



**House Natural Resources Committee
H. 35 Water Quality Improvement Bill
Vermont League of Cities and Towns
*Karen Horn, Director of Public Policy & Advocacy
February 25, 2015 (updated on February 26)***

Thank you for the opportunity to testify. We are committed to working with the Agency of Natural Resources and the Legislature to implement programs that address the largest contributors to phosphorus pollution first in ways that achieve the greatest bang for the buck.

“Should the EPA reject our plan, we know the measures they would require will be more costly and less targeted than the plan we have laid out for ourselves. We know the biggest contributors to our water quality problem – 40 percent from farm runoff and 20 percent from roads and developed lands. We also know the largest pollution sources that we should address first and where they are located. If the EPA does not approve our plan, we would lose the flexibility to target our biggest problems first and instead have to spend hundreds of millions of dollars on the limited areas where federal law gives the EPA direct authority – upgrading our municipal wastewater plants, even though pollution from these plants only contributes about 3 percent to our Lake Champlain water quality problem. That does not meet Vermont’s common sense test.

“First, with your support, we will help towns meet their obligation to properly maintain roads to prevent runoff leading to erosion, which will keep nutrients and sediment out of our water. We will help them implement modern storm water management systems that capture and treat the polluted runoff from dirt roads, streets, and parking lots.”

- We strongly support the efforts to begin setting up a fund for clean-up of the waters of the state and establishing a framework for implementing a clean-up program. In January, the VLCT Board voted to support statewide application of fees and taxes developed to pay to clean up of Vermont’s waters. If such a revenue source is an assessment on property or impervious surface, it should apply it to all forms of property ownership and use. The VLCT Board voted to strongly oppose any effort to mandate that cities and towns bill or collect any "per parcel" fee levied to pay for such clean up.

- The VLCT Board also initiated and supports a temporary increase in the gas tax while gas prices are low, with revenues dedicated to funding stormwater implementation projects on town highways as required by the new Municipal Roads Permit. The two cent increase proposal in H. 35 is neither temporary, nor tied to declining gas prices. It would raise an estimated \$6.3 million.
- We oppose the imposition of fees on municipalities to pay for additional staff at the Agency of Natural Resources to administer water cleanup programs. The Agency of Natural Resources (ANR) advanced a proposal for fee increases and revisions, which it estimated would raise \$1.5 million in new revenues in FY16 to pay for thirteen new positions at the Department of Environmental Conservation to administer new stormwater programs and some planning at regional commissions. Much of that cost will be borne by municipal property taxpayers and sewer users. In FY15, the current fiscal year, water quality-related fees generated \$1 million in revenues: the proposal increases these fees by 150 percent. By some estimates, \$1 million of the \$1.5 million in new fee revenues would be paid by municipalities.
- H.35 would raise the rooms and meals and alcoholic beverages taxes by one-half percent until July 1, 2018. Of the revenue raised, \$8.1 million would go into a newly created Clean Water Fund and \$300,000 would go to the General Fund. *That \$300,000 could be more appropriately dedicated to funding some of the additional staff that ANR plans to hire to administer the stormwater programs.* The bill would also establish a study committee to assess the feasibility of a per-parcel fee on impervious surfaces, and provide for gifts and donations to be sent to the Clean Water Fund. Including the agriculture-related revenues, the total tax and fee provisions are expected to raise approximately \$17,464,000.
- A substantial amount of money will be made available for the agricultural mandates. In January, the Natural Resources Conservation Service announced a grant of \$14 million from the federal government's Regional Conservation Partnership Program to pay to implement projects to reduce nutrient runoff from farms and forest. Last August, the State of Vermont also received a \$45 million grant from the U.S. Department of Agriculture for similar projects. H.35 establishes a number of new fees for agriculture, such as a small farms certification fee (\$250), a medium farm fee (\$1,500), and large farm fee (\$2,500); commercial feed, economic poison (pesticides) and fertilizer fees would be deposited into an Agriculture Water Quality Dedicated Fund. A portion of those revenues would fund seven new positions at the Agency of Agriculture, Food and Markets.
- Municipalities will be asked to implement – and pay for –most of the stormwater infrastructure projects, training, education and outreach that the legislation envisions. How and at what level to fund those obligations has been the question. Without assistance from the state, those new mandates to clean up the waters of the state will be financed by the property tax. We direct your attention to page 27 of the Agency of Natural Resources Water Quality Remediation, Implementation and Funding Report,

January 14, 2013. <http://www.leg.state.vt.us/reports/2013ExternalReports/286133.pdf>. On that page is an estimate of the annual cost to clean up the waters of the state over the next ten years. The report does not account for the potentially significantly more expensive cost of constructing stormwater management projects in urban environments and our downtowns, where green spaces are relatively scarce and impervious cover predominates.

- H.35 would create a Clean Water Fund and Clean Water Board, now with municipal representation. It would establish municipal projects as a funding priority for three years. After that time – but three years before a proposed municipal roads general permit is fully rolled out and well before the Lake Champlain Total Maximum Daily Load (TMDL) permit term is up (which the U.S. Environmental Protection Agency EPA does not anticipate issuing in draft form until next month nor in final form until June), Clean Water Fund revenues could be used for any TMDL-related project or proposal. That apparently includes, as was mentioned in the House Transportation Committee on Thursday, support Agency of Transportation (VTrans) staff. We do not believe that was the intention of the House Fish, Wildlife and Water Resources Committee.
- H.35 would create a general permit for municipal roads, which ANR would issue by December 31, 2017, and with which all town highways would need to comply by July 2021. The fee for the general permit would be \$400 per application and \$1,200 for an operating permit (annual fee). ANR and VTrans have indicated that they would use the current Road and Bridge Standards as the starting point for a new general permit for municipal roads. As local officials are aware, those standards did not respond to all local concerns and most significantly do not allow for flexibility in application, particularly to rural gravel roads in different parts of the state. According to VTrans, 222 municipalities have adopted the 2013 version of the Town Road and Bridge Standards and 15 towns have adopted a modified or equivalent set of standards.

ANR and VTrans should enter into a memorandum of understanding that would ensure that VTrans and municipalities are included in the development, implementation, and administration of a municipal roads permit.

- H.35 would establish a general permit for discharges of stormwater from impervious surfaces of three or more acres by January 1, 2018. The permit would apply to properties that might not have a pre-existing permit and may be required to do more to mitigate stormwater discharges from their properties in order to comply with the current Stormwater Management Manual. Exactly what will be required? This will include some municipal properties.
- ANR would be required to provide a report to the legislature about the viability of requiring permits on every property with more than one-half acre of impervious surface. The current threshold is one acre. The ANR secretary would also be authorized to require a permit for any size of impervious surface if she determined that treatment of stormwater runoff was necessary to reduce adverse impacts to the waters of the state. A permit would

require maintenance after development of a pre-development condition. And ANR would be required to adopt a rule for anti-degradation of the waters of the state by July 1, 2016. Any of these permits or proposed permits could apply to municipal properties. We are certain that the agency does not have sufficient staff to regulate or even locate small areas of impervious surfaces.

- H. 35 would delete language that says that “If the Department finds that a proposed municipal water pollution control project is necessary to reduce effluent phosphorus concentration or mass loading to the level required in section 1266a of this title, the Department shall award to the municipality, subject to the availability of funds, a state assistance grant. Such grants shall be for 100 percent of the eligible project cost. The funding shall not be available for phosphorus removal projects where the effluent concentration must be reduced in order to maintain a previously permitted mass loading of phosphorus”.

We strongly oppose deletion of this language. Tetra Tec in its report on lake Champlain Phosphorus Removal estimated that the cost to remove Phosphorus to a level of 1.0 or 0.1 milligrams per liter Total Phosphorus (mg/L TP) would be \$34.6 million in capital costs; \$95,000 in monthly operations and maintenance costs and \$6 increase in the median monthly rate increase to users.

Thank you for the opportunity to testify.