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April 7, 2026

The Honorable Joseph J. Solomon, Jr., Chair
House Committee on House Corporations
State House
82 Smith St.
Providence, RI 02903

RE: H 7872 – An Act Relating to Waters and Navigation – Public Drinking Water Supply

Dear Chair Solomon:

Please accept this letter, with concerns, regarding H 7872, legislation that would establish civil penalties for extended service interruptions by water suppliers. These penalties would be in addition to other available remedies and damages. This act would take effect upon passage

The proposed legislation would require that if a public water supplier experiences an unplanned outage and does not restore service to at least 90% of affected customers within four hours, they will face a penalty of \$250 per customer for each additional hour of delay, capped at \$5,000 per customer, per day. This penalty applies unless the interruption is due to "force majeure," which generally means an unforeseeable event beyond the supplier's control. The Rhode Island Department of Health (RIDOH) would have discretion to adjust or waive these penalties if the supplier demonstrates hardship or if the non-compliance was due to reasons outside their reasonable control and they acted in good faith. Additionally, the bill amends existing law to allow for a civil penalty of up to \$25,000 per day for failing to correct unsafe water conditions within time limits set by the Director of Health, following a hearing.

“Dewatering” is defined as an unsafe condition. From Section 1.9.65. D in the Public Drinking Water Regulations (216-RICR-50-05-1): *“Dewatering: An unsafe condition occurs when the pressure in the entire system, or any significant portion of a system has no pressure as indicated by either no water, or a trickle of water at the fixtures; or if the pressure at a well pressure tank is less than 20 psi. The Director must be notified within twenty-four (24) hours when these conditions occur. Once pressure is re-established, the system must be disinfected in accordance with AWWA standards and samples of the distribution system must be taken. Until results indicate an absence of bacteria in the system, the public water system must operate under a precautionary boil water notice.”*

Currently, an unsafe condition can result in the notice of a significant deficiency, which requires the water system to take or make corrective actions. Failure to respond to RIDOH can result in a violation with associated penalties. As outlined in 1.22, an unsafe condition is in the category 1 penalty range with a \$1,000-\$5,000/day/violation. Therefore, a failure to correct an unsafe condition is already an offense subject to penalties under the existing regulation.

Also, the bill adds section §46-13-23, which states that water suppliers that fail to restore continuous service to at least 90% of affected customers within four hours after an unplanned outage, unless caused by force majeure, will have civil penalties of \$250 per customer for each additional hour of delay, up to \$5,000 per customer, per day. These fines will go to the general fund. By nature, many unsafe conditions are force majeure as they are caused by unexpected main breaks, equipment failure, or weather events. Therefore, many water systems may make this argument and make appeals.

Furthermore, the term *significant portion* is not defined under dewatering in the regulations; it is unclear if this additional section in the general law should apply to an already ambiguous definition within the regulations, or any outage. If the latter, RIDOH has no mechanism to enforce water systems to notify RIDOH of every outage. Finally, the language in this section is also ambiguous in its use of the word *customer*. It could be assumed this should apply only to Community Public Water Systems that sell water directly to residential or commercial customers, but it could also apply to Transient and Non-Transient Water Systems where customers could be buildings, businesses, students, etc. This ambiguity could cause confusion in calculating fines.

This bill, as written, is likely to increase the number of appeals submitted to RIDOH, requiring more staff time, including legal staff. H 7872 does not provide the necessary staffing resources for RIDOH to be able to assume this new work. The bill directs the fines to go to the general fund.

Although RIDOH appreciates the intent of H 7872, which is to ensure prompt restoration of water service and safe drinking water for the public, the bill is redundant to the existing code of regulations, which already has a mechanism for issuing significant deficiencies and violations and assessing penalties during unsafe conditions. While RIDOH appreciates the additional enforcement capability, it may be more efficient for RIDOH to add additional clarifying definitions to the existing regulations to avoid confusion and be able to clearly enforce unsafe conditions.

Thank you for the opportunity to comment on this legislation. We welcome the opportunity to answer any questions the Committee may have regarding H 7872.

Sincerely,



Jerome M. Larkin, MD
Director

CC: The Honorable Members of the House Committee on Corporations
The Honorable Brian Patrick Kennedy
Nicole McCarty, Esquire, Chief Legal Counsel
Lynne Urbani, Director of House Policy