

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

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Planning Commission
Summary of Testimony

NRPC applauds the intent of this bill and its wide array of tools and actions designed to protect and improve Vermont's water quality. The attention paid to this issue by Governor Shumlin's administration and legislators is greatly appreciated.

Section 17, Page 29-33: ANR Basin Planning

This section provides a good framework for coordination between regional planning and basin planning which is an important part of ensuring implementation of the plans. NRPC suggests additional language (attached) linking basin planning and regional planning completed under Title 24.

Under (h)(4-6) in this section, there is an opportunity to develop a project prioritization process and development schedule based on critical source contributors in each watershed. This can make the granting of funds more efficient and allow completion of projects based upon priority rather than grant applications.

NRPC supports the action plan described in 'Vermont's Clean Water Initiative' submitted by ANR to the legislature in November 2014. Page 23 outlines specific tasks for RPCs that will help ensure successful implementation of the Lake Champlain TMDL and statewide water quality initiatives.

Section 19, ANR Stormwater Management Authority

NRPC suggests that the Committee request information from technical experts about the amount of increased phosphorus, sediment, nitrogen and other pollutants allowable under a stormwater permit. H. 35 [§1264 (h)(2)(B)] refers to the pollutant discharge satisfying the requirements of the stormwater manual and a determination of sufficient pollutant load allocations in a TMDL. Given the reduction goals in the draft Lake Champlain TMDL it is unclear what impact this will have on the increased pollutant load currently allowed in stormwater permitting, and it is also unclear if ANR will propose changes to the allowed increase.

Section 20: Municipal Highway Stormwater Permit

One year for inventory and two years to develop a prioritization schedule is a relatively short time frame. Coordination on a regional level and additional resources for municipalities and RPCs may be necessary to complete this work.

It is crucial that these general permits are aligned with and coordinate with the Codes and Standards that are adopted by municipalities under the ERAF rule.

Sections 22 and 23: Clean Water Fund and Impervious Surface Assessment

The creation of the Clean Water Fund is a necessary step to ensure dedicated funding and to enable efficient evaluation of results. A statewide effort is the correct approach.

The Committee may consider expanding the fee to match the reach of the Clean Water Fund. Rather than limiting the impervious fee within the Champlain basin, the fee should be assessed statewide. In addition to commercial and industrial properties, adding 'other non-residential' and all residential properties might be appropriate. A fee reduction for those paying into stormwater utilities or for on-site improvements under regulatory review should be included.

Section 31: MS4 Eligibility for Ecosystem Restoration Program (ERP) Funds

This is a positive change. NRPC supports eligibility for ERP and Clean Water Fund dollars for MS-4 municipalities.

Section 32: Voluntary Shoreland Erosion Control Certification Program

NRPC developed a Shoreline Stabilization Handbook, and followed that with demonstration projects funded by ERP grants and private landowners. Property owners consistently asked NRPC to recommend contractors to implement the practices included in the handbook. Having a certification program to assist property owners in selecting a contractor would be very beneficial.

Attachment to testimony of C. Dimitruk

H. 35 Modifications:

Section 17, §1253 (h) amend as follows:

(h) The Secretary may contract with a regional planning commission to assist in or to produce a basin plan under the timeline set forth in subsection (d) of this section. When contracting with a regional planning commission to assist in or produce a basin plan, the Secretary may require the regional planning commission to:

(1) ensure that municipal officials, citizens, watershed groups and other interested groups and individuals are involved in the basin planning process;

(2) provide technical assistance and data collection activities to inform municipal officials and the state in making water quality investment decisions;

(3) provide an analysis and formal recommendation to the Secretary of Natural Resources on conformance with the goals and objectives of applicable regional plans;

~~(4)~~ coordinate municipal planning and adoption or implementation of municipal development regulations to better meet state water quality policies and investment priorities;

~~(5)~~ ensure regional and local input in State water quality policy development and planning processes;

~~(6)~~ assist the Secretary in implementing a project evaluation process to prioritize water quality improvement projects within the region to ensure cost effective use of State and federal funds;

~~(7)~~ provide education to municipal officials and citizens regarding the basin planning process.

H.35 Additions:

*** Regional Planning Commissions Basin Planning ***

Sec. XX. 24 V.S.A. § 4302 is amended to read:

§ 4302. PURPOSE; GOALS

(b) It is also the intent of the Legislature that municipalities, regional planning commissions, and State agencies shall engage in a continuing planning process that will further the following goals:

(6) To maintain and improve the quality of air, water, wildlife, and land resources.

(A) Vermont's air, water, wildlife, mineral and land resources should be planned for use and development according to the principles set forth in 10 V.S.A. § 6086(a).

(B) Vermont's water quality should be maintained and improved according to the policies and actions developed in the basin plans established by the Secretary of Natural Resources pursuant to 10 V.S.A. §1253.

Sec. XX. 24 V.S.A. § 4348 is amended to read:

§ 4348. ADOPTION AND AMENDMENT OF REGIONAL PLAN

(c) At least 30 days prior to the first hearing, a copy of the proposed plan or amendment, with a request for general comments and for specific comments with respect to the extent to which the plan or amendment is consistent with the goals established in section 4302 of this title, shall be delivered

with proof of receipt, or sent by certified mail, return receipt requested, to each of the following:

- (1) the chair of the legislative body of each municipality within the region;
- (2) the executive director of each abutting regional planning commission;
- (3) the Department of Housing and Community Development within the Agency of Commerce and Community Development, the Agency of Natural Resources; and
- (4) business, conservation, low income advocacy, and other community or interest groups or organizations that have requested notice in writing prior to the date the hearing is warned.

Sec. XX. 24 V.S.A. § 4348a is amended to read:

§ 4348a. ELEMENTS OF A REGIONAL PLAN

(a) A regional plan shall be consistent with the goals established in section 4302 of this title and shall include the following:

(6) A statement of policies on the preservation of rare and irreplaceable natural areas, scenic and historic features and resources, and water quality policies and actions to protect and improve waters and to be used in the development and furtherance of the applicable basin plans established by the Secretary of Natural Resources pursuant to 10 V.S.A. §1253.