

# Vermont Legislative Joint Fiscal Office

One Baldwin Street • Montpelier, VT 05633-5701 • (802) 828-2295 • Fax: (802) 828-2483

## FISCAL NOTE

Date: March 30, 2015

Prepared by: Daniel Dickerson

### H.35 An Act Relating to Improving the Quality of State Waters

As Passed House Committee on Fish, Wildlife & Water Resources (with Amendments by House Agriculture & Forest Products, and House Ways & Means)

#### Summary

This bill would establish three separate lines of funding for policies and programs aimed at cleaning up the waterways of Vermont. The first would be the Agricultural Water Quality Fund within the Agency of Agriculture, which would be funded with new fee revenues and used by the Agency to meet its policy requirements under this bill. The Clean Water Fund would be funded with a 0.2% surcharge on the value of property subject to the property transfer tax, with certain exemptions, and funds would be used in FY17 and forward for water quality projects throughout the State. New fee revenues would flow into the existing Environmental Permit Fund to enable the Agency of Natural Resources to meet its policy requirements under this bill. The table below lays out the FY2016 revenue sources and expenditures associated with this bill.

#### Overall FY16 and Ongoing Revenue Changes from H.35

Revenue/Expense	Ag Water Quality Fund	Clean Water Fund	Env. Permit Fund	General Fund
<b>Revenue</b>				
Sec. 7 Small Farm Cert.	\$270,000			
Sec. 9 Large Farms	\$67,500			
Sec. 10 Medium Farms	\$208,500			
Sec. 11 Commercial Feed	\$165,000			
Sec. 13 Fertilizer Tonnage (non-agricultural)	\$180,000			
Sec. 14 Economic Poisons (pesticides)	\$165,000			
Sec. 38 Clean Water Surcharge (Repealed July 1, 2021)		\$5,300,000 in FY16 (est. \$5.7M in FY17)		
Sec. 41-42 DEC fee increases			\$1,325,156	
<b>Total FY16 Revenues Raised</b>	<b>\$1,056,000</b>	<b>\$5,300,000</b>	<b>\$1,325,156</b>	
<b>Expense</b>				
Sec. 15 AAFM FY16 Appropriation	(\$1,056,000)			
Sec. 37 Clean Water Fund Board				~(\$7,000)*
Sec. 43 ANR/DEC FY16 Appropriation			(\$1,312,556)	
<b>Net Total</b>	<b>0</b>	<b>\$5,300,000**</b>	<b>\$12,600***</b>	<b>~(\$7,000)</b>

\*This total assumes 2 legislative members and 6 public members meeting 6 times annually. Also assumes that all costs for Legislative and public members paid from General Fund, either through the Legislative budget or AoA budget.

\*\* No funds would be spent from the Clean Water Fund until FY2017, following an expenditure recommendation from the Clean Water Fund Board and approval of the expenditures in the FY17 State budget bill.

\*\*\*Remaining new Environmental Permit Fund revenues would fund DEC operating costs unrelated to the provisions of this bill.

### Sec. 3-19 AAFM Policy and Revenue Provisions

These sections outline various policy provisions relating to clean water that would fall under the purview of the Agency of Agriculture, Food and Markets (AAFM), including several provisions that would raise revenue and dedicate it to a newly created Agricultural Water Quality special fund (AWQF). Because this is a newly established fund with expenditures occurring at the beginning of **FY16**, and with revenues estimated to accrue more heavily in the middle of the fiscal year, there could be minor interest charges against the fund in the first few months due to deficit spending. Any minor interest balance would be expected to be offset by revenues at the end of FY16.

**The total FY16 revenue raised from these provisions is estimated to be \$1,056,000.** The individual revenue components are outlined below:

1. *Sec. 7 Small Farm Annual Operating Fee*- This section would require an annual operating fee of \$250 for farms with fewer than 100 mature dairy animals and \$500 for farms with 100 to 199 mature dairy animals. AAFM estimates that there are approximately 720 farms, 360 in each category that could fall under the requirements of this section of H.35. The estimated FY16 revenue from these fees would be approximately \$270,000 and would be deposited in the AWQF.
2. *Sec. 9 Large Farm Operations*- This section would establish an annual \$2,500 fee for large farm operations that are currently required to obtain an annual permit. AAFM currently permits 27 large farm operations. The estimated FY16 revenue from this fee would be \$67,500 and would be deposited in the AWQF.
3. *Sec. 10 Medium Farm Operations*- This section would establish an annual \$1,500 fee for medium farm operations that are currently required to obtain an annual permit. AAFM currently permits 139 medium farm operations. The estimated FY16 revenue from this fee would be \$208,500 and would be deposited in the AWQF.
4. *Sec. 11 Commercial Feed Fee*- This section would increase commercial feed registration fees from \$85 to \$100 per product. The \$15 increase would be deposited in the AWQF while the remaining \$85 would continue to be deposited in an existing special fund. There are 11,000 feed products registered through AAFM and the estimated FY16 revenue increase would be \$165,000 to be deposited in the AWQF.
5. *Sec. 13 Fertilizer Tonnage Fee*- This section would increase fertilizer tonnage fees from \$0.25 per ton to \$15.25 per ton for non-agricultural fertilizers. The \$15 increase would be deposited in the AWQF while the remaining \$0.25 per ton would continue to be deposited in an existing special fund for inspection purposes. According to AAFM, there are approximately 6,000 tons of non-agricultural fertilizer distributed in Vermont upon which the existing inspection fee is levied. Based on this number it is estimated that the FY16 revenue increase would be \$180,000 to be deposited in the AWQF.
6. *Sec. 14 Economic Poisons (pesticides) Fee*- This section would increase economic poison registration fees from \$110 to \$125 per product. The \$15 increase would be deposited in the AWQF while the remaining \$110 would continue to be deposited in an existing special fund. There are 11,000 economic poison products registered through AAFM and the estimated FY16 revenue increase would be \$165,000 to be deposited in the AWQF.

### Sec. 15 AAFM Appropriation

**This section would authorize a FY2016 appropriation of \$1,056,000 from the Agricultural Water Quality Special Fund to AAFM.** This money would be used to fund personnel and operating costs related to seven newly created positions within the Agency dedicated to fulfilling the policy requirements of this bill, with any remaining money going to farmers in the form of grants for meeting water quality requirements.

### Sec. 20-27 Enforcement Authority

These sections establish the authority for AAFM to enforce the provisions of this bill that fall within its purview. Some of the requested staffing increase for AAFM would be dedicated to enforcing the provisions of this bill. Additionally, the Attorney General's office would represent the State in any cases that reach the Civil Division of the Superior Court. The Attorney General's office anticipates that it can meet its responsibilities in this bill with its current staffing and budget. The bill would also grant authority to the Director of Property Valuation and Review to remove parcels from use value appraisal for water quality issues. There could be some additional revenue from this provision but it would be minimal, and should not be expected as the provision is meant to be a deterrent from unwanted behavior rather than a revenue generator. **Aside from the dedication of new staffing that would be approved in the FY16 big bill and funded by the appropriation listed above, there are no additional FY16 fiscal impacts estimated from these sections.**

#### Sec. 28-36 and Sec. 44- 50 Agency of Natural Resources Policy Provisions

These sections pertain to the Agency of Natural Resources (ANR) and its statutory authority regarding basin planning, anti-degradation policy and stormwater management. The bill would require the Secretary of ANR to update existing basin plans in order to prepare an overall surface water management plan. Regional planning commissions (RPC) and natural resource conservation districts (NRCD) would be consulted by ANR in the development of basin plans and the Secretary of ANR would be authorized to contract with RPCs for assistance. ANR does not have the authority to contract with NRCDs who would have limited additional responsibilities under these provisions.

The bill proposes to require ANR to issue a general permit for discharges of regulated stormwater from municipal roads by December 31, 2017 and would require municipalities to apply for coverage under the permit by July 1, 2021. The bill proposes to require ANR to issue a general permit for discharges of stormwater from impervious surfaces of three or more acres in size by January 1, 2018 and would require owners of these impervious surfaces to apply for coverage by October 1, 2023 if in the Lake Champlain watershed or by October 1, 2028 for all other State watersheds. These general permit requirements could create substantial new revenues when implemented, however, because the implementation dates are so far in the future no accurate fiscal estimate can be given at this time. **ANR would be appropriated funds in FY16 to cover the costs of these provisions, see Sec. 41 below. RPCs could be financially burdened depending on the level of involvement required for basin planning assistance, and whether funding will be available from ANR to reimburse them for their efforts.**

#### Sec. 37 Clean Water Fund

This section of the bill proposes to establish a new special fund called the Clean Water Fund (CWF). A newly created Clean Water Fund Board would make recommendations to the Secretary of Administration on expenditures from the Fund. Deposits into the fund would consist primarily of revenues from the 0.2% surcharge on the value of property subject to the property transfer tax (see Sec. 36-37 below for further detail). Other gifts, donations and impact fees could be deposited into the fund as approved by the CWF board. No monies would be spent from the Fund until FY2017.

The CWF board would consist of the Secretaries of Agriculture, Natural Resources, Commerce and Community Development and Transportation, as well as two members of the public appointed by the Governor, and up to six legislators or members of the public as determined by the House Speaker and Senate Committee of Committees. The board would make recommendations to the Secretary of Administration of expenditures from the Clean Water Fund, who would then build the expenditures into the Governor's annual budget request to the Legislature. The cost of administering the Board would be paid from General Fund monies, Legislative members from the Legislative budget and public members from the Agency of Administration's budget. The cost for compensating Board members could vary depending on whether Legislators or members of the public ultimately fill out the Board membership, as well as the number of Board meetings per year.

#### Sec. 38-40 Clean Water Surcharge and report on Parcel Fees

A clean water surcharge would be established at 0.2% of the value of property subject to the property transfer tax, excluding the first \$100,000 for a primary residence or the first \$110,000 for VHFA loans. **The proceeds from the surcharge would be approximately \$5.3 million in FY16** and \$5.7 million in FY17, and they would be deposited into the Clean Water Fund. The surcharge will be repealed after six years, on July 1, 2021. The Secretary of Administration would be required to report to the Legislature in 2016 on a potential parcel fee to fund water quality programs in Vermont.

#### Sec. 41-42 Department of Conservation (DEC) Fees

These sections of the bill would increase existing fees and levy new fees on such things as watershed management permits, stormwater discharge permits, stream alteration permits, flood hazard area reviews, sludge or septage facility certifications, and wetland permits. See attachment 1 for a comprehensive list of the proposed fees/fee increases. **The estimated new fee revenue from these changes would be \$1,325,156 in FY16**, of which, \$1,312,556 would fund the thirteen new positions at DEC and would compensate RPCs for basin planning work, and the remaining \$12,600 would fund existing operating costs in DEC.

#### Sec. 43 ANR Appropriation

**This section would authorize a FY2016 appropriation of \$1,312,556 from the Environmental Permit Special Fund to ANR.** This money would be used to fund personnel and operating costs related to thirteen newly created positions within the Agency dedicated to fulfilling the policy requirements of this bill.