

1 H.577

2 Introduced by Representative Deen of Westminster

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; public water systems; combined
6 sewer overflows; permitting; loan forgiveness

7 Statement of purpose: This bill proposes to authorize the issuance of a loan
8 from the Vermont environmental protection agency pollution control revolving
9 loan fund for 100 percent of the costs of certain combined sewer overflow
10 abatement projects. The bill also proposes to authorize the secretary of natural
11 resources to forgive portions of certain loans made from the state's
12 environmental protection agency revolving loan funds. The bill would repeal
13 the authority of the agency of natural resources (ANR) to issue a ten-year
14 operating permit for a public water system. The bill would authorize ANR to
15 issue an operating permit for an existing public water system that is unable to
16 comply with permitting standards if the operating permit includes a
17 compliance schedule, if the continued operation of the public water system
18 would not present an unacceptable risk to public health, and if the person who
19 owns the public water system informs all persons using the system of the
20 noncompliance. The bill would repeal the authority of ANR to issue
21 temporary permits to public water systems.

1 An act relating to public water systems

2 It is hereby enacted by the General Assembly of the State of Vermont:

3 Sec. 1. 10 V.S.A. § 1624a is amended to read:

4 § 1624a. AWARDS FOR POLLUTION ABATEMENT PROJECTS
5 FOR COMBINED SEWER OVERFLOWS

6 (a) When the department finds that a proposed water pollution abatement
7 project not covered under section 1625 of this title is necessary, that the
8 proposed type, kind, quality, size, and estimated cost of the project, including
9 operation cost and sewage disposal charges, are suitable for abatement of
10 pollution, and that the project or the prescribed project phases are necessary to
11 meet the intent of the water quality classifications established by the board or
12 by statute under chapter 47 of this title, the department may award state
13 financial assistance to the project. These projects may include ancillary work
14 determined by the secretary to be necessary to attain the water quality goals.

15 (b) The assistance shall consist of:

16 (1) A grant of 25 percent of the eligible project cost.

17 (2) A loan from the Vermont environmental protection agency (EPA)
18 pollution control revolving fund or the Vermont pollution control revolving
19 fund of 50 percent of the eligible project cost. No interest shall be charged.

20 In a certificate to the Vermont municipal bond bank, the secretary shall

1 recommend the term, repayment schedule and other terms and conditions of
2 the loan.

3 (c) Notwithstanding the percentages of assistance provided for in
4 subsection (b) of this section, when a municipality is certified by the secretary
5 of commerce and community development to be within a designated job
6 development zone, the grant to the municipality shall be 50 percent of eligible
7 project costs and the loan shall be 25 percent of eligible project costs.

8 (d) Grants and loans under this section may be made from state and federal
9 sources, as determined by the secretary.

10 (e) A loan agreement may be entered into by action of the legislative body
11 of the municipality, using procedures specified by applicable general or special
12 enabling authority, following:

13 (1) authorization by the electorate of issuance of bonds in the amount of
14 25 percent of project costs, unless the municipality has determined to use some
15 other method of financing its share of project cost; and

16 (2) authorization by the electorate of indebtedness in the amount of the
17 loan under this section.

18 (f) A loan agreement may include provisions for deferred repayment if the
19 electorate has authorized the future issuance of bonds to make a final
20 repayment of the loan, and the authorization specifies whether the bond

1 agreements will pledge the full faith and credit of the municipality or sufficient
2 revenues from municipal sewage disposal charges.

3 (1) Except as provided in subdivision (2) ~~below of this subsection~~, loan
4 repayments shall be according to the following schedule:

5 (A) 0.50 percent in the first year and increasing thereafter at 0.50
6 percent per year through the ninth year; and

7 (B) 5.0 percent in the 10th year through the 19th year; and

8 (C) the remainder in the 20th year.

9 (2) Notwithstanding subdivision ~~(1)~~ of this ~~section~~ subsection, a
10 municipality shall be entitled to loan repayment under this subdivision if
11 repayment would produce municipal sewer rates in the municipality which
12 exceed 150 percent of the current state average rate for a family of four. For
13 purposes of this calculation, the municipality's sewer rates shall be deemed to
14 include operating costs, payments on the municipality's water pollution control
15 debt, and repayment of five percent of the principal of the loan under this
16 section. The following shall be minimum repayments under this subdivision:

17 (A) 0.25 percent per year in the first through the tenth year, dating
18 from the issuance of the certification of completion of the project;

19 (B) 0.50 percent in the 11th year and increasing thereafter at 0.50
20 percent per year through the 19th year; and

1 (3) the remainder in the 20th year. When a loan is issued with deferred
2 repayment provisions pursuant to authorization of the electorate under this
3 section for the future issuance of bonds, upon maturity of the loan, if other
4 sources of revenue are available, the legislative body of the municipality may
5 elect not to issue bonds to make the final payment on the loan. The term of
6 these bonds, if issued, shall not exceed 20 years. As authorized in the initial
7 vote, these bonds may be secured by a pledge of the full faith and credit of the
8 municipality or by sufficient revenues from municipal sewage disposal
9 charges.

10 (g) State financial assistance under this section shall be made to the extent
11 that funds are available and according to a system of priorities established by
12 the secretary. In establishing this system, priority shall be given to pollution
13 abatement and not to the support of demand growth, and to projects
14 discharging into or near lakes on January 1, 1988.

15 (h) Notwithstanding subsection (b) of this section, a loan awarded from the
16 Vermont environmental protection agency pollution control revolving loan fund
17 for a combined sewer overflow abatement project that is included on a priority list
18 and that is capitalized, in whole or in part, with a federal clean water state
19 revolving fund grant that includes loan forgiveness provisions may be for up to
20 100 percent of the eligible project cost.

1 Sec. 3. 10 V.S.A. § 1676 is amended to read:

2 ~~§ 1676. TEMPORARY PERMITS~~

3 (a) ~~The secretary may issue a temporary operation permit for public water~~
4 ~~system if such issuance will not unreasonably contribute to a public health risk,~~
5 ~~and the system is unable to comply with:~~

6 (1) ~~any physical facility requirement established in the Vermont~~
7 ~~standards and requirements for water system design and construction;~~

8 (2) ~~any operational requirement established by rules adopted under this~~
9 ~~chapter; or~~

10 (3) ~~operator certification requirements.~~

11 (b) ~~A temporary permit shall:~~

12 (1) ~~contain a schedule which requires compliance with this chapter and~~
13 ~~the rules adopted under this chapter by a specified date;~~

14 (2) ~~require the person who owns or operates the system to inform all~~
15 ~~persons using the system of the nature and extent of the noncompliance with~~
16 ~~this chapter or rules of this chapter;~~

17 (3) ~~be valid for not more than three years. A temporary permit may be~~
18 ~~renewed.~~

19 (e) ~~A temporary permit may contain any conditions, requirements,~~
20 ~~schedules, restrictions or monitoring and testing programs that the secretary~~
21 ~~deems necessary to prevent a public health risk.~~

1 ~~(d) [Deleted.]~~

2 ~~(e) A temporary permit may not be issued for a new public water source if~~
3 ~~there are agricultural lands in the area that are likely to affect the proposed new~~
4 ~~source.~~

5 Sec. 4. 24 V.S.A. § 4753a is amended to read:

6 § 4753a. AWARDS FROM REVOLVING LOAN FUNDS

7 (a) Pollution control. The general assembly shall approve all categories of
8 awards made from the special funds established by section 4753 of this title for
9 water pollution control facility construction, in order to assure that such awards
10 conform with state policy on water quality and pollution abatement, and with
11 the state policy that, except as provided in subsection (c) of this section,
12 municipal entities shall receive first priority in the award of public monies for
13 such construction, including monies returned to the revolving funds from
14 previous awards. To facilitate this legislative oversight, the secretary of
15 natural resources shall annually no later than January 15 report to the house
16 and senate committees on institutions and on natural resources and energy on
17 all awards made from the relevant special funds during the prior and current
18 fiscal years, and shall report on and seek legislative approval of all the types of
19 projects for which awards are proposed to be made from the relevant special
20 funds during the current or any subsequent fiscal year. Where feasible, the
21 specific projects shall be listed.

1 (b) Water supply. The secretary of natural resources shall no later than
2 January 15, 2000 recommend to the house and senate committees on
3 institutions and on natural resources and energy a procedure for reporting to
4 and seeking the concurrence of the legislature with regard to the special funds
5 established by section 4753 of this title for water supply facility construction.

6 (c) Failed wastewater and potable water supply system loans.
7 Notwithstanding other priorities established in law, the secretary may award up
8 to \$500,000.00 of the funds from the Vermont environmental protection
9 agency control fund and the Vermont pollution control revolving fund,
10 combined, to a state agency, the Vermont housing finance agency, or a
11 municipality for the administration of loans to households with income equal
12 to or less than 200 percent of the state average median household income for
13 the repair or replacement of failed wastewater systems and failed potable water
14 supplies, as those terms are defined in ~~section 10 V.S.A. § 1972 of Title 10.~~

15 Upon award of funds under this section, the state agency, Vermont housing
16 finance agency, or municipality shall agree, pursuant to a memorandum of
17 understanding with the secretary of natural resources, to repay the funds
18 awarded to the special fund from which they were drawn.

19 (d) Loan forgiveness; pollution control. Notwithstanding any other provision
20 of law regarding loan forgiveness, upon the award of a loan from the Vermont
21 environmental protection agency pollution control revolving fund, the secretary of
22 natural resources, in a manner that is consistent with federal grant provisions, may

1 forgive up to 50 percent of a loan if the award is made for a project on a priority
2 list capitalized, at least in part, from funds appropriated from a federal clean water
3 state revolving fund (CWSRF) grant when the CWSRF grant includes provisions
4 authorizing loan forgiveness. Such loan forgiveness shall apply to both state and
5 federal funds used to capitalize loans.

6 (e) Loan forgiveness; drinking water. Notwithstanding any other provision
7 of law regarding loan forgiveness, upon the award of a loan from the Vermont
8 environmental protection agency drinking water state revolving fund, the secretary
9 of natural resources, in a manner consistent with federal grant provisions, may
10 forgive up to 100 percent of a loan if the award is made for a project on the
11 priority list and is capitalized, in whole or in part, from funds appropriated from a
12 drinking water state revolving fund (DWSRF) grant when the DWSRF grant
13 includes provisions authorizing loan forgiveness. Such loan forgiveness shall
14 apply to both state and federal funds used to capitalize loans.

15 (f) Loan forgiveness standard. The secretary shall establish standards,
16 policies, and procedures as necessary for implementing subsections (d) and (e) of
17 this section for allocating the funds among projects and for revising standard
18 priority lists in order to comply with requirements associated with federal
19 capitalization grant agreements.

20 Sec. 5. EFFECTIVE DATE

21 This act shall take effect on July 1, 2012.