the end, however, the recommendations of this task force will be extremely valuable in future decision making about tree maintenance by municipalities, utilities, state government and private property owners.”

The Public Utility Regulatory Authority (PURA) has also been extensively involved with the issue

Public Act 12-148, An Act Enhancing Emergency Preparedness and Response, requires PURA, in part, to review the performance of the state’s electric distribution companies (EDC) and gas companies, after an emergency when (1) more than 10% of any such company’s customers were without service for more than 48 consecutive hours or (2) at the Authority’s discretion. The PURA currently has two open Dockets where we are investigating the utility company’s performance during Storm Sandy:

- o Docket Number 12-11-07 - PURA Investigation into the Performance of Connecticut’s Electric Distribution Companies and Gas Companies in Restoring Service Following Storm Sandy where we are investigating the EDC’s and gas companies’ performance in restoring service following Storm Sandy. The Docket is currently active and no Final Decision has been issued.
- o Docket Number 12-11-14 - PURA Investigation into the Performance of Connecticut’s Telecommunications, Cable Television Providers and Water Companies in Restoring Service Following Storm Sandy in which we are investigating the preparedness, service response and communications of the state’s telecommunications, cable television and water companies following the service outages resulting from Storm Sandy. PURA is also reporting on the impact of the storm on the telecommunications, cable television and water public service company infrastructure. The Docket is currently active and no Final Decision has been issued.

Also, PURA established Docket Number 12-01-10 - PURA Investigation into the Tree Trimming Practices of Connecticut's Utility Companies in response to Governor Malloy's storm disaster preparedness and recovery initiative involving tree trimming and preventing excessive infrastructure damage. The Docket is currently active and no Final Decision has been issued.

PURA notes that the new language contained in section (c) of the proposal where PURA must investigate and hold hearings in a very tight timeframe on complaints brought by both property owners and tree wardens would likely result in a significant fiscal impact on PURA.

Finally, in August of last year DEEP's State Vegetation Management Task Force issued several recommendations, some involving tree trimming practices. Some of the salient statewide and municipal recommendations are:

Statewide Recommendations

- Informational resources including frequently asked questions about the roadside forest need to be centralized in a logical place for private landowners, municipalities, businesses, and others.
- The Right Tree, Right Place guidelines must be used for planting trees and shrubs in roadside forest areas where trees have either failed or have to be removed. It is important to note that large trees have an important place in the current and future roadside forest.
- Roadside Forests must be managed to become more storm resistant over time (decades) through a combination of tree pruning, removals and Right Tree, Right Place planting.
- Standards are essential to ensure tree removals are done based upon science-based professional training, shared methods of hazard assessment, and planning for tree replacement.
- Property owners need to be made more aware of the stewardship required to properly maintain trees to maximize benefits and reduce potential community hazards.

Recommendations for Municipalities

- Municipalities are required by law to appoint a tree warden, but there is no requirement that the tree warden have the knowledge and qualifications that the position requires. The Task Force recommends that all tree wardens need to be certified as to their qualifications for the position within 1 year of being appointed.
- Municipalities should develop five-year roadside forest management plans (based upon a model ordinance) that include tree pruning and removal guidelines for trees along public roads; and standards for tree planting that include the avoidance of overhead and underground power and communications lines, road signals and/or the obstruction of other state, municipal or private infrastructure.
- All trees planted within the public right-of-way and on municipal property should be reviewed and approved by the town tree warden.

DEEP requested, and the Environment Committee raised H B No. 6538 (RAISED) AN ACT CONCERNING ARBORISTS AND TREE WARDENS. DEEP recommends that this bill be reviewed by members of the Energy and Technology Committee as a reasonable next step in implementing consensus built recommendations on vegetative management.

Clearly more work is needed on improving the resiliency of Connecticut's utility infrastructure, but this bill should be dismissed because of the serious practical, fiscal administrative and due process concerns the bill raises.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison, Robert LaFrance, at 424-3401 or Robert.LaFrance@ct.gov.

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think we need two different definitions. And I think we want to be very clear about this. So, I think there is a value of looking at tightening this up and sharpening the focus, so, we have a unified strategy for our planning purposes going forward.

With that, I would like, with your indulgence, to invite Deputy Commissioner Whalen to talk to a number of other bills that are before you. And, at that point, we would then be open to questions and happy to respond to all three of us.

SENATOR MEYER: Yes, Mr. Whalen, nice to see you.

DEPUTY COMMISSIONER WHELAN: Nice to see you, too.

Thank you, Mr. Chairman, and thank you members of the Committee. Thank you, Commissioner, for letting me speak today.

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HB6538 HB6539
SB1017 SB1018

I want to touch briefly on a number of bills before the Committee today for which we have provided extensive testimony. So, I'll try to keep my comments as brief as possible. I'm just going to go in numerical order here.

The first bill House 5811 is AN ACT CONCERNING THE OPERATION OF VESSELS WITH ELECTRIC MOTORS ON INLAND WATERS OF THE STATE. The Department is opposed to this bill in that it would eliminate the requirement for basic boater safety education for vessels powered by small electric motors. Whether a boat had -- contains an electric engine or an internal combustion engine, we feel that boaters still need to know the rules of the road, understand how to interpret the lights they see on the water at night, understand basic concepts of boating stability, and behave in a safe and predictable manner for other boaters in the waterfront. And, so, to exclude this group we

of testimony regarding this bill. 42 percent of them contain phrases identical to a letter sent by Richard Werner who is a resident of Syosset, New York and whose business, Safe Boating America, is located in Bethpage, New York. This is a copy of his website page. Mr. Werner offers -- advertises that he offers online courses nationwide. And, yet, he and a number of people he's contacted are attempting to oppose this opportunity for Connecticut residents. He makes a number of claims which I'd be happy to discuss with the Committee in greater detail. But if Safe Boating America can offer online courses nationwide and, yet, try to prevent managed courses from being offered to Connecticut residents, we don't feel that's really appropriate.

And, finally, I would say that if you've been to the dentist, the doctor, your cardiopulmonary therapist or any other medical profession in recent years, you've probably been treated by someone who has taken online training.

As for hunting, I would, again, say that, you know, this online learning that we want to provide would be coupled with a hands-on field day learning session in order to receive your hunter safety education certificate. The learning modules follow the international hunting safety education standards that are used by all 50 states. And we really encourage the Committee to provide a platform to increase knowledge for, both, hunters, and boaters in the State of Connecticut. And we feel this is an option. It's not the only option, but it is an option for those people who, for whatever reason, prefer online learning to getting -- to attend a class that is scheduled.

The next bill is House 6538, AN ACT CONCERNING

ARBOROUS AND TREE WARDENS. We worked very closely with the statewide Vegetation Management Task Force and the Tree wardens Association of Connecticut in encouraging this bill to happen which would require the certification of tree wardens. And as recent storms have demonstrated, proper management of our public trees is a critical component to the management of infrastructure in our cities and towns. I heard, recently, that even during this storm, more trees are coming down. So, in a time when we're having these major storm events, where trees are an important contributor to the quality of life within our state, we feel having certified tree wardens which can be done through the Tree Warden Association of Connecticut who has been offering this on a voluntary basis for the last 15 years can be done as a requirement and will improve our state tree warden effectiveness in cities and towns.

The next bill is House 6539 concerning the former Sunrise Resort. The department absolutely understands the frustration that the citizens have felt in the Town of East Haddam since the purchase of this property in 2009. The agency has dedicated a tremendous amount of time and work with -- in cooperation with the First Selectman and with the former Economic Development Director Melissa Chabran to try to maintain this as a recreational land, but, also, do something that would help spur economic activity.

Again, we have extensive testimony to the process that we've been through in the last two years. But I'm happy to say that as of this report thanks to the support of the Malloy administration, we do have bond funds to do remediation and demolition on the property. And as we speak, we are working with the

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MICHAEL CICCETTI: It's in my testimony, sir.

SENATOR MEYER: It's your testimony.

MICHAEL CICCETTI: Yes.

SENATOR MEYER: Okay, good. Great. Thanks.

Any questions? Representative, no? Thanks so much.

MICHAEL CICCETTI: Okay, thank you.

SENATOR MEYER: Our next witness is Kachina Walsh-Weaver followed by Joseph Wasserman.

KACHINA WALSH-WEAVER: Good afternoon, Senator Meyer, members of the Committee, Kachina Walsh-Weaver with the Connecticut Conference of Municipalities. I am here in support of House Bill 6437, AN ACT CONCERNING A MATTRESS STEWARDSHIP PROGRAM. We've testified in support of this bill a number of times over the last several years. We see this as a positive step towards creating a statewide mattress stewardship program for end of life's management of mattress disposal.

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As has been stated before by people before me, there's a huge cost associated with the disposal and treatment of these mattresses at the end of life. Municipalities have been burdened with this and they're looking for some relief. There's been previous product stewardship programs that have been implemented in Connecticut seem to be very successful, the reducing costs on the local level. And we are happy to support that again this year.

If I could just quickly support a few other bills that are in front of you today, the sea level rise bills. We're very happy to see

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SB1013 SB1014

these move forward. We think the tools that will come out of them will be very helpful to everyone. We would like to continue to work with the Committee and other individuals on these issues to make sure that the best approaches are always taken.

Lastly, House Bill 6438, AN ACT CONCERNING ARBOROUS AND TREE WARDENS. We certainly understand some of the genesis behind putting some new requirements and professionalizing these programs -- these individuals a little bit more. We are concerned that additional costs and time constraints placed on them might shy some of these individuals who some of which are volunteers on the legal level. We might have a little bit of a difficulty bringing more people in if they're going to have pay more and do more in order to volunteer their time for these services. So, we would just encourage you to be sensitive of that as you move forward with the language.

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SENATOR MEYER: Okay, Kachina, we do appreciate your consist support of the mattress stewardship program. And your -- you proposed this before and thank you for being consistent.

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KACHINA WALSH-WEAVER: On the arborous and tree wardens, I think we're taking -- going in the direction of more training and certification because of what we've been through with the storms.

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KACHINA WALSH-WEAVER: Certainly.

SENATOR MEYER: And we're advised that so much of our power outages come from trees that have fallen on wires. And if we can have more training and more professional approach towards tree cutting or removal, you know, we're going to have fewer power outages. But to have power

outages for five, six, and seven days because of tress that have not been trimmed or pruned or cut, you know, it's something that's hurting the residents of this state. So --

KACHINA WALSH-WEAVER: Certainly.

SENATOR MEYER: -- that's, in part, what we're trying to get at here with this bill.

KACHINA WALSH-WEAVER: And we do understand that. And we appreciate that, certainly. I know DEEP had talked earlier about some of the online testing that they're doing, online for boating licenses and, maybe, something along those lines could also be looked at for these individuals to make it as easy possible having to get trained as you're seeing -- as you're desiring them to be.

SENATOR MEYER: Any questions?

Yes, Representative Albis.

REP. ALVIS: Thank you, Mr. Chairman.

Kachina, thank you very much for your testimony here today. I just wanted to ask you, what do you think our municipalities' great challenges from we're talking about sea level rising and coastal flooding?

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KACHINA WALSH-WEAVER: Well, I was really hoping I wasn't going to get very many questions on this. I'd have to get back to you on that, really. It's an issue that I'm still trying to wrap my head around entirely. We've had, you know, a number of municipalities come forward with either their stories as it relates to the storms and what they're going through, what they continue to go through almost a year and a half later, actually, a over a year and a half

on the street corners, although, our transfer station does take them for free. What we suggested with the mayor is to hold mattress days in different neighborhoods, so, we'll have a track there and people can bring and will be notified, of course, through the NRZ or other community organizations that we'll be there. And they can bring their mattresses directly to us. That's something that could work in your community as well.

REP. MILLER: As a youngster, 10 or 12-years old, we loved mattresses. Thank you very much.

ADRIENNE HOUEL: You're quite welcome. And I appreciate you're being from Stratford. That's where I grew up and went to school.

REP. GENTILE: Thank you. Adrienne, thank you.

ADRIENNE HOUEL: Thank you very much.

Doug Williams followed by Karl Reichle.

DOUG WILLIAMS: Okay. I'm working on the arborous bill, jumping around here a little bit.

My name is Doug Williams. Well, first of all, good afternoon, Senator Meyer, Representative Gentile, and members of the Environment Committee. My name is Doug Williams. I'm a licensed arborists and Vice President and past President of the Connecticut Tree Protective Association and a member of the Connecticut Environmental Council.

I'm here to support Bill 6538 concerning arborists and tree wardens. While not a perfect bill, this proposed legislation will enable DEEP to better regulate arborous businesses. By this, I mean, it will be more difficult for tree care businesses to operate

without a license arborist registered to the entity. This will result in protecting consumers from unregulated and non-licensed tree care and streamline the process of DEEP investigations saving time and money.

With this efficiency, it should allow the inspectors to perform more inspections, divide better protection of the people and trees of Connecticut. This bill is a major step forward with respect to enforcement. It takes away the ability for non-licensed individuals to hide behind a gap in the law.

It is not often that an organization is in favor of more regulation or increased expenses. However, because this legislation allows for better enforcement, ultimately, it will benefit the professionalism of arborists and the protection of consumers.

There are a couple of flaws in the proposed language. First, the arborous business does not differentiate between those it only consult and those that actually work on trees. This additional registration to associate fees are an extra burden to these consultants.

Secondly, there's no emergency provision for unanticipated separation of the licensed arborists from the business in cases of death or termination. This could leave a respect and responsible business without the ability to operate. The business would need some time to hire a licensed arborist or work to obtain an arborist license themselves. Since the test are only given every three months, I might suggest a six-month timeframe to allow the business to continue for an existing licenses arborous business. I thank you very much.

REP. GENTILE: Thank you, Doug. Any questions for

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Doug? Appreciate your time.

Karl Reichle. Karl will be followed by Robert Ricard.

KARL REICHLE: Good morning. I guess that was optimistic. Good afternoon, Committee. My name is Karl Reichle. And I'm a past President of the Tree Wardens Association of Connecticut. I'm currently on the Board of Directors of it. I recently retired from the Town of South Windsor after 38 years of service. I was Tree warden for 28 years. I'm a member of the CTPA, Connecticut Tree Protective Association.

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And I'm here today in full support of this bill. It does a few things for us enough. One of the things that's really important is the training of tree wardens. I'm proud to say I was present of the Tree Warden Association when we came up with the school and the voluntary certification. We've got over 75 tree wardens throughout the State of Connecticut along with numerous others, Deputy tree wardens, Directors of Public Works, Planning and Zoning Officials, Wetlands people who've been through the school. And one of the things is you go through the school and it's not easy. And it's not meant to be. But when you get done and you get a certificate, you have a good basic working knowledge of tree biology, what it means to be a tree warden in the State of Connecticut and the things that are important. And the things that will certainly aid in this is to make sure that all tree wardens in the state are trained. There's a mixed bag of tree wardens. Some are volunteers. Some work for municipalities and parks. Some work in street services. There's a really mixed bag of people. I've met numerous, numerous great people throughout the state with this.

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Tree warden school will certainly work with DEEP and can offer assistance in the certification and the training that goes forward. You've got my written testimony here. And some of the things that will certainly help keep the lights on is when the utility companies come to a town, they know that a tree warden they're working with has a good basic knowledge of what needs to be done. Wanting to keep the citizens of that community safe from hazardous trees. And, two, to keep the lights on and keep Connecticut working. Keep the residents safe. We've all been through way too many tree storms here. I would urge to pass this along. I think this is great legislation. It's been a long time coming. And I'll take any questions you have.

REP. GENTILE: Thank you, Karl.

KARL RIECHLE: Thank you.

REP. GENTILE: Robert. Robert will be followed by James Govoni.

ROBERT RICARD: Good afternoon. My name is Robert Ricard. I'm on the faculty of the University of Connecticut. And I teach there urban forestry and natural resources policy and I'm speaking in favor of Raised Bill 6538.

For background, I've been working at the University since 1991. Most of my career or much of my career has been devoted to increasing tree warden professionalization. I conducted a needs -- statewide needs assessment in 1991 that really clearly identified tree wardens as having lacking qualifications as well as the components. No qualifications, as you know, exist in the existing law.

So, we developed a Tree Warden Association in

1992 as Mr. Richler has spoke. There's been a number of dedicated tree warden who, in collaboration with the University of Connecticut, myself and numerous tree wardens, developed this organization into the leading body representing tree wardens and educating tree wardens.

I'm telling you this because I as -- in 1998 we developed the tree warden -- voluntary school and certification program in lieu of not having a law -- a component of the law that this bill would require. So, since 1998, I've been conducting the tree warden school which means designing it, implementing it, recruiting, the participants, running the program and then conducting the exam, conducting the exam, correcting the exams and so forth. And to -- we've had 300 people go through that program for -- in the 15-year period.

So, I'm telling you that because I'm very, obviously, intimately engaged in this process over the last 15 years. I can fill you in a lot of details about that, but I can ensure you that as Karl said also, the Tree Warden Association University of Connecticut with all of our partners are in agreement that we can handle -- if this passes or, as we hope it passes, we would be able to handle the educational process. I think it's critical that all of the tree wardens across the state are at a basic educational skilled level.

We do have about 60 percent of the towns have certified tree wardens already. So, under the law, this -- these would be grandfathered. The other 40 percent we don't know why they don't participate. I have a few examples of folks who don't and don't know why. But it's, basically, just leveling the playing field. So, I appreciate your time -- giving my time to

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speak. If you have any questions, I'm happy to answer anything about especially how the program has been implemented.

REP. GENTILE: Thank you, Robert. Looks like you're off the hook no questions.

ROBERT RICARD: It's lunch.

REP. GENTILE: James, followed by Eric Hammerling.

JAMES GOVONI: Good afternoon, Madam Chair. Thank you for this opportunity to speak in front of you. My name is James Govoni. I'm a 32-year employee for the Town of Windsor. I currently hold a Municipal Forester and Tree Warden position. Additionally, I'm a member of the State Vegetative Management Task Force and President of the Tree Wardens Association.

Today I'm here on behalf of the Tree Wardens Association to support House Bill 6538. Title 23, Chapter 451, Section 2.3-59 of the General Statutes of Connecticut states the powers and duties of a tree warden. It gives us the care and control in whole or in part of a tree. But in plain language, our responsibility is to minimize the liability to the municipality and maximize our urban canopy. When I say minimize liability, that's a liability to you when you're walking down the street that you don't get hurt to our automobiles.

And, currently, the past four or five years, we've seen a very active increase in our weather patterns and storm and whatnot. And distribution of electricity is becoming very important to us, too. Those poles are set inside our rightaways. We share our rightaways to the private property. Having an awareness to those is very important. So, that's a big hat to wear.

House Bill 6538, we'll set a state standard that will enable us to perform these duties at a higher and more consistent level of proficiency as outlined in Section 9. We're all willing and able to complete the course work by the Commissioner of the Department of Energy and Environmental Protection. This bill, you know, addresses the responsibility of the State of Connecticut. You know, we are faced with aging forest in the State of Connecticut. I've been with my town for 32 years. As far as trees have grown 45 feet. They're above the power lines. They're getting into our rightaways. It's something that we have to manage. It's not a forest that we planted, but it's a forest that we're here to manage.

Trees have no boundaries, nor do the organizations that manage them. You know, together, successfully, we can manage our forest for a better navigate. And the citizens will also find -- add a value in the role that the tree wardens should do.

Another part that the tree wardens do is also right tree, right place. And one thing that I was starting to focus on now is we're managing a forest that's been given to us and we're stuck with it. But in order to minimize this, we have to get our tree wardens educated, that they plant the right tree in the right place, so, we don't keep on planting these problems that we have. The training that we'll give them, we'll most certainly help them -- they'll make the right decision.

As it currently stands now, you know, the state has this statute put into place. And then they allowed it -- they allowed the towns to determine how they were going to manage this

statute. Each town has its own economy in the State of Connecticut, 169 towns. We'd like to do things the way we like to do them and we don't want anybody to tell us. But we have a responsibility to manage this forest. That's why they have the statute. And I think by having this bill it will set a standard that benefit the State of Connecticut as we move into manage this forest. Thank you for your time. Are there questions?

REP. GENTILE: Thank you, James. Senator Meyer.

SENATOR MEYER: I notice you are a tree warden. How -- this bill has some training -- a training component for tree wardens. How are tree wardens now trained, if at all?

JAMES GOVONI: Senator, thank you for asking that question. What it boils -- I'll answer it in a funny way. Would you have a man pave your driveway, hem your skirt? Because, basically, that's what it is. The statue is in place and the town, the chief elected official appoints a tree warden. There's nothing about any type of criteria that person has.

We also have -- it's a very serious job. If you go through my town and you get hurt by a branch or tree, it damages your property, your house, your personal property, the tree warden is the one that stands in front of the court. I can't imagine not being trained.

And the fact that we have 60 percent of the tree wardens voluntarily going through this training, it's becoming the exception and not the rule in the court of law that you have that training.

SENATOR MEYER: Well, I think it's very supported that you, as a tree warden for 30 years, are

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supporting this bill that requires training of tree wardens. So, I hear you -- it's saying, in effect, that there's a gap there. And there are a lot of tree wardens that don't have the experience and confidence that you had.

JAMES GOVONI: That's very true and thank you for recognizing that. I have to share with you that the State Vegetative Management Task Force that I'm on, these issues were identified there. And there's some additional issues, like, the law that says we have the care and control, in whole or in part, but when your Town Planning and Zoning does the site plan approval, for the most part, the tree wardens aren't involved. You can drive down the street right now and look at the power lines and see young trees floating under those power lines. Those trees we're going to have to manage in the future. So, additionally, we're looking at the best interest in the State of Connecticut.

And a landscape environment is different than your forest environment. The landscape environment there's no succession. Trees have to be planted. And we have to plant them in the right place, you know, so we don't deal with this in the future.

SENATOR MEYER: Thank you.

JAMES GOVONI: Thank you.

REP. GENTILE: Thank you, James.

Eric Hammerling.

ERIC HAMMERLING: Good afternoon, co-chairs and HB 6538 members of the Committee. My name is Eric Hammerling and I'm the Executive Director of the Connecticut Forest and Park Association. I'm here wearing two hats. First, of course,

representing the Connecticut Forest and Park Association. And, also, last year, I was fortunate to serve as Chair of the State Vegetation and Management Task Force that you've heard a few of the previous speakers mention.

The goal of that task force was sustaining benefits that trees provide to communities, make public roads safer during storms, reduce damage to electric utility infrastructure which is a tough task. But we have the right people, I think, in place to do that. Twenty individuals' representative electric utilities, telecommunications, state agencies, municipalities, tree wardens, private arborous foresters, and conservation organizations.

With all of that as background, I'm here today to testify in strong support of Raised Bill 6538, specifically, Section 9 which focuses on the tree warden standards that we've been talking about recently.

I will note that the task force report did say that all -- recommended all municipal tree wardens should be certified as to their qualifications for the position which it seems pretty obvious. All municipalities are required by law to appoint a tree warden, but there's no requirement that the appointed tree warden know anything about trees. It's pretty absurd. Please help fix this.

There are three reasons. If you're looking for additional reasons for why this is so critical. First, Connecticut is rich in trees and people in close proximity. In fact, according to the Forest Service, we're the number -- we're the fifth most forested state in the nation. And we're number one in the nation in terms of forest cover found in our urban areas. So, we

have the most percentage wise people in close proximity to trees of any state.

Jim Govoni recent -- just talked about the statutory jurisdiction which is broad, the municipal tree wardens. And I think he stated it well. To minimize liability and maximize canopy in our towns. That is extremely important.

And then, last, you know, more knowledgeable tree wardens are going to help ensure that our public roads are safer. There's about 21,000 of road in Connecticut and an estimated of 2.1 million trees along those roadsides. Of that 21,000 figure, about 17,000 are town roads. Municipal tree wardens have some primary jurisdiction there and doesn't it make sense that they would be knowledgeable about trees.

So, please support Raised Bill 6538 and, particular, Section 9. And thank you for the opportunity to testify on this bill.

REP. GENTILE: Eric, thank you.

I believe Senator Chapin has some remarks or questions.

SENATOR CHAPIN: Thank you, Madam Chair.

Eric, would you be supportive of relief from the requirements in Section 9 if the tree warden was an arborist?

ERIC HAMMERLING: Well, I wish one of our current or previous speakers might have addressed this. We did, in fact, talk about this quite a bit at the task force. The short answer is no -- I think there are a number of additional bits of knowledge that someone has to have to be an effective tree warden. And just getting --

passing the arborous task does not necessarily ensure that one will be a good tree warden.

As you might imagine, part of it is knowing about trees. But the other part is knowing how to deal with people, with institutions of government, knowing the process that a tree warden has to go through, and the authority that they do their job within. So, I think it's close, but not quite on the arborous versus the full tree warden training.

SENATOR CHAPIN: Thank you. Thank you, Madam Chair.

REP. GENTILE: Thank you. Thank you, Eric.

Dwayne Kratt. Dwayne will be followed by Dwayne Southerland.

DWAYNE KRATT: I have some props, too.

Good afternoon.

REP. GENTILE: I hope you brought enough of those for the Committee members that braved the weather today.

DWAYNE KRATT: I think there probably is enough. There's one product I don't want you to drink because I don't want you to breaking the law. There's two other products we have and then one is a juice. And we'll get to that.

Thank you very much for being here. My name is Dwayne Kratt. I am the senior director of state government affairs for Diageo. Our North American Headquarters is in Norwalk where I work with about 650 other folks. Diageo is a premier alcohol beverage company. We compete in the beer, wine, and spirits category.

I'm here to offer my support for House Bill

**JOINT
STANDING
COMMITTEE
HEARINGS**

**ENVIRONMENT
PART 6
1666 - 2009**

2013



WESTPORT CONNECTICUT

TREE BOARD

110 MYRTLE AVENUE, TOWN HALL
WESTPORT, CONNECTICUT 06880

March 7, 2013

To: The Connecticut General Assembly, Environment Committee

Re: March 8, 2013 Public Hearing

Raised Bill 6538: An Act Concerning Arborists and Tree Wardens

We urge you to support this bill, particularly Section 9 which focuses on establishing and requiring appropriate coursework for Municipal Tree Wardens based on the model created by the Tree Wardens Association of Connecticut.

We believe this will ensure the highest professional standards of our Tree Wardens in their most important responsibility: public safety.

Municipal Tree Wardens have statutory jurisdiction which is essential to the health and well-being of our Urban Forest. They have authority over "the care and control of all trees and shrubs in whole or in part within the limits of any public road or grounds and within the limits of the town..."
(CGS Chapter 451, Section 23-59)

Our citizens deserve the most qualified Tree Wardens for the crucial task of managing our existing Urban Forest--as well as determining what our future Urban Forest will look like.

Please vote in support of Raised Bill 6538.

Pam Klomberg, Chair, Westport Tree Board

Tracey Hammer, Member, Westport Tree Board

Judy James, Member, Westport Tree Board

Westport Town Hall, 110 Myrtle Avenue, Westport Connecticut 06880



The Greenwich Tree Conservancy

Support for RB 6538: An Act Concerning Arborists and Tree Wardens

CGA Environment Committee March 8, 2013 Public Hearing

Submitted by JoAnn Messina, Executive Director

The Greenwich Tree Conservancy is a 501© 3 nonprofit organization created in 2007 to preserve and enhance the tree and forest resources of Greenwich, Connecticut to benefit the community, its health and its quality of life. Among other goals, the GTC educates on the value and benefit of trees and advocates for policies that will integrate tree protection and stewardship into community planning. We urge your support for RB 6538, in particular Section 9 of the bill which focuses on establishing and requiring appropriate coursework for municipal tree wardens based upon the outstanding model built by the Tree Wardens Association of Connecticut.

In 2012, the Commissioner of the Department of Energy & Environmental Protection commissioned the State Vegetation Management Task Force "to develop standards for road side tree care in Connecticut, vegetation management practices and schedules for utility rights of way, right tree/right place standards, standards for tree wardens, municipal tree inventories and pruning schedules." I served as a member of this Task Force which offered its final report on August 28, 2012.

The Greenwich Tree Conservancy supports RB 6538 and its goal to maintain the professionalism of Town Tree Wardens and their most important job of safety of our states' citizens. Municipal Tree Wardens have extensive statutory jurisdiction (CGS Chapter 451, Section 23-59) that is integrally tied to the health and well-being of our town's trees. Each Municipal Tree Warden has authority over "the care and control of all trees and shrubs in whole or in part within the limits of any public road or grounds and within the limits of his town ... " Our citizens deserve the most qualified Tree Wardens for this important task.

Please vote yes in support of RB 6538.

TESTIMONY - RAISED BILL NO. 6538
AN ACT CONCERNING ARBORISTS AND TREE WARDENS

State of Connecticut General Assembly - January Session 2013
ENVIRONMENT Committee

March 8, 2013

Dear Members:

Good morning. My name is Dr. Robert Ricard and I am a faculty member with the University of Connecticut. I am speaking for myself. I teach urban forestry and organizational behavior and governance. I speak in favor of Raised Bill No. 6538 as I believe this is a significant step forward in the professionalization of Connecticut tree wardens.

Since I came to UConn in 1991 I have devoted much of my career to improving tree warden performance. In that first year I conducted and published a state-wide needs assessment of the "state of CT urban forestry" and have repeated this research in 2001 and 2011 as well. To learn what other states did with tree wardens, I conducted and published New England wide research on tree wardens (tree wardens is a New England only phenomena). This research included original legislative history of the laws.

Based on this research I learned that tree wardens were unorganized and lacked coordinated training and education, and, more important, they lacked professional standing and cohesion.

To change this status, I formed the Tree Wardens' Association of Connecticut, Inc. in 1992. With UConn support and the efforts of many dedicated and devoted tree wardens and urban forestry professionals and organizations, the Tree Wardens' Association of Connecticut, Inc. quickly became the leader in tree warden education and leadership.

One critical development—and very pertinent to Raised Bill 6538—was the formation of the *voluntary* Tree Warden School and Certification Program in 1998. I have managed this program for 15 years. Development of this was a direct response to the lack of qualifications for tree wardens missing from state law. My duties include constructing the curricula, organizing the course, recruiting and managing participants and lecturers, conducting the course, and writing and grading the final exam. I also keep the records. I have even been deposed in a few lawsuits about these standards. We instituted a Continuing Education requirement and I maintain the records for this too. To date roughly 300 people have participated in the program.

I tell you this only to assure you that I have been intimately in engaged tree warden professionalization for more than two decades. I know well what Raised Bill 6538 will do if passed. I also know what will happen if the bill does not pass. Tree warden professionalization will stagnate. The result will be progress in increasing tree wardens' ability to both protect the

public from harm *and* reforest the states municipal forests will plateau if not decline. Even though more than half of the municipalities have been engaged in improving tree warden abilities, too many have not. This is unacceptable.

I affirm that the Tree Wardens' Association of Connecticut, Inc. and I as an UConn faculty member will be able to handle the increased or altered tasks were the bill to pass.

In 1901 the original legislators who passed the tree warden law got it mostly right—they missed on the qualifications part. You have a rare, historical opportunity to “fine tune” an otherwise progressive and profound 112 year old environmental law. Pass Raised Bill 6538.

Thank you for your consideration.

Respectfully submitted,

Robert M. Ricard, Ph.D., CF
Senior Extension Educator
Urban Natural Resources Policy and Governance
University of Connecticut
Departments of Extension and
Natural Resources and the Environment

ENVIRONMENTAL COMMITTEE PUBLIC HEARING
FRIDAY, MARCH 8, 2013
TESTIMONY IN SUPPORT OF
HB No. 6538 (RAISED): AN ACT CONCERNING ARBORISTS AND TREE WARDENS

My name is James G. Govoni and I am a 32-year employee of the Town of Windsor, currently holding the Municipal Forester Tree Warden position. I am a member of the State Vegetative Management Task Force and President of the Tree Wardens Association of Connecticut.

Today I am here on behalf of the Tree Wardens Association to support Raised Bill 6538. Title 23, Chapter 451, Section 23-59 of the General Statutes of Connecticut state the powers and duties of a tree warden. It is our job to minimize the liability of our municipal government while increasing our urban canopy and roadside forest.

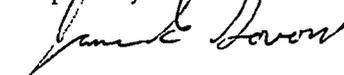
Raised Bill 6538 will set a statewide standard that will enable us to perform these duties at a higher and more consistent level of proficiency. As outlined in Section 9, we are willing and able to complete the coursework approved by the Commissioner of the Department of Energy and Environmental Protection.

This bill is a responsibility of the State of Connecticut. We are faced with an aging forest and an increase in climactic events as experienced with Storms Irene, Alfred and Sandy. It is our duty to provide safety for our residents and protect our infrastructure.

Trees have no boundaries, nor do the various organizations that manage them. Together we will successfully manage our forest for the betterment of Connecticut and citizens will find added value in the role tree wardens perform as they manage the current maturing forest and plant for Connecticut's future; Right Tree, Right Place.

The Tree Wardens Association of Connecticut thanks you for the opportunity to support Raised Bill 6538. If you have any questions or comments, please feel free to contact me at (860) 978-7264 or treewardenjgm@gmail.com.

Respectfully Submitted,



James G. Govoni, President
Tree Wardens Association of Connecticut



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www.ctwoodlands.org

Conserving Connecticut. Connecting people to the land.

Testimony of Eric Hammerling, Executive Director, Connecticut Forest & Park Association

Legislation before the Environment Committee on March 8, 2013	Support/ Oppose
RAISED BILL 6538: AN ACT CONCERNING ARBORISTS AND TREE WARDENS.	Support

The Connecticut Forest & Park Association (CFPA) is the first conservation organization established in Connecticut in 1895. CFPA has offered testimony before the General Assembly every year since 1897 on issues such as sustainable forestry, state parks and forests, trail recreation, natural resource protection, and land conservation.

In addition to being the Executive Director of the Connecticut Forest & Park Association, I was fortunate to serve last year as Chair of the State Vegetation Management Task Force appointed by the DEEP Commissioner with a goal of recommending ways to improve health and management of roadside trees to 1) sustain benefits that trees provide to communities, 2) make public roads safer during storms, and 3) reduce damage to electric utility infrastructure. The Task Force included 20 individuals representing electric utilities, telecommunications, state agencies, municipalities, tree wardens, private arborists, foresters, and conservation organizations.

Although I testify in strong support of Raised Bill 6538 on behalf of CFPA only, I can also state that one of the highest priority recommendations in the Task Force's Final Report is that "all municipal tree wardens should be certified as to their qualifications for the position."

Today, all municipalities are required by law to appoint a tree warden, but there is no requirement that the appointed tree warden know anything about trees. Please fix this absurd situation.

Why is the passage of Raised Bill 6538 so critical? I'll give you three reasons:

- 1) **Connecticut is rich in both trees and people.** According to the USDA Forest Service, Connecticut has the distinction of being the 5th most forested state in the nation (72.6%), and we lead the nation in the forest cover found in our urban areas (67.4%). Connecticut also leads the nation in the measure known as Wildland Urban Interface, which means we have the highest percentage of forested land that has homes and trees in close proximity.

- 2) ***Municipal Tree Wardens have extensive statutory jurisdiction (CGS Chapter 451, Section 23-59) that is integrally tied to the health and well-being of your town's trees.*** Each Municipal Tree Warden has authority over "the care and control of all trees and shrubs in whole or in part within the limits of any public road or grounds and within the limits of his town, except those along state highways ... Such care and control shall extend to such limbs, roots or parts of trees and shrubs as extend or overhang the limits of any such public road or grounds."
- 3) ***More knowledgeable tree wardens will help ensure that our public roads are safer.*** According to testimony that was presented to the Two Storm Panel by Task Force member Dr. Jeffrey Ward, there are an estimated 2.1 million trees lining almost 21,000 miles of roads in Connecticut (based upon an average of 100 trees/mile found beside 3,731 miles of state highways and 17,232 miles of town roads). Around 1.2 million of these trees are estimated to be larger than 1 foot in diameter, and our roadside forest is aging which requires better management. Tree wardens play a critical role both in managing this current roadside forest at the town level, and in determining what our future roadside forest will look like.

Please support R.B. 6538, in particular Section 9 of the bill which focuses on establishing and requiring appropriate coursework for municipal tree wardens based upon the outstanding model built by the Tree Wardens Association of Connecticut.

Thank you for the opportunity to testify on this bill, and I am glad to respond to any questions you may have.

HB 6538 – An Act Concerning Arborists and Tree Wardens – SUPPORT

March 8, 2013 – Environment Committee

Good morning, I'm Karl Reichle, I recently retired after 38 years with the Town of South Windsor, serving as Tree Warden for 28 of those years, I am also Past President of the Tree Wardens Association of Connecticut, and currently serving on the Board of Directors of the Tree Wardens Association

I am in full support of bill 6538 especially section 9, Training of Tree Wardens.

I was President of the Tree Wardens Association when we started the Tree Wardens School, and the voluntary certification program over 12 years ago. I'm proud to say we have over 75 municipal Tree Wardens who have successfully completed the program along with numerous Deputy Tree Wardens and a wide variety of other people (Town Engineers, Planning Directors, Wetlands Officials, Public Works Directors, and First Selectmen. The course is not easy and is not meant to be; when you successfully complete the course you will have good basic knowledge of tree biology and the roles and responsibilities of a Tree Warden (which under current law each municipality must have one).

To make sure all Tree Wardens in the State of Connecticut are trained, will help raise the professionalism of Tree Wardens throughout the State. It will also help the Utility Companies in knowing that the Tree Warden they interact with has a good basic understanding of municipal trees, and how they affect everyone. It will aid all municipalities, in having assurances the people who they have as their Tree Wardens, have good basic understanding of their roles as Tree Wardens and how to make their Community safer.

I am very confident The Tree Wardens Association of Connecticut can assist the Department of Energy and Environmental Protection in providing support to this new valuable training program.

This is an excellent proposed program that will save untold number dollars by helping to insure the Public is protected by a trained professional. This will also help to keep Connecticut's roadside beauty for all to enjoy. Finally, this bill will aid the Utilities in limiting damage to their infrastructures during storms, by working with a person who has an understanding of what is at stake, thus helping to keep the lights on for residents and keeping industry and business working in Connecticut.

Thank you for this opportunity to testify on this legislation. I would be happy to answer any questions you might have.

I may be reached at (860) 289-8436 or my cell phone (860) 268-5931 or e-mail me at municipaltreesllc@gmail.com

Thank you,

Karl E. Reichle



ENVIRONMENT COMMITTEE

March 8, 2013

The Connecticut Conference of Municipalities (CCM) is Connecticut's statewide association of towns and cities and the voice of local government - your partners in governing Connecticut. Our members represent over 92% of Connecticut's population. We appreciate the opportunity to testify on bills of interest to towns and cities. (HB 6538)

CCM has concerns with House Bill 6438 "*An Act Concerning Arborists and Tree Wardens*"

This bill would establish new requirements for arborists and tree wardens – that they be licensed and adhere to continuing education requirements.

While the intention of the bill is positive, to professionalize these positions, CCM is concerned that it would impose a new unfunded mandate on either the individuals themselves or towns and cities to cover such costs for current employees.

Not all tree wardens are employees of municipalities; some provide the service to their community on a volunteer basis. Imposing new mandates on them that could be costly and time consuming may discourage some from taking on these responsibilities.

CCM urges the committee to seek mechanisms to provide such individuals with as much support as possible with minimum costs.

★ ★ ★ ★ ★

If you have any questions, please contact Kachina Walsh-Weaver, State Relations Manager for CCM via email kwalsh-weaver@ccm-ct.org or via phone (203) 710-9525.



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – March 8, 2013
Environment Committee

Testimony Submitted by Commissioner Daniel C. Esty
Presented By Deputy Commissioner Macky McCleary

Raised House Bill No. 6538 – AN ACT CONCERNING ARBORISTS AND TREE WARDENS

Thank you for the opportunity to present testimony regarding Raised House Bill No. – AAC Arborists And Tree Wardens. The Department of Energy and Environmental Protection (DEEP) offers the following testimony.

We appreciate the Committee's willingness to raise this bill at the request of the DEEP. This proposal, which we strongly support, would harmonize arborist requirements with pesticide applicator requirements, reducing administrative costs for both DEEP and the regulated community. It would also increase accountability for licensed arborists by requiring them to register their businesses.

Arborists

The bill would eliminate double fees for those individuals who hold both a pesticide certification and an arborist license. Currently pesticide certification is offered in many categories, but arborist licenses are considered separate. While the arborist license does allow pesticide application, many arborists also do work in other categories, such as lawn and shrub care or rights-of-way application.

Both the arborist and pesticide programs are administered by the pesticide management program at DEEP, and harmonizing the fees and requirements would aid in processing applications. The bill would also add a business registration requirement for companies engaged in non-pesticide arboriculture. At present, only individual arborists are regulated, not businesses. A business registration requirement would greatly aid in tracking unlicensed companies and provide more consumer protection and allowing the DEEP to respond to public inquiries about arborist companies and make inspections and complaint follow-up more efficient. Currently, DEEP only knows of the licensed individual and cannot readily determine if an arborist business has an associated licensed arborist.

The bill would improve environmental protection by helping DEEP better address and respond to public complaints and concerns about arborist operations if we can locate the businesses.

Most states do not have arborist licensing except when pesticides are used. Connecticut, however, has had a strong law since the 1920's. Federal law requires certification of pesticide applicators, but does not touch upon tree work that does not involve pesticides.

The regulated community is very interested in DEEP finding and taking enforcement action against unlicensed arborists. The financial impact will be minimal. While there will be a business registration fee, this will be offset in many cases by the elimination of double fees when individuals hold both an arborist license and a pesticide certification.

Tree Wardens

Regarding the required course work and record keeping of tree wardens - DEEP supports formalizing a process to ensure tree wardens are qualified to perform their duties. For approximately 15 years a similar voluntary qualification program has been successfully administered by the Tree Warden's Association of Connecticut, Inc., a nonprofit organization dedicated to educating tree wardens and others about tree warden's roles and responsibilities. The Commissioner supports the State Vegetation Management Task Force recommendation that all tree wardens demonstrate these qualifications through successfully completing coursework within one year of being appointed by a municipality. Recent storms have demonstrated public tree care as a critical component of Connecticut's cities and towns green infrastructure.

We request that the committee review a drafting change that we suggest for the bill. In section 8 line 226 remove the term [agricultural] and replace it with the term arboricultural. The purpose of this change is to make subsection (g) internally consistent.

In conclusion, this bill would ease the administrative burden on DEEP and businesses and would allow for better response to public complaints and inquiries.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison, Robert LaFrance at 860-424-3401 or Robert.LaFrance@ct.gov.