

Legislative History for Connecticut Act

SA 14-9

HB5484

House	2622-2626	5
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**CONNECTICUT
GENERAL ASSEMBLY
HOUSE**

**PROCEEDINGS
2014**

**VOL.57
PART 8
2370 - 2692**

pat/gbr
HOUSE OF REPRESENTATIVES

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April 25, 2014

voted? Members please check the board to make sure
your vote is properly cast.

If all the members have voted, the machine will
be locked and the Clerk will take a tally. Will the
Clerk please announce the tally.

THE CLERK:

House Bill 5578 as amended by House "A".

Total number voting	128
Necessary for passage	65
Those voting Yea	128
Those voting Nay	0
Those absent and not voting	22

SPEAKER SHARKEY:

The bill as amended passes. Will the Clerk
please call Calendar 259.

THE CLERK:

On Page 14, Calendar 259, Favorable Report of the
Joint Standing Committee on Judiciary. House Bill
5484 AN ACT CONCERNING THE CLAIM AGAINST THE STATE OF
THE TOWN OF CHESHIRE.

SPEAKER SHARKEY:

Representative Fox.

REP. FOX (146th):

Thank you, Mr. Speaker. I move for the

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acceptance of the Joint Committee's Favorable Report
and passage of the bill.

SPEAKER SHARKEY:

The question is on acceptance of the Joint
Committee's Favorable Report and passage of the bill.

Will you remark, sir?

REP. FOX (146th):

Thank you, Mr. Speaker. The first thing I
should probably address is the title. This is
actually something that was brought to our attention
by the Town of Cheshire who are seeking to bring a
claim against the state, specifically the Department
of Correction and this would allow them to submit a
claim to the Claims Commissioner after the time to do
so has lapsed.

And what, it came to our attention and what the
testimony before the Committee was is that Cheshire as
we all know has two of the largest prison complexes in
the state and they had contracted with the Department
of Correction to deal with the waste water treatment
plant that would handle a daily flow of what they
thought was 350,000 gallons when in actuality it was
450,000 gallons, causing what was argued to be a
significant cost to the residents of the Town of

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Cheshire.

This would allow the town to bring a claim against the DOC. I urge adoption of the Resolution.

SPEAKER SHARKEY:

Thank you, sir. Would you care to remark further on the bill before us? Representative Rebimbas.

REP. REBIMBAS (70th):

Thank you, Mr. Speaker. I rise in support of the bill that's before us and I want to thank all the Representatives that represent Cheshire for bring this to our attention.

It did pass unanimously out of Judiciary Committee and they should have the right to be heard.

Thank you, Mr. Speaker.

SPEAKER SHARKEY:

Thank you, madam. Would you care to remark further on the bill that's before us?

Representative Boukus.

REP. BOUKUS (22nd):

Thank you, Mr. Speaker. Mr. Speaker, our colleague, Representative Fritz is at an event this evening for her husband and regrets she's not here, but she would like you all to know that she's in full support of this and hopes that you will also be in

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support of the request from Cheshire. Thank you.

SPEAKER SHARKEY:

Thank you, madam. Would you care to remark?
Would you care to remark further on the bill that's
before us?

If not, staff and guests to the Well of the
House. Members take your seats. The machine will be
opened.

THE CLERK:

The House of Representatives is voting by Roll.

The House of Representatives is voting by Roll.

Will members please return to the Chamber
immediately.

SPEAKER SHARKEY:

As we await the completion of this vote, I would
just ask members to stay somewhat close to the
Chamber. We're going to be running through some bills
tonight and hope to do them relatively rapidly.

Have all the members voted? Have all the members
voted? Members please check the board to make sure
your vote is properly cast.

If all the members have voted, the machine will
be locked and the Clerk will take a tally. The Clerk
please announce the tally.

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THE CLERK:

House Bill 5484.

Total number voting 129

Necessary for passage 65

Those voting Yea 129

Those voting Nay 0

Those absent and not voting 21

SPEAKER SHARKEY:

The bill is passed.

Will the Clerk please call Calendar 256.

THE CLERK:

House Calendar 256, Favorable Report of the Joint
Standing Committee on Judiciary, Substitute House Bill
5530 AN ACT CONCERNING THE DEPARTMENT OF PUBLIC
HEALTH'S RECOMMENDATIONS REGARDING BULK WATER HAULERS.

SPEAKER SHARKEY:

Representative Johnson.

REP. JOHNSON (49th):

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

SPEAKER SHARKEY:

The question is on acceptance of the Joint
Committee's Favorable Report and passage of the bill.

Will you remark, madam?

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Also Calendar page 20, Calendar 488, House Bill 5222.

Moving to Calendar page 23, Calendar 504, House Bill 5309.

Also Calendar page 23, Calendar 505, House Bill 5484.

And on Calendar page 23, Calendar 506, House Bill 5487.

Moving to Calendar page 26, Mr. President, Calendar 519, House Bill 5375.

Also Calendar page 26, Calendar 520, House Bill 5471.

On Calendar page 30, Calendar 542, House Bill 5378.

Calendar page 33, Calendar 558, House Bill 5459.

And also we earlier today had placed Calendar page 37, Calendar 120, Senate Bill 237.

And one additional item, Mr. President, Calendar page 45, Calendar 158, Senate Bill 209.

So this would be our proposed Consent items at this time, Mr. President.

THE CHAIR:

Seeing no objection, so ordered, sir.

SENATOR LOONEY:

Thank you, and if the Clerk would then read the items on the Consent Calendar for verification so we might proceed to a vote.

THE CHAIR:

Mr. Clerk.

THE CLERK:

On Page 4, Calendar 273, Senate Bill 480.

Page 14, Calendar 435, House Bill 5044.

On Page 16, Calendar 450, House Bill 5371.

Also Calendar 451, House Bill 5373.

On Page 18, Calendar 464, House Bill 5293.

On Page 19, Calendar 471, House Bill 5374.

On Page 20, Calendar 472, House Bill 5380.

Calendar 488, 5222.

On Page 23, Calendar 504, House Bill 5309.

And Calendar 505, House Bill 5484.

Also Calendar 506, House Bill 5487.

And on page 26, Calendar 519, House Bill 5375.

Calendar 520, House Bill 5471.

Page 30, Calendar 542, House Bill 5378.

Page 33, Calendar 558, House Bill 5459.

On Page 37, Calendar 120, Senate Bill 237.

And on page 45, Calendar 158, Senate Bill 209.

THE CHAIR:

Thank you. Mr. Clerk. Please announce the pendency of a roll call vote and the machine will be opened.

THE CLERK:

An immediate roll call has been ordered in the Senate.
roll call on today's Consent Calendar has been ordered
in the Senate.

THE CHAIR:

Have all members voted? If all members have voted, please check the board to make sure your vote is accurately recorded.

If all members have voted, the machine will be closed and the Clerk will announce the tally.

THE CLERK:

On today's Consent Calendar.

Total Number Voting	35
Necessary for adoption	18
Those voting Yea	35
Those voting Nay	0
Those absent and not voting	1

THE CHAIR:

Consent Calendar Number 1 passes.

Senator Looney.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, would move for immediate transmittal to the House of Representatives of Senate bills acted upon today.

THE CHAIR:

Without objection, so ordered.

SENATOR LOONEY:

Thank you, Mr. President.

Mr. President, would yield the floor to members for any announcements or points of personal privilege before adjourning and announcing tomorrow's Session.

THE CHAIR:

Any announcements or points of personal privilege? Announcements or points of personal privilege? Seeing none, Senator Looney.

SENATOR LOONEY:

**JOINT
STANDING
COMMITTEE
HEARINGS**

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2014

Judge Knierim?

I don't see any, but thank you for your testimony. I know this is an issue that's very important to you. You've made it clear to us as a committee several times and I'm sure we'll be talking more about it. Thank you.

JUDGE PAUL KNIERIM: Thank you very much.

REP. FOX: Next is Senator Markley.

SENATOR MARKLEY: Thank you, Mr. Chairman. Senator Coleman, Representative Fox, and members of the committee, I'm here to testify briefly on House Bill 5484 which would allow the Town of Cheshire to present a claim to the claims commission after the -- beyond the one-year deadline for submitting claims.

And I'll just tell you briefly what the story is of this situation is, if you don't know. Actually something I found out about soon after I was elected in March of 2011. It was discovered that the meter which was monitoring the wastewater discharge from the correctional facility in Cheshire had been -- which was installed and maintained by the prison itself -- had been faulty and underreporting the amount of discharge many years.

In fact, it was determined that it has been eight years of underestimation, under measuring of the total amount of discharge. And the loss to the Town because of that, because of the cost of wastewater treatment which would be reimbursed by the prison was over \$1.6 million. And the Town of Cheshire billed the Department of Corrections for the last year's overage, which was about \$180,000, which was paid by the Department of Corrections acknowledging that this error had occurred.

When the Town billed for the other years that were involved using the same calculation and on the same rationale the Department or Corrections refused to pay that amount and has indicated that they have no interest in discussing with this with the Town at this point.

What the Town is asking for is authority -- is not necessarily for the payment but for authority to go to the claims commission and make claims for the other year's mis-payment of the owed fee. And I'm not -- I don't think Cheshire is a Town that asks an great deal of the State. It's a very well-run Town. It's a sound Town economically. It's a net contributor to the good of the State of Connecticut in terms of the taxes paid by the people of Cheshire.

What they're asking for is not something extraordinary, but simply an equitable settlement of costs that they incurred on the State's behalf, costs which the department has implicitly acknowledged they had incurred and that I think are owed to them and should be paid. So as a matter of fairness I would hope that you support them and allow them to take this claim to the claims mission.

And I'd be happy to answer any questions, although I'll point out we have Michael Milone and some other folks from the Town of Cheshire, who I think you'll find know the details of the situation better than I do, but I'll do my best.

REP. FOX: Thank you.

Are there any questions?

Representative Fritz is also -- as also a member of this committee, has brought this to our attention as well, so I understand she will continue to bring it to our attention I am sure.

SENATOR MARKLEY: And representative Adinolfi, too. So thank you very much.

REP. FOX: Representative Srinivasan.

Representative Vargas. I'll call Senator Looney again, if he's here. Well, you all heard me say their names, so now we will go to the members of the public list. And the first name on our public sign-up sheet is Catherine Bailey.

Good morning.

CATHERINE BAILEY: Good morning, Senator Coleman. Good morning, Representative Fox, and members of the committee. My name is Catherine Bailey and I'm the legal and public policy director of the Connecticut Women's Education and Legal Fund.

CWELF is a statewide nonprofit organization dedicated to empowering women, girls and their families to achieve equal opportunities in their personal and professional lives.

For over 40 years CWELF has provided a free information and referral line on family employment education and civil rights law. The majority of these questions involve family law issues with some situations involving domestic violence. We support Senate Bill 462 because strong laws are critical that the safety of domestic violence victims and their families. Relationships involving violence most often involve the exertion of control over the

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10:00 A.M.

half of the position if perhaps you weren't spending this sort of money paying for supports that abusers should be paying for?

SHARLENE KERELEJZA: Potentially.

REP. FLEXER: Okay. Thank you very much.

SENATOR COLEMAN: Thank you.

Are there other members that have questions?
If not thank you very much.

SHARLENE KERELEJZA: Thank you.

SENATOR COLEMAN: Thank you for your testimony.

Judge Beverly Strerit-Kefalas and Brian Mahon.

JUDGE BEVERLY STRERIT-KEFALAS: Good morning. I am Judge Beverly Strerit-Kefalas. Thank you for the pronouncement. That's a rare occurrence.

To my left is Judge Brian Mahon who is the chair of the legislative committee of the Connecticut Probate Assembly and I am the President Judge of the Connecticut Probate Assembly, which is the organization of the 54 probate judges in the State. I've been the judge of the Milford Probate Court since 1999 and in 2011, with the consolidation, became the judge of the Milford/Orange Probate Court.

Thank you for the opportunity to address the committee today in support of passage of House Bill 5488, AN ACT CONCERNING HEALTH INSURANCE COVERAGE FOR PROBATE COURT PERSONNEL. I'm speaking this morning in support, not only personally, but also on behalf of the 54 judges of the probate system as well as I would estimate many if not most of the staff of the courts. I can affirmatively say that my staff

in Milford/Orange wholeheartedly supports passage.

To all of us the change in coverage is an issue of equity and parity in workplace benefits. Having been a probate judge for 15 years I have experienced, especially in the last three years significant changes, improvements, and frankly sacrifices by the probate court system. As many of you know, consolidation in 2011 reduced courts from 117 to 54 courts and the impact in savings was in the millions of dollars. These savings were the direct result of the sacrifice and commitment to public service by the probate court employees and judges.

In addition to the increased workload on each judge and court employee, the state of the economy has also caused increases in the demands and needs of the public. Living on stretched dollars and not hiring lawyers, the public needs more hands-on assistants every day by the staff and the public gets that exemplary service. In July, 2013, a completely new set of rules and procedures was implemented for the courts as well. Ask any probate lawyer and he or she will tell you that just becoming familiar with the new forms we utilize is daunting, never mind learning all the new rules. And our staff and the judges have once again excelled at rising in meeting those challenges.

When state employees underwent a wage freeze the probate court employees did likewise, but throughout health insurance premiums ever made a heavier burden on the probate system than on any other state employees. The employees were under a wage freeze for five years and only recently have begun to receive cost of living wage increases. There has been no such freeze the cost of insurance. In fact, continual

increases have occurred. And the net result from any in our system has been, in essence, a decline in wages at a time of increased work demand.

Voting for passage of House Bill 5488 will result in equitable treatment of all employees in state government. I thank you for your time today and I urge your passage of this bill. Thank you again for the opportunity to speak before you today.

SENATOR COLEMAN: Thank you.

And Mr. Mahon, do you have any comments you'd like to make.

JUDGE BRIAN MAHON: No. I'm in support of the bill I'm here to answer any questions along with Judge Strerit-Kefalas.

SENATOR COLEMAN: Are there questions for either? Seeing none thank you both very much.

Mark DeAngelis.

MARK DeANGELIS: Good morning, Mr. Chairman and committee members. My name is Mark DeAngelis. I am the President of the State Marshal Local Counsel 4 AFSCME. We strongly support House Bill 556, AN ACT CONCERNING FEES RECEIVED BY OFFICERS AND PERSONS SERVING PROCESS AND PERFORMING OTHER DUTIES. And House Bill 554, AN ACT CONCERNING DUTIES OF A STATE MARSHAL.

(HB 5556)

(HB 5554)

House bill 556, increase private fee for service and hourly rate for evictions. State marshal fees have not increased since the year 2000. At the same time state marshal costs have gone up vastly. Gasoline, healthcare, mandated liability insurance and related costs have increased considerably. The state marshal

(HB 5556)

establishing that they're a victim of domestic violence, but there's no eviction protection for failing to pay rent. Failure to pay rent is a valid grounds for eviction even if you're a victim of domestic violence.

The law that was passed, I think it was in 2011, provides no financial penalties beyond a 30-day termination notice where you can establish that you're a victim of domestic violence. So eviction for nonpayment of rent is a significant concern where we don't have the economics worked out correctly. And where they are evicted they're homeless.

REP. REBIMBAS: Thank you very much for the verification.

REP. FOX: Thank you, Andrea. Thanks for sitting here all day and being part of the testimony, and I, especially coming from Stamford I really appreciate your taking the time and also your willingness to always reach out to me on these issues, because I do value your experience and your opinion. So thank you.

ANDREA MANCUSO: Thank you.

REP. FOX: Michael Milone.

Good afternoon. If you could hit the red button in front of you and then if you could just both please state your names so we know who you are.

HB 5484
MICHAEL MILONE: Honorable committee members, good afternoon and thank you for allowing me to testify. I am Michael Milone, the Town Manager for the Town of Cheshire and with me is Liz Linehan. She is one of our Council members as well as Peter Talbert, who's a council member who's joining me.

Relative to some of the testimony proceeding me and the heart-wrenching stories I've heard today, I realized that my request is rather mundane, but nonetheless for us Cheshire it is very relevant. We're here to speak in support of Raised Bill Number 5484, which would allow the Town of Cheshire to present a claim to the claims commissioner after the current one-year time limitation imposed by state statute.

The enabling legislation for this raised Bill is in Section 4-148(b) of the statutes which states that, quote, the General Assembly may by special act authorize a person to present a claim to the claims commissioner after the time limitations set forth in Subsection A of this section have expired if it deems such authorization to be just and equitable and makes an express finding that such authorization is supported by compelling, equitable circumstances and would serve a public purpose, end quote.

We in Cheshire are requesting this legislation to permit us to pursue a claim for back billing totaling approximately \$1.5 million owed by the Department of Corrections to our wastewater treatment plant for the treatment of effluent that was discharged by the DOC's Cheshire prison facility over an eight-year period.

The sanitary sewer metering station that measures the flow of effluent from the prison to our treatment plant is on the grounds of the prison and it is maintained by the person. It measures of volume of waste discharged upon which the annual billing is based.

In March 2011, it was discovered that this meter was not functioning properly and only had the ability to measure a maximum of 500 gallons

per minute. Once a new meter was installed we began to receive accurate discharge flow data which showed a significant increase from the flow which was previously reported. As a result of the installation of this new accurate flow meter we were able to determine that the flow had been underreported for the previous eight years going back to January of 2003.

We analyzed the data from this eight-year period of underreporting along with the new accurate measurement data to calculate the billable amount for the underreported flow. The Town billed the DOC \$180,000 for this underreported flow for the calendar year 2011 and the Department of Corrections paid that bill. The town then billed the Department of Corrections approximately 1.5 million for the previous eight years of underreported flow, basing this amount on the same methodology that we used to calculate the fee for 2011, which again, the Department of Corrections had paid. Repeated attempts to collect this back due about of 1.5 million have been unsuccessful. The DOC has refused to meet with discuss our claim and the methodology used to calculate this charge.

In May 2013, then entering Commissioner Dzurenda wrote the Town stating, quote, this letter serves as notice that this agency does not agree with the Town of Cheshire's estimation of sewer flows above the amount metered over the period in question and its assertion that money is owned by the DOC, and as such will not pay the above referenced invoice, end quote.

Apparently however, the DOC had previously agreed based on their payment of the 2011 invoice. Cheshire taxpayers have subsidized the wastewater services provided to the prison

complex for those eight years in question. We feel this is an egregious inequity and we simply want the authority to make a claim for this past due amount and to be allowed to bring our case before the claims commissioner.

Thank you for allowing me to testify and I would appreciate your support of this proposed legislation. And I'd like to turn it over now to Liz if I could, please.

ELIZABETH LENEHAN: Thank you. Honorable committee members, good afternoon. Thank you for the opportunity to speak. I am Liz Linehan, a Town Councilor for the Town of Cheshire. I just want to throw in a quick happy St. Patrick's Day.

I see many of you are wearing green, but I am not. That's because that's the last name Linehan. Let's face it, that's kind of understood. If you threw it my maiden name you would know my children are practically leprechauns. So happy St. Patrick's day and thank you for taking the time to hear our testimony.

I am here to reiterate top is Cheshire Town Manager Michael Milone's testimony in support of Raised Bill Number 5484, which would allow the Town of Cheshire to present a claim to the claims Commissioner after the current one-year time limitation imposed by state statute. As Mr. Milone explained, the State has enabling legislation that allows for claims to be submitted to the claims commission after time limitations by a special act if such authorization is just, equitable and would serve a public purpose. As a representative of the residents of Cheshire I would argue that the payment of almost \$1.5 million owed to the Town by the Department of Corrections for

discharge from the prison facility that was underreported for eight years due to a faulty meter is indeed equitable and just. It serves the public purpose of ensuring that costs incurred by a state agency are appropriately borne by that agency, rather than inequitably by the taxpayers of the host community.

The prison received a service from the Town. The DOC has a contractual obligation to pay for this service, and yet has refused to do so even after implicitly agreeing to do so by paying the invoice for the 2011 back billing. In addition, the DOC has refused to even discuss this issue with town officials. And I really would also like to reiterate that point, that we cannot come to an agreement if only one party is willing to come to the table. Cheshire is simply asking for the opportunity to present our case to the state claims commissioner. This legislation would allow us that opportunity.

(HB 5484)

On behalf of the taxpayers of Cheshire I ask that you support Raised Bill Number 5458 and allow Cheshire to pursue a fair resolution to this situation. Thank you.

REP. FOX: Thank you and thanks for your testimony.

Are there any comments or questions?
Representative O'Neill.

REP. O'NEILL: You said that this metering problem was going on for eight years. And I'm just wondering, was there ever a provision or mechanism or something like that to test the meter? Or to try to verify how much and whether it was working accurately?

MICHAEL MILONE: There was never any reason to. There was never any question that it was

metering improperly until the day in question when we happened to have some of our staff on site and the meter was being changed.

And we learned that the meter that was there would only reach a 500 million-gallon per day -- 500,000-gallon per day limit and it was only then that we realized that for whatever period of time it was underreporting, but we had no reason to believe that because we never had flat reads from the meter. Because of the fact that it read over a month period of time you always had fluctuations in numbers so it's never as though it flat lined and you had this odd read and you had reason to question to it. So as a result it went on for, you know, a significant period before we picked it up and it was all because the meter was being replaced and we happened to be on site at the time.

REP. O'NEILL: Was the prior meter -- before the one that was being replaced, I assume there had been one there before that as well? There was in effect a third meter. The one now, the one that was replaced and then an earlier one. Did that one have a higher capacity? Do you know?

MICHAEL MILONE: We don't know because of the fact that that was replaced. That's the eight-year period that we're actually going back to. And so we don't have verification beyond the point of those eight years to be able to determine that.

REP. O'NEILL: Did anybody look to check? I'm assuming that there's a certain amount of effluent that's generated per person per inmate at the prison and I'm also assuming that there was an increase in the number of prisoners, if I remember correctly. We had a pretty big surge in prison populations for a period of time in the state.

And I'm just wondering was there ever kind of like a, looking at, well, you know, let's say it's a hundred gallons per prisoner and multiply the number of prisoners, and you're getting readings that are significantly lower than what normally would be generated by people taking showers and meals being prepared and all the rest that goes with the usage of water.

Was there any looking at, gee, you know your prison population has gone up, but you're not showing us any increase in effluent. How's that?

MICHAEL MILONE: Actually it was the opposite. The prison contracted for 350,000 gallons a day. The meter could measure up to 500,000 gallons a day and so what was happening is that we were getting reads certainly well above the 350,000 level, but under the 500,000 gallons per day. And so it didn't seem to indicate to us that there was an unusual disproportionate amount of discharge primarily because, not only did we have a much larger population back about four or five years ago, but there's a lot of influent -- infiltration from storm water that's been a big problem at the prison.

So in spite of the fact that the discharge might have been more gallons than you would expect from 2500 prisoners, it was always understood because of the rainwater and the seepage that was getting into the system, it was causing these higher numbers.

So it was just the opposite, rather than the numbers seemed lower than the should have been, they were higher. And the State has actually done a lot to try to control that, but the problem is, is that they've consistently exceeded the amount of volume that they

contracted with the Town of Cheshire to discharge and that's another issue that unfortunately is now resulted in a lawsuit against the Department of Corrections.

REP. O'NEILL: Thank you, Mr. Chairman.

SENATOR COLEMAN: Are there others with questions?
Representative Adinolfi.

REP. ADINOLFI: Thank you, Mr. Speaker.

And I'd like to welcome my colleagues here from Cheshire.

Two things. I believe that if this claim that we made from Cheshire had occurred, say, five years ago we wouldn't be having any problems. I remember way back when I was on the town council, I was on the prison advisory board and we would meet every couple of months with the wardens, with the people that lived in the community of the prison and I seem to remember that we used to have some of the people from the public works departments show up. And it was always a nice conversation. Never any problems. Always responses and I'm just very concerned and upset actually that this is not being heard. Nobody is sitting down with you and I think we're going to look into this a little further.

And just as a joke, I fear every prisoner in an uprising flushing the toilets at the same time.

MICHAEL MILONE: If I could just add one thing. One of the things I want to emphasize relative to something you asked about, Representative O'Neill, is the fact that this meter is on the prison grounds. The meter is monitored by the State Department of Corrections, so it's not the Town's meter. And one of the things we'd

like to do is to actually have the meter become part of the Town's metering system.

You know, the electric company doesn't allow you to put your own meter on your house and read it and give them a reading and so we feel that it's better suited if we could actually have that responsibility and authority, but that's for another day.

REP. O'NEILL: Mr. Chairman?

SENATOR COLEMAN: Representative O'Neill.

REP. O'NEILL: I think you've got a great idea for an amendment to this bill to allow every homeowner to put their own meter on and self-report.

MICHAEL MILONE: They'll have the same dilemma we have.

SENATOR COLEMAN: Other members with questions? Representative Fritz.

REP. FRITZ: Thank you, Mr. Chairman.

I think you both did exceptionally well today and I know the members of this committee will remember that we did pass a bill finally last year which allowed contracts in corrections to be amended. And if we could get our contract amended in Cheshire, perhaps we could have our own meter like the town of Suffield does at their correction facility.

Hopefully, so if I do an amendment like that you people will already support? Are you sleeping?

SENATOR COLEMAN: I'm sure you'll do your usual activity in support of the bills that you're

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10:00 A.M.

interested in.

Any others with questions? If not, thank you both very much.

MICHAEL MILONE: Thank you very much.

ELIZABETH LENEHAN: Thank you very much.

SENATOR COLEMAN: Susan Giacalone is next.

SUSAN GIACALONE: Good afternoon, Senator Coleman and members of the Judiciary Committee. For the record, my name is Susan Giacalone. I'm here on behalf of the Insurance Association of Connecticut in support -- I know you're not used to me saying that in this committee -- House Bill 5570. This is a bill you've heard a lot about today. I've submitted written testimony, so I will keep my comments very, very brief.

As you've heard from me over the years, I'm constantly here asking you not to extend the statute of limitation because of the impact that they will have on our exposure as insurers, (inaudible) the ability to defend and price adequately. Likewise, the same concept is extending in perpetuity cases for the State, which I find very ironic to come after the testimony you just heard where someone is trying to pursue a claim against the State and needs special permission to do so, because they failed to meet that short notice period.

As you've heard, that this is not -- the bill before you is not seeking to do something retroactively. It's just trying to restore back to what everyone thought the process has been for decades, that the contractual and the statutes and the statute of limitations that everyone is operating still apply and then just



State of Connecticut
SENATE
SENATOR DANTÉ BARTOLOMEO
Thirteenth District

Dear Senator Coleman, Representative Fox and members of the Judiciary Committee,

I am asking for your support of Raised Bill No. 5484. An Act Concerning The Claim Against The State For The Town of Cheshire.

Cheshire is host to the second largest prison complex in the State of Connecticut. The complex is currently comprised of two facilities. The first is the Cheshire Correctional Institution which was designed in 1982 and currently houses 1,349 inmates and 428 staff. The second is the John R. Manson Youth Institution which also opened in 1982 and currently houses 399 inmates and 283 staff.

The current contract between the Town of Cheshire and the State of Connecticut regarding wastewater flow from the complex pre-dates the expansion of the prison in 1990. While it addressed the needs at that time, much has changed and the prison has been sending more wastewater to Cheshire's water treatment plant than the old contract allows. Cheshire's agreement with the DOC has daily flow permitted at 350,000 gallons per day, but the complex's daily flow has averaged more than 450,000 gallon per day.

Therefore, last year we passed legislation allowing the town of Cheshire the opportunity to renegotiate its contract with the State of CT's Department of Corrections. We did so because Cheshire was the only community that had not been able to renegotiate with the State as their facilities aged and conditions changed over time. This was a matter of fairness. While the State has been exceeding the contracted flows by at least 100,000 gallons a day and using up vital plant capacity, it has not been paying a surcharge under the current agreement. In addition, about five years ago the Town of Cheshire reached 90% of plant capacity and had to conduct a very expensive and time consuming expansion/capacity study, which is said to be a direct result of the prison's excess flows. A new contract could allow Cheshire to recoup some of the increased cost of treating that wastewater by working OPM and DOC to amend their contract.

Unfortunately, repeated efforts by the Town of Cheshire to renegotiate a successor agreement with the State Department of Corrections (DOC) and the Office of Policy and Management (OPM) have not been successful.

Therefore, as a member of Cheshire's Legislative Delegation, I support HB 5484 as it will allow a claim to be submitted to the Claims Commissioner after the time limitations (one year) have lapsed. This bill, if passed, would allow the Town to make a claim for the eight years of back billing totaling \$1,453607.30 for the prisons' excess burden on the wastewater treatment plant system

Thank you in advance for your consideration.

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**Testimony by Liz Linehan
Town Councilor, Town of Cheshire
State of Connecticut Judiciary Committee
Monday, March 17, 2014
Legislative Office Building**

Honorable Committee Members, good afternoon and thank you for the opportunity to speak. I am Liz Linehan, a Town Councilor for the Town of Cheshire. I am here to reiterate Cheshire Town Manager Michael Milone's testimony in support of Raised Bill No. 5484 which would allow the Town of Cheshire to present a claim to the Claims Commissioner after the current one year time limitation imposed by State Statute.

As Mr. Milone explained, the State has enabling legislation that allows for claims to be submitted to the Claims Commission after time limitations by a special act if such authorization is just, equitable and would serve a public purpose.

As a representative of the residents of Cheshire, I would argue that the payment of the almost \$1.5 million owed to the Town by Department of Corrections for discharge from the prison facility that was underreported for eight years due to a faulty meter is indeed equitable and just. It serves the public purpose of ensuring that costs incurred by a state agency are appropriately borne by that agency, rather than inequitably by the taxpayers of the host community.

The prison received a service from the Town. The DOC has a contractual obligation to pay for this service, and yet it has refused to do so, even after implicitly agreeing to do so by paying the invoice for the 2011 back billing. In addition, the DOC has refused to even discuss this issue with Town officials. Cheshire is simply asking for the opportunity to present our case to the State Claims Commissioner. This legislation would allow us that opportunity.

On behalf of the taxpayers of Cheshire, I ask that you support Raised Bill Number 5458 and allow Cheshire to pursue a fair resolution to this situation.

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Testimony by Michael A. Milone
Town Manager, Town of Cheshire
State of Connecticut Judiciary Committee
Monday, March 17, 2014
Legislative Office Building

Re: Raised Bill No. 5484 – *An Act Concerning The Claim Against The State Of The Town of Cheshire*

Honorable Committee Members, good day and thank you for allowing me to testify. I am Michael A. Milone, the Town Manager for the Town of Cheshire. I am here to speak in support of Raised Bill No. 5484 which would allow the Town of Cheshire to present a claim to the Claims Commissioner after the current one year time limitation imposed by State Statute.

The enabling legislation for this Raised Bill is in Section 4-148(b) of the Statutes which states that "*the General Assembly may, by special act, authorize a person to present a claim to the Claims Commissioner after the time limitations set forth in subsection (a) of this section have expired if it deems such authorization to be just and equitable and makes an express finding that such authorization is supported by compelling equitable circumstances and would serve a public purpose.*"

We are requesting this legislation to permit us to pursue a claim for back billing totaling \$1,453,607.30 without interest owed by the Department of Corrections (DOC) to our Wastewater Treatment Plant for the treatment of effluent that was discharged by the DOC's Cheshire prison facility over an eight-year period.

The sanitary sewer metering station that measures the flow of effluent from the Prison to our Treatment Plant is on the grounds of the Prison, and it is maintained by the Prison. It measures the volume of waste discharged, upon which the annual billing is based.

In March 2011 it was discovered that this meter was not functioning properly and only had the ability to measure a maximum of 500 gallons per minute. Once a new meter was installed, we began to receive accurate discharge flow data, which showed a significant increase from the flow which was previously reported.

As a result of the installation of this new, accurate flow meter, we were able to determine that the flow had been underreported for the previous eight years, going back to January 2003. We analyzed the data from this eight-year period of underreporting along with the new accurate measurement data to calculate the billable amount for this underreported flow.

The Town billed DOC \$180,000 for this underreported flow for the calendar year 2011, and DOC paid that bill. The Town then billed DOC \$1,453,607.30 for the previous eight years of underreported flow, basing this amount on the same methodology that was used to calculate the fee for 2011, which again the DOC had paid.

(see over)

Testimony by Michael A. Milone, Town Manager, Town of Cheshire, Monday, March 17, 2014 Re Raised Bill No. 5484 – An Act Concerning The Claim Against The State Of The Town of Cheshire – page 2 of 2

Repeated attempts to collect this back due amount of \$1,453,607.30 have been unsuccessful. The DOC has refused to meet or to discuss our claim and the methodology used to calculate this charge. In May 2013, then Interim Commissioner Dzurenda wrote to the Town stating, *"This letter serves as notice that this Agency does not agree with Town of Cheshire's estimation of sewer flows above the amount metered over the period in question and its assertion that money is owed by DOC and as such will not pay the above referenced invoice."* Apparently, however, the DOC had agreed, based on their payment of the 2011 invoice.

Cheshire taxpayers have subsidized the waste water services provided to the Prison complex for these eight years in question. We feel this is an egregious inequity and we simply want the authority to make a claim for this past due amount and to be allowed to bring our case before the Claims Commissioner.

Thank you for allowing me to testify, and I would appreciate your support of this proposed legislation.



State of Connecticut

**HOUSE OF REPRESENTATIVES
STATE CAPITOL**

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MEMBER
COMMERCE COMMITTEE
HUMAN SERVICES COMMITTEE
PUBLIC SAFETY AND SECURITY COMMITTEE

**Judiciary Committee
Monday, March 17, 2014
Testimony in Support of,**

H.B. 5484, An Act Concerning the Claim Against the State for the Town of Cheshire

Honored Chairs, Ranking Members, and Members of the Judiciary Committee

Thank you for considering H.B. 5484. I offer the following testimony in favor of this proposal.

Today I testify on behalf of the members of my community who have been charged exorbitant sewer usage bills due to the state prison in Cheshire. Recently, I have spoken to numerous constituents who are outraged upon seeing their bills. Because of the state prison in our town, my community has been unfairly saddled with the expense.

The prison has inundated our small town with disproportionate costs. Many are asking why surrounding towns pay significantly less for sewer usage while Cheshire's bill continues to increase. Indeed, the increases have been outrageous.

It is time for the State of Connecticut to step up to the plate and pay its fair share. On behalf of the residents of Cheshire, I ask that you pass H.B. 5484, An Act Concerning the Claim Against the State for the Town of Cheshire, which is our request to allow a claim submittal to the Claims Commissioner after the time limitations (one year) have lapsed. This bill would allow us to make a claim for the eight years of back billing of \$1,453,607.30 that the State Department of Corrections owes our Wastewater Treatment Plant.

Once again, thank you for your consideration and I ask that you support H B. 5484 so that the residents of Cheshire are fairly treated.

Lezlye Zupkus, State Representative, 89th District