Testimony
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The Connecticut Water Works Association (CWWA), a trade association of municipal, private, and regional water utilities, strongly ***OPPOSES*** **Section 1 of HB-5464, An Act Concerning the Recommendation of the Department of Transportation.**

By requiring water utilities to obtain encroachment permits for work performed in the State Right of Way (SROW)**, HB-5464** shifts responsibility and liability to water utilities for work performed on customer-owned property in ways that will impose significant cost and operational burdens on water utilities, costs which will ultimately be borne by customers.

Historically, private property owners, contractors, and others performing work in the SROW are required to obtain encroachment permits from the Connecticut Department of Transportation (CTDOT). CTDOT encroachment permits require parties to submit applications, detailed project plans, a Certificate of Insurance (Form CON 32), and often a surety bond. The permit also requires work to be performed in compliance with CTDOT standards.

For decades, this process has worked well and provides applicants, utilities, contractors, and municipalities with clear direction regarding responsibilities, performance standards, and liability for work performed within the SROW.

Under existing law and pursuant to a water utility's Rules and Regulations, customers own and are responsible for maintaining the curb box and service line from the curb stop to the building. The water utility's responsibility begins at the curb valve and extends to the water main.

Because SROWs often extend several feet onto private property, many curb stops, laterals or service lines which are owned by the property owner are located within the SROW. Despite this, HB-5464 assigns permit responsibility to water utilities for infrastructure they do not own, shifting responsibility – and liability – to utilities for repairing and inspecting privately owned infrastructure to determine whether installation, paving, backfill, etc. was done in compliance with CTDOT standards.

This also creates an uneven and confusing standard since the property owner next door, depending on where the SROW is located, may continue to be responsible for work performed on the curb stops, laterals or service lines.

Recently, CTDOT has pushed to revise this process and instead require the water utility to obtain and sign the permit and inspect the work even where the utility does not own the property or have any contractual relationship with the contractor or private property owner. This effectively shifts liability for any defects in the work performed by a private contractor to the utility.

This places enormous cost, liability, and operational burdens on utilities and their customers at a time when water utilities are facing considerable challenges in complying with state and federal water quality standards, such as testing and remediating for PFAS, and lead service line inventorying and replacement. Moreover, shifting responsibility for inspecting such work from CTDOT to utilities will significantly strain personnel and resources.

These issues are compounded for municipal water departments and municipalities because HB-5464 shifts responsibility for performing and inspecting work on sewer laterals and fire service lines in the SROW from the property owners to the towns.

CWWA urges lawmakers to ***oppose*** **HB-5464** which:

- Requires water utilities to assume liability for work performed on infrastructure that they do not own, by contractors with which they do not have any contractual relationship, in conflict with longstanding practices.
- Shifts responsibility from CTDOT to utilities for performing inspections and enforcing permit conditions, imposing considerable burdens on utility personnel.
- Imposes open-ended liability on utilities for any damages associated with non-utility owned infrastructure in the SROW, resulting in increased costs for customers and property taxpayers.
- Extends liability to utilities beyond the terms generally covered by a surety bond, subjecting utilities – and their customers – to significant costs without benefit of bond coverage.
- Broadly imposes liability on utilities for “any damages” without regard for negligence or fault, leaving utilities on the hook for damages for conditions out of their control, such as road settlement, third-party accidents, or actions by state and private contractors.
- Fails to establish a dispute-resolution mechanism, evidentiary standards, or allocation procedures for multi-party events, exposing utilities and customers to protracted and costly lawsuits.
- Creates confusion regarding infrastructure ownership and responsibility which can impede emergency response efforts to restore service during outages or other disruptions and undermine critical maintenance work to meet public health and safety standards.

- By limiting eligibility for encroachment permits to utilities instead of private property owners, contractors, and others, the bill is likely to bottleneck routine work, particularly during peak construction seasons.

The current process, which requires the individual or company that owns the infrastructure in the SROW or who is performing the work to obtain an encroachment permit ensures that responsibilities and liabilities are clearly delineated among the parties. By upending this process, HB-5464 will create unnecessary confusion and expose utilities and their customers to unpredictable costs, liability, and operational burdens.

CWWA urges lawmakers to **OPPOSE Section 1 of HB-5464.**