



**House Corrections and Institutions  
Tuesday, February 7, 2017  
Clean Water Fund Report**

Thank you for the opportunity to testify on the Clean Water Fund Report.

**Funding**

Adequately funding the mandates in the Vermont Clean Water Act is one of the most important issues for local governments this session.

We appreciate State Treasurer Pearce's recommendations to provide real new (and not simply re-purposed) dollars to help cities and towns implement the mandates in the Vermont Clean Water Act. This is particularly important given the uncertainty around the federal government's funding of the EPA and the fact that we are told the mandates remain whether or not funding is forthcoming.

We also appreciate Treasurer Pearce's recommendation to provide a financial bridge for the next two years as work elements of the water cleanup program are developed. It is also helpful to categorize work priorities into Tier 1 and Tier 2 project types, essentially those that are mandated and those that are discretionary and would help water quality.

**Recognizing Municipal Issues**

Two more appreciations: Thank you for passing H. 38 the bill to expand membership in the Clean Water Fund Board. And thank you to Vtrans and the Agency of Natural Resources for extending the existing VTrans Roads and Bridge Standards without modification, for another 4 years or until the MRGP is fully implemented. Providing that certainty is hugely significant for cities and towns that did not know what a new road rule might say.

**Cost Estimates**

We expect the Treasurer's estimate of the cost (\$2.3 billion over 20 years) to implement the act is low, potentially significantly so. Planning and engineering to prepare to implement projects can't happen until municipalities know what kind of projects will be required. Those projects and their priority will be established by watershed basin plans that the Secretary of the Agency of Natural Resources adopts.

The Treasurer’s estimate does not include the cost of operating and maintaining new infrastructure, a figure that, over time, frequently exceeds the capital cost involved in a project. You have heard testimony from Rutland Public Works Commissioner Jeff Wennberg regarding this substantial cost.

The Treasurer’s Report counts loans as funding sources. We must remember that loans need to be paid back by rate payers and municipal tax payers. We strongly support the testimony from local officials that there need to be grants to incentivize work and that those grants need to be flexible so that municipalities can prioritize on the local level the projects that get the best bang for the buck.

**Municipal - State Obligation**

We concur with the Vermont Mayors Coalition (VMC) that the state must pay at least 80 percent of the cost of cleanup projects. In its 2017 Legislative Policy Summary, the VMC writes *“Municipal projects should receive priority funding from the Clean Water Fund during this period, recognizing that needed municipal resources are largely unfunded at this point. The VMC urges Legislators to begin working now on a long-term funding solution.”* The entire Mayors’ Coalition summary is posted at <https://www.burlingtonvt.gov/Press/Vermont-Mayors-Coalition-Announces-2017-Legislative-Session-Goals>.

We endorse the Treasurer’s proposals for handling bonding (p. 41 and 44 of the report) particularly using a portion of transportation infrastructure bond revenue to support local transportation and clean water requirements. Over in the Transportation Committees the VTrans is not endorsing this proposal and in effect is shifting funds to pay for municipal road permit obligations.

<b>Municipal Transportation Funding</b> (in millions of dollars)		
<b>Transportation Program or Initiative</b>	<b>FY17 As Passed</b>	<b>Gov.’s FY18 Recommend</b>
(TF) Town Highway Structures	6.33	6.33
(TF, federal funds) Local Technical Assistance (Vt. Better Roads)	0.39	0.40
(TF) Class 2 Paving and Rehabilitation	7.65	7.25
(TF, TIB, federal funds) Town Bridge Grants. Includes state and federal aid only, no local match.)	18.82	15.76
(TF) Town Highway Aid Program	25.98	25.98
(TF) Town Highway Aid Program – Class 1 Supplemental	0.13	0.13
(TF) State Aid for Nonfederal Disasters	1.15	1.15
(federal funds) State Aid for Federal Disasters	1.28	0.18
(TF, special, federal funds, inter-dept. transfer) Municipal Mitigation Grant Program	2.91	8.18
<b>Total Local Highway Aid</b>	<b>64.64</b>	<b>65.36</b>

To be set aside for stormwater projects is \$1.1 million of eligible FHWA Transportation Alternative funds. Looking beyond FY18 to FY19, the governor proposes identical funding for stormwater mitigation and clean water initiatives. The Administration has made it clear that it wants to use existing funds for clean water initiatives. We understand that the state wants to ensure that funds are channeled directly to water

cleanup, however this increase does little to fund the projects that are necessary to comply with the Clean Water Act and TMDLs. Additionally, as funds are earmarked for clean water initiatives, other portions of town funding programs will likely suffer.

### **Management Mechanisms**

Stormwater utilities are recommended in the Treasurer's report as a mechanism for implementing projects. While they may be a workable model in some communities, they are not feasible in all communities. Enabling legislation exists today for creating stormwater utilities, however it is only being used in four municipalities. Other models for implementing the Vermont Clean Water Act may be equally effective (Essex and Essex Jct. are examples). Municipalities will be responsible for addressing stormwater management for the infrastructure and properties they own. Municipalities that adopt stormwater utilities or other implementation models may be able to direct stormwater efforts within their own boundaries, but, again, not every municipality will take on those regulatory responsibilities.

The Agency and Treasurer endorse integrated planning, a system for determining which projects should be funded first in a municipality. This is an absolutely necessary management tool. No one can do it all at once.

The Treasurer's Report also proposes phosphorus credit trading, another tool to assure that the dollars are spent where they will have the best result in terms of water cleanup.

### **Revenue Sources and Collection**

The funding source that raises a significant amount of money would be a tiered usage fee based on the amount of impervious surface existing on a property parcel. The Treasurer favors this revenue source without addressing the other revenue sources that are suggested, and which do in fact, raise additional dollars. Local officials have long called for the legislature to analyze the tax system by implementing recommendations from the Blue Ribbon Tax Commission Report of 2011 to update the system.

Any new statewide fee to pay for the state and federal mandates must be collected at the state level by the Tax Department. The purpose of the department is to collect taxes. The statute requires the Department of Property Valuation and Review (PVR) to maintain duplicate property records, including exempt properties (32 VSA § 3410). The department would collect fees at one location and with consistency and without the numerous corrections and amendments that have burdened towns ever since Act 60 was passed. They have the information and only need to put in place the billing mechanism. Their reports on property may be found here:

<http://tax.vermont.gov/document-categories/pvr-annual-report>

### **Allocations**

Revenues from a new statewide usage fee based on impervious surface would need to be allocated at the state level upon recommendation of the Clean Water Fund Board to the highest priority projects in the state – those that are determined to generate the best results in terms of water quality in the shortest period of time.

The tactical basin plans webpage on the Agency of Natural Resources (ANR) website states, “tactical basin plans focus on the projects or actions needed to protect or restore specific waters and identify appropriate funding sources to complete the work, based on monitoring and assessment data. Since these tactical plans will guide all watershed work supported by the Watershed Management Division, the issues identified in these plans are the ones that will be prioritized for management attention, including funding. Tactical Basin Plans integrate priority items from complementary plans, including River Corridor Plans, Stormwater Master Plans, Backroads Inventories, and Agricultural Environmental Assessments.” Basin plans are enormous undertakings. The Tactical Basin Plan for the Winooski River Basin (an example of new basin planning) is posted:

<http://dec.vermont.gov/watershed/map/basin-planning/basin8>.

Once basin tactical plans are adopted by the ANR Secretary, all state agencies, regional commissions, watershed areas and municipalities will have to adhere to the priorities and work with available Act 64 funds to implement those projects.

This is a complex and expensive undertaking. Sufficient moneys are not in place today to fund the mandates in Act 64. No one is suggesting that the waters of the state not be cleaned up. How we get there and who bears the brunt of the cleanup is the issue before you this year. It will drastically affect local governments and residents. Treasurer Pearce gave an excellent start to that discussion.

Thank you.

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