

1 TO THE HOUSE OF REPRESENTATIVES:

2 The Committee on Natural Resources, Fish and Wildlife to which was
3 referred House Bill No. 730 entitled “An act relating to State response to
4 waters in crisis” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 10 V.S.A. chapter 47, subchapter 2a is added to read:

8 Subchapter 2a. Lake in Crisis

9 § 1310. DESIGNATION OF LAKE IN CRISIS

10 The Secretary of Natural Resources (Secretary) shall designate a lake as in
11 crisis if the lake or segments of the lake have been listed as impaired and the
12 Secretary determines that the condition of the lake will cause one or more of
13 the following:

14 (1) a potential harm to the public health;

15 (2) a risk of damage to the environment or natural resources; or

16 (3) significant devaluation of the value of real property or other
17 significant negative economic effects.

18 § 1311. STATE RESPONSE TO A LAKE IN CRISIS

19 (a) Adoption of crisis response plan. When a lake is declared in crisis, the
20 Secretary shall within 90 days of the designation of the lake in crisis issue a
21 comprehensive crisis response plan for the management of the lake in crisis in

1 order to improve water quality in the lake or to mitigate or eliminate the
2 potential harm to public health or the risk of damages to the environment or
3 natural resources. The Secretary shall coordinate with the Secretary of
4 Agriculture, Food and Markets, and the Secretary of Transportation in the
5 development of the crisis response plan. The crisis response plan shall require
6 implementation of one or both of the following in the watershed of the lake in
7 crisis:

8 (1) water quality requirements not set forth in existing statute or rule
9 that are designed to address specific harms to public health or risks to the
10 environment or natural resources; or

11 (2) implementation of or compliance with existing water quality
12 requirements under one or more of the following:

13 (A) water quality requirements under chapter 47 of this title,
14 including requiring a property owner to obtain a permit or implement best
15 management practices for the discharge or stormwater runoff from any size of
16 impervious surfaces if the Secretary determines that the treatment of the
17 discharge or stormwater runoff is necessary to reduce the adverse impacts to
18 water quality of the discharge or stormwater on the lake in crisis;

19 (B) agricultural water quality requirements under 6 V.S.A. chapter
20 215, including best management practices under 6 V.S.A. § 4810 to reduce
21 runoff from the farm; or

1 (C) water quality requirements adopted under section 1264 of this
2 section for stormwater runoff from municipal or State roads.

3 (b) Agency cooperation and services. All other State agencies shall
4 cooperate with the Secretary in responding to the lake in crisis, and the
5 Secretary shall be entitled to seek financial, technical, and scientific input or
6 services from the Agency of Agriculture, Food and Markets, the Agency of
7 Transportation, or other necessary State agencies.

8 § 1312. LAKE IN CRISIS ORDER

9 (a) Lake in crisis order. The Secretary may issue a lake in crisis order to
10 require a person to:

11 (1) take an action identified in the lake in crisis response plan;

12 (2) cease any acts, discharges, or processes contributing to impairment
13 of the lake in crisis;

14 (3) mitigate a significant contributor of a pollutant to the lake in crisis;

15 or

16 (4) conduct testing, sampling, monitoring, surveying, or other analytical
17 operations required to determine the nature, extent, duration, or severity of the
18 public health hazard or public health risk;

19 (b) Notice. Prior to issuing a lake in crisis order under this section, the
20 Secretary shall provide notice as provided in this subsection.

1 (1) The Secretary shall prepare a notice of intent to seek the order,
2 setting forth the reasons to believe a lake in crisis order should be issued.

3 (2) The notice of intent, together with the supporting evidence, and a
4 statement of procedural rights available under this section, shall be served on
5 the person or persons against whom the lake in crisis order is sought in
6 accordance with the procedures set forth in Vermont Rules of Civil Procedure.

7 (3) Upon request of a person against whom a lake in crisis order is
8 sought, the Secretary shall hold a hearing. At the hearing, the person against
9 whom the order is sought shall be given an opportunity to rebut the allegations
10 and demonstrate that the Secretary should not issue the lake in crisis order
11 against the person.

12 (c) Phosphorus practices. If the source of pollution in the lake in crisis
13 includes phosphorus from agricultural sources, the Secretary shall issue a lake
14 in crisis order requiring agricultural sources of phosphorus in the watershed to
15 implement agricultural practices that reduce the phosphorus loads to the lake
16 from agriculture.

17 (d) Term of order. When the Secretary issues a lake in crisis order under
18 this section, the order shall include a term for the duration of any water quality
19 requirement in the order.

20 § 1313. COMPENSATION

1 The Secretary shall compensate a farmer in the watershed for economic
2 losses incurred during the term of a lake in crisis order issued under this
3 section if:

4 (1) the economic losses of the farmer are directly attributable to one or
5 more of the water quality requirements in the lake in crisis order;

6 (2) the farmer is not required under existing statute or rule to implement
7 the water quality requirements directly attributable to the economic losses; and

8 (3) the Secretary determines that the farmer is complying with the
9 agricultural water quality requirements of 6 V.S.A. chapter 215.

10 § 1314. FUNDING OF STATE RESPONSE TO A LAKE IN CRISIS

11 (a) Initial response. Upon designation of a lake in crisis, the Secretary,
12 notwithstanding the requirement of 32 V.S.A. § 706, may transfer the balances
13 of appropriations not to exceed \$50,000.00 made under any appropriation act
14 for the support of the Agency from one department or other unit of the Agency
15 to fund the initial response to the lake in crisis. The Secretary shall within 15
16 days of the designation of the lake in crisis request from the Secretary of
17 Administration additional funds to implement the crisis response plan for the
18 lake in crisis.

19 (b) Long-term funding. In the subsequent budget submitted to the General
20 Assembly under 32 V.S.A. § 701, the Secretary of Administration shall
21 propose funding necessary to implement fully the crisis response plan for the

1 lake in crisis, including recommended appropriations from one or more of the
2 following:

3 (1) the Clean Water Fund established under section 1389 of this title;

4 (2) the Environmental Contingency Fund established under section 1289
5 of this title;

6 (3) the Vermont Housing and Conservation Trust Fund established
7 under section 312 of this title;

8 (4) capital funds and other monies available from the Secretary of
9 Agriculture, Food and Markets for water quality programs or projects; and

10 (5) capital funds and other monies available from the Secretary of
11 Natural Resources for water quality programs or projects.

12 § 1315. PUBLIC HEARING; TRANSPARENCY

13 The Secretary shall hold at least one public hearing in the watershed of the
14 lake in crisis and shall provide an opportunity for public notice and comment
15 for any water quality program, project, or emergency order proposed for
16 implementation in the watershed of the lake in crisis.

17 Sec. 2. LAKE CARMİ; LAKE IN CRISIS

18 The General Assembly declares Lake Carmi as a lake in crisis under
19 10 V.S.A. chapter 47, subchapter 2a. The crisis response plan for Lake Carmi
20 shall include implementation of phosphorus runoff controls, including
21 requirements for aeration of Lake Carmi.

1 Sec. 3. EFFECTIVE DATE

2 This act shall take effect on passage.

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8 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE