



**House Ways & Means Committee**  
**Fee Bill**  
**January 30, 2015**  
***Karen Horn, Director of Public Policy & Advocacy***  
***Vermont League of Cities and Towns***

Thank you for the opportunity to testify regarding fee increases and realignments that would be imposed on local governments. My particular focus is on Agency of Natural Resources proposals. We did not see any of these proposals before they were brought to the legislature.

**Permit Fees Generally**

I have testified on ANR fee proposals for more than twenty years. Fees are a back door way of getting money without engaging in the debate about raising taxes. Over the years, the legislature in Vermont, as well as those around the country, has moved to increasing support for programs with fees on those who must participate in the programs. We have historically advocated that the administration and legislature be upfront about the programs they seek to support and engage the general conversation about raising taxes to pay for priorities.

Let me speak to the issue of municipal exemptions. The statute says in effect that if a municipality can recover the cost of permit fees from users of a system (say those hooked up to a wastewater treatment facility) then the permit fee is assessed to them. If those costs cannot be recovered through user fees (say, general road maintenance), then the fee will not be charged. This long standing policy recognizes that municipal governments protect the environment in many diverse ways and that essentially you are robbing Peter to pay Paul when you require permit fees to be paid for cleaning up the environment, often using loan dollars disbursed from the state. We strongly oppose eliminating the exemptions from some fees for municipalities. The statute reads:

***Title 3 Chapter 51, Natural Resources. Subchapter 2, Secretary, § 2822. Budget and report; powers***

*(a) The Secretary shall be responsible to the Governor and shall plan, coordinate, and direct the functions vested in the Agency. The Secretary shall prepare and submit to the Governor an annual budget.*

*(b) The Secretary shall also have the powers and duties set forth in section 2803 of this title.*

...

*(i) The Secretary shall not process an application for which the applicable fee has not been paid unless the Secretary specifies that the fee may be paid at a different time or unless the person applying for the permit is exempt from the permit fee requirements pursuant to 32 V.S.A. § 710. In addition, the persons who are exempt under 32 V.S.A. § 710 are also exempt from the application fees for stormwater operating permits specified in subdivisions (j)(2)(A)(iii)(I) and (II) of this section if they otherwise meet the requirements of 32 V.S.A. § 710. Municipalities shall be exempt from the payment of fees under this section except for those fees prescribed in subdivisions (j)(1), (2), (7), (8), (14), and (15) of this section for which a municipality may recover its costs by charging a user fee to those who use the permitted services, except that a municipality shall also be exempt from those fees for orphan stormwater systems prescribed in subdivisions (j)(2)(A)(iii) and (2)(B)(iv)(I) or (II) of this section when the municipality agrees to become an applicant or co-applicant for an orphan stormwater system under 10 V.S.A. § 1264c.*

I also draw your attention to the permit expediting program (PEP) timelines. The Annual Report of Permit Activity for State Fiscal years 2013 and 2014, is on the Legislative website. When the legislature first began to require agencies to submit fees to them and to justify their charging of fees, the legislature required them to demonstrate that new dollars resulted in a better product. The PEP was put in place and agencies were required to establish timeframes for completing review and rendering permit decisions. We urge you to ask the questions:

- When was the last time that the permit timeframes were updated?
- Why are new fees provided to permit programs which exceed PEP standards by phenomenal amounts of time, without requiring a strategy for eliminating those exceedances?
- What additional levels of service are Vermonters getting for the additional permit dollars they send to the agencies?

### **Lake Champlain**

We are in a singular situation this year. The EPA is requiring Vermont to clean up existing and prevent new phosphorus pollution in Lake Champlain. The potential costs are enormous – although there are no up to date figures about what that will cost and we are forced to rely on estimates made two years ago in the Act 138 report to the legislature.

Municipalities, the state, farms, private businesses and residents are all going to need to step up, make changes in their practices and eventually manage stormwater runoff from every road and impervious surface in the state, every farm and along every shoreland or river bank. We understand that municipalities will have new obligations.

There are any number of ways to make municipalities spend money. Mandates are imposed. Programs can be underfunded or de-funded. Fees can be charged. Municipalities can be prohibited from spending property tax dollars on certain items. And municipalities can be pre-empted from engaging in certain management practices. The

ANR has done all of these things at one time or another. As you well know, And as you well know, the primary revenue raising mechanism municipalities have is the property tax.

With this proposal, municipalities are going to be required to implement programs to address stormwater on roads, on impervious surfaces, at their wastewater treatment plants at tremendous cost. We have been involved in discussions about how partnerships with towns might work, what the most effective use of scarce dollars will be, and where dollars might come from to implement management projects that actually reduce phosphorus in the lake.

There will be new mandates. They are embodied at this point in H. 35 and S. 49. There will not be enough money to fund those mandates. For instance, the estimate two years ago was that it would take \$10 million per year for each of the next ten years to address stormwater runoff just from roads.

Municipalities will have to put in place programs to comply with those mandates; pay for them without much assistance from as yet undetermined sources and now pay fees for implementing those programs. It seems from the spreadsheets that all the permit fee revenue will go to administration costs at the agency.

This proposal would double many fees within individual line items. It assesses new fees that have never been charged before, to solid waste haulers, dam owners and owners of riparian land and municipalities for roads. It assesses fees to municipalities in programs where state policy has always been to exempt them. It will require individual projects to pay fees for multiple permits before, during and after construction. It provides fees for Residual Designation Program permits without any parameters being established for those programs. It shifts the wastewater treatment facility operating fee basis from actual flow to design flow, a tremendous increase for municipal wastewater treatment facilities that operate at levels below their design flow. In MS4 municipalities and those that have already heavily invested in stormwater management technology, the question arises of whether individuals or municipalities are going to be charged twice for the same activity. As Rutland Public Works Commissioner Jeff Wennberg stated on Friday, the scope of the proposal is breathtaking and ambitious.

With respect to Lake Champlain cleanup, we believe the proposal needs program specificity before any of its parts are enacted.

Thank you for the opportunity to testify.