

1 H.851

2 Introduced by Representative Browning of Arlington

3 Referred to Committee on

4 Date:

5 Subject: Executive; State financial assistance; water quality; compliance

6 Statement of purpose of bill as introduced: This bill proposes to require an
7 applicant for State financial assistance from any State agency to certify that the
8 applicant is in good standing in complying with State or federal water quality
9 laws and is not subject to an enforcement action for potential violation of State
10 or federal water quality laws. In addition, the bill would authorize a State
11 agency to deny a person the use of State services or benefits if the State agency
12 determines that the person is violating a water quality requirement.

13 An act relating to certifying compliance with water quality requirements as
14 a condition of the award of State financial assistance

15 It is hereby enacted by the General Assembly of the State of Vermont:

16 Sec. 1. 3 V.S.A. chapter 69 is added to read:

17 CHAPTER 69. STATE FINANCIAL ASSISTANCE AWARDS;

18 CERTIFICATION OF COMPLIANCE

19 § 4031. DEFINITIONS

20 As used in this chapter:

1 (1) “Applicant” shall include all entities, including businesses in which
2 the applicant has a greater than 10 percent interest, or land owned or controlled
3 by the applicant.

4 (2) “Good standing” means the applicant:

5 (A) is not a named party in any administrative order, consent decree,
6 or judicial order relating to Vermont water quality standards issued by the
7 State or any of its agencies or departments; and

8 (B) is in compliance with all federal and State water quality laws and
9 regulations.

10 (3) “State agency” means an agency, board, department, commission,
11 committee, instrumentality, or authority of the Executive Branch of the State of
12 Vermont.

13 (4) “State financial assistance” means any grant, loan, State tax
14 abatement, tax credit, benefit, or any other form of State monetary assistance,
15 incentive, or tax credit awarded, granted, approved, or otherwise authorized by
16 a State agency.

17 § 4032. STATE FINANCIAL ASSISTANCE; CERTIFICATION OF

18 COMPLIANCE WITH WATER QUALITY REQUIREMENTS

19 (a)(1) Notwithstanding any provision to the contrary, an applicant for State
20 financial assistance shall certify, under pains and penalties of perjury, that the

1 applicant is in good standing with the Agency of Natural Resources and the
2 Agency of Agriculture, Food and Markets.

3 (2) The requirement under this subsection shall allow for an attachment
4 or include space for an applicant who cannot certify under subdivision (1) of
5 this subsection to explain the circumstances surrounding the applicant's
6 inability to certify under subdivision (1).

7 (3) At any time prior to authorization of State financial assistance or
8 during implementation of State financial assistance, an applicant shall notify
9 the State agency or department administering the State financial assistance if
10 the applicant is no longer in good standing with the Agency of Natural
11 Resources or the Agency of Agriculture, Food and Markets.

12 (b) A State agency or department may consider an applicant's certification
13 or explanation under subsection (a) of this section in determining whether to
14 award State financial assistance to the applicant.

15 (c)(1) If a State financial assistance applicant knowingly provides a false
16 certification or explanation under subsection (a) of this section or fails to notify
17 the State agency or department administering the State financial assistance if
18 the applicant is no longer in good standing with the Agency of Natural
19 Resources or the Agency of Agriculture, Food and Markets as required in
20 subdivision (a)(3) of this section, the State or its agencies or departments may:

21 (A) seek to recover the State financial assistance; and

1 (B) deny any future State financial assistance to the applicant, based
2 on the false certification or explanation or failure to notify, for up to five years.

3 (2) In recovering State financial assistance under this section, the State
4 or its agencies or departments shall be entitled to costs and expenses, including
5 attorney's fees.

6 (d) This section shall not apply to federally funded grants, contracts, or tax
7 credits or federal or State loan programs.

8 § 4033. DENIAL OF STATE SERVICES

9 A State agency may, as necessary to assure achievement of State law and
10 the federal Clean Water Act, deny a person the use of State services or benefits
11 if the State agency determines that the person is violating a water quality
12 requirement of 10 V.S.A. chapters 37 and 47 or 6 V.S.A. chapter 215 or a
13 requirements of a rule or permit issued under those chapters.

14 Sec. 2. EFFECTIVE DATE

15 This act shall take effect on July 1, 2018.