

**Testimony of Jerry Elmer, Esq.,  
On Behalf of Conservation Law Foundation  
In Opposition to H-6122 – May 2, 2017  
Before the House Committee on Corporations**

My name is Jerry Elmer. I am a Senior Attorney for the Conservation Law Foundation (CLF). CLF opposes H-6122 in its present form and respectfully urges defeat of this bill. CLF has been working with the sponsors and proponents of this bill to try to address some of the problems in the current form of the bill and CLF stands ready to reconsider its present opposition to the bill depending on the extent to which some of the problems described below are addressed.

First, H-6122, in its present form, provides no statutory protection whatever from development for lands or waters acquired by the contemplated Rhode Island Cooperative Water Authority. This is a major omission. Rhode Island has a long and commendable history of protecting public lands. There are multiple ways that protection from development could be effected in a bill such as H-6122. One of these is the model that Rhode Island used in protecting lands and waters in the Big River Reservoir, as reflected in Chapter 20 of Title 37 of the Rhode Island General Laws. CLF and other environmental organizations stand ready to work with the sponsors of H-6122 to add appropriate provisions for the protection of public lands and waters to this bill.

Second, CLF opposes the provision found in definition 15 of Section 10 (“Powers of the Authority”), which appears on page 8, lines 23 through 29. This provision would radically alter existing Rhode Island law that has been on the books for over a century – since 1915 – that limits the purposes for which Providence water may be re-sold by receiving municipalities. The section would work a change to existing law that would allow, for the first time, re-sale of Providence water by any municipality to the owners of the controversial proposed Invenergy fossil-fuel power plant in Burrillville.

CLF realizes that this may not have been the intent of the sponsors. CLF respectfully urges that a bill designed and intended to create a new, potentially statewide, water authority should be completely neutral on the unrelated (and very controversial) issue of Invenergy. That is, a bill designed to create a new water authority should leave long-existing law in place about what are proper and what are improper uses for the re-sale of Providence water. To put the same point another way, this bill is not the proper vehicle to either facilitate or impede the Invenergy power plant.

Third, CLF opposes the provision found in definition 19 of Section 10 (“Powers of the Authority”), which appears on page 9, lines 12 through 17. This section would effectively repeal all background Rhode Island laws, ordinances, rules and regulations that have been enacted since the days of Roger Williams that apply to any purchase, sale, or management of land by the contemplated water authority. In effect, this provision would put the contemplated water authority above the law that has been set by this General Assembly. CLF believes that doing this would be unwise and would set a poor precedent.

Fourth, CLF opposes the provision found in Section 29(c) (Page 20, line 24 through page 21, line 4). This section divests both the Public Utilities Commission (PUC) and the Division of Public Utilities and Carriers (the Division) from their statutory oversight functions as set forth in Rhode Island General Laws. CLF believes that this, too, is unwise. The General Assembly has given certain oversight functions – including, importantly, safety and consumer protection matters – to the PUC and the Division. Those two agencies should not lose their authority over the actions of the contemplated water authority. The General Assembly may, in its discretion, enumerate criteria by which the PUC and Division should properly evaluate plans or proposals of the contemplated water authority; but divesting those agencies of all oversight functions is unwise.

For these reasons, CLF urges defeat of H-6122 in its present form. However, as indicated above, CLF will continue working with the sponsors and proponents of this bill in order to address the problems that we have identified.