

Vermont Legislative Joint Fiscal Office

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Preliminary *FISCAL NOTE*

Date: February 25, 2015

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

Overall FY16 Revenue Changes from H.35

Revenue Source	Ag Water Quality Fund	Clean Water Fund	General Fund	Env. Permit Fund	Total
Sec. 7 Large Farms	\$67,500				\$67,500
Sec. 8 Medium Farms	\$208,500				\$208,500
Sec. 9 Commercial Feed	\$165,000				\$165,000
Sec. 11 Fertilizer	\$600,000				\$600,000
Sec. 12 Economic Poisons (pesticides)	\$165,000				\$165,000
Sec. 34 Clean Water Fund Board		(??)*			unknown
Sec. 35 Special Fund Donation deduction		??**	(??)**		unknown
Sec. 36-38 Meals & Rooms tax increase		\$8,100,000	\$300,000		\$8,400,000
Sec. 40-41 Gas Tax Increase		\$6,300,000			\$6,300,000
Sec. 42-43 DEC fee increases		??**	(??)**	\$1,557,716	\$1,557,716
Total	\$1,206,000	\$14,400,000	\$300,000	\$1,557,716	\$17,463,716

* This total is dependent on the number of Board meetings and the ultimate composition of the Board.

** The special fund gift deduction provision would negatively impact the General Fund but an estimate of the impact is unavailable at this time.

Sec. 2-16 Agriculture 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). The AAFM has requested seven (7) new positions in the Governor's budget request that would be dedicated to implementing the provisions of this bill as they relate to AAFM. **The total revenue raised as a result of these provisions of the bill is estimated to be \$1,206,000 in FY16**, approximately \$700,000 of which would go to funding the seven new positions. The individual revenue components are outlined below:

1. *Sec. 3 Small Farm Certification*- This section would define a small farm and require annual inspections and an annual operating fee of \$250. AAFM estimates that there are approximately 2,800 farms that could fall under the requirements of this section of H.35. This section does not take effect until July 1, 2017 (FY2018) and, therefore, no fiscal impact is estimated in FY16. The estimated fiscal impact in FY18 would be approximately \$700,000.

2. *Sec. 7 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. 8 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. 9 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. 11 Fertilizer Tonnage Fee-* This section would increase fertilizer tonnage fees from \$0.25 per ton to \$15.25 per ton. 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. There is 40,000 tons of 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 \$600,000 to be deposited in the AWQF. This estimate does not account for possible spillage of fertilizer sales outside of the borders of Vermont that, but for the fee increase, would take place in Vermont.
6. *Sec. 12 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. 17-24 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 agricultural fee revenues listed above, there are no additional FY16 fiscal impacts estimated from these sections.**

Sec. 25-33 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. Approximately \$330,000 of revenues from the fee increases listed in sec.42-43 below would be dedicated for payments to RPCs for services rendered relating to basin planning. 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 has requested thirteen (13) new positions in the Governor's budget to meet its new requirements under these sections of H.35 as well as other sections elsewhere in the bill involving ANR. These positions would be funded at a cost of approximately \$1.2 million in FY16 from fee increases listed in sec. 42-43 below.**

Sec. 34 Clean Water Fund

This section of the bill proposes to establish a Clean Water Fund (CWF), which would be a special fund and would be administered by a newly created CWF board. Deposits into the fund would consist primarily of 1) 5% of the meals, rooms and alcohol tax revenues, and 2) \$0.02 increase to the gas tax (both detailed below). Other gifts, donations and impact fees could be deposited into the fund as approved by the CWF board.

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. The cost of administering the Board would be paid from Clean Water Fund monies. Compensation for 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. 35 Deductions from Vermont Taxable Income

The bill proposes to allow a deduction from Vermont taxable income for donations made to special funds of the State. Vermont has a relatively unique system of taxation whereby State taxable income is derived from Federal taxable income rather than by Federal adjusted gross income, as is typically the case in other States. This provision of the bill would allow people who do not typically itemize deductions on their Federal tax return to realize a tax benefit from certain charitable donations on their State income tax return.

This provision would also allow people who do typically itemize to double their deduction for certain donations by first deducting them on their Federal return and then deducting them again on their State return. Because most itemizers tend to be in higher tax brackets, this provision could have the unintended consequence of encouraging large donations in order to double existing tax deduction benefits. This would be beneficial to the Clean Water Fund but would adversely impact the General Fund by reducing overall income tax receipts. **This provision would have a small negative fiscal impact on the General Fund in FY16 although an estimate of that impact is unknown at this time. The Clean Water Fund would receive some additional funding from this provision in FY16.**

Sec. 36-38 and 51-54 Meals, Rooms and Alcohol Tax

These provisions of the bill deal with the State meals, rooms and alcohol tax. The bill would increase the tax on meals and rooms from 9% to 9.5% and would raise the tax on alcohol from 10% to 10.5%. These increases would result in approximately \$8.4 million in new State revenue in FY16. The bill would then amend the composition of the General Fund to consist of 95% of revenues from the meals, rooms and alcohol tax while the remaining 5% would be dedicated to the Clean Water Fund. These tax increases would be in effect from July 1, 2015 until July 1, 2018 at which time they would sunset and the meals, rooms and alcohol tax and General Fund composition would go back to current law. Under this composition, of the \$8.4 million of new meals, rooms and alcohol tax revenue in FY16, **\$8.1 million of the revenue would go to the Clean Water Fund while the remaining increment of \$300,000 would go to the General Fund.**

Sec. 40-41 Gas Tax

These provisions of the bill deal with the State gas tax and would increase the tax by \$0.02 per gallon and dedicate the new revenues to the Clean Water Fund. The total estimated **additional revenue in FY16 from this provision would be \$6.3 million.**

Sec. 42-43 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 \$1,557,716 in FY16**, of which, \$1,545,116 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.