

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 (a) The Secretary of Natural Resources (Secretary) shall review whether a
11 lake in the State should be designated as a lake as in crisis upon the Secretary’s
12 own motion or upon petition of 15 or more persons or a selectboard of a
13 municipality in which the lake or a portion of the lake is located.

14 (b) The Secretary shall designate a lake as a lake in crisis if, after review
15 under subsection (a), the Sectary determines that:

16 (1) the lake or segments of the lake have been listed as impaired; and

17 (2) the condition of the lake will cause:

18 (A) a potential harm to the public health;

19 (B) a risk of damage to the environment or natural resources; and

20 (C) a municipality in which the lake or a portion of the lake is located

21 has reduced the valuation of real property due to the condition of the lake.

1 § 1311. STATE RESPONSE TO A LAKE IN CRISIS

2 (a) Adoption of crisis response plan. When a lake is declared in crisis, the
3 Secretary shall within 90 days of the designation of the lake in crisis issue a
4 comprehensive crisis response plan for the management of the lake in crisis in
5 order to improve water quality in the lake or to mitigate or eliminate the
6 potential harm to public health or the risk of damages to the environment or
7 natural resources. The Secretary shall coordinate with the Secretary of
8 Agriculture, Food and Markets, and the Secretary of Transportation in the
9 development of the crisis response plan. The crisis response plan shall require
10 implementation of one or both of the following in the watershed of the lake in
11 crisis:

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

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

17 (A) water quality requirements under chapter 47 of this title,
18 including requiring a property owner to obtain a permit or implement best
19 management practices for the discharge or stormwater runoff from any size of
20 impervious surfaces if the Secretary determines that the treatment of the

1 discharge or stormwater runoff is necessary to reduce the adverse impacts to
2 water quality of the discharge or stormwater on the lake in crisis;

3 (B) agricultural water quality requirements under 6 V.S.A. chapter
4 215, including best management practices under 6 V.S.A. § 4810 to reduce
5 runoff from the farm; or

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

8 (b) Agency cooperation and services. All other State agencies shall
9 cooperate with the Secretary in responding to the lake in crisis, and the
10 Secretary shall be entitled to seek technical and scientific input or services
11 from the Agency of Agriculture, Food and Markets, the Agency of
12 Transportation, or other necessary State agencies.

13 § 1312. LAKE IN CRISIS ORDER

14 (a) Lake in crisis order. The Secretary, after consultation with the
15 Secretary of Agriculture, Food and Markets, may issue a lake in crisis order to
16 require a person to:

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

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

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

21 or

1 (4) conduct testing, sampling, monitoring, surveying, or other analytical
2 operations required to determine the nature, extent, duration, or severity of the
3 potential harm to the public health or a risk of damage to the environment or
4 natural resources.

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

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

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

13 (3) Upon request of a person against whom a lake in crisis order is
14 sought, the Secretary shall hold a hearing. At the hearing, the person against
15 whom the order is sought shall be given an opportunity to rebut the allegations
16 and demonstrate that the Secretary should not issue the lake in crisis order
17 against the person.

18 (c) Phosphorus practices. If the source of pollution in the lake in crisis
19 includes phosphorus from a specific source, the Secretary shall issue a lake in
20 crisis order requiring the source of phosphorus in the watershed to implement
21 practices that reduce the phosphorus loads to the lake.

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

4 § 1313. ASSISTANCE

5 (a) A person subject to a lake in crisis order shall be eligible for technical
6 and financial assistance from the Secretary to be paid from the Lake in Crisis
7 Response Fund. The Secretary shall adopt by procedure the process for
8 application for assistance under this section.

9 (b) State financial assistance awarded under this section shall be in the
10 form of a grant. An applicant for a State grant shall pay at least 35 percent of
11 the total eligible project cost. The dollar amount of a State grant shall be equal
12 to the total eligible project cost, less 35 percent of the total as paid by the
13 applicant, and less the amount of any federal assistance awarded.

14 (c) A grant awarded under this section shall comply with all terms and
15 conditions for the issuance of State grants.

16 § 1314. FUNDING OF STATE RESPONSE TO A LAKE IN CRISIS

17 (a) Initial response. Upon designation of a lake in crisis, the Secretary,
18 notwithstanding the requirement of 32 V.S.A. § 706, may transfer the balances
19 of appropriations not to exceed \$50,000.00 made under any appropriation act
20 for the support of the Agency from one department or other unit of the Agency
21 to fund the initial response to the lake in crisis.

1 (b) Long-term funding. In the subsequent budget submitted to the General
2 Assembly under 32 V.S.A. § 701, the Secretary of Administration shall
3 propose appropriations to the Lake in Crisis Program Special Fund to
4 implement fully the crisis response plan for the lake in crisis, including
5 recommended appropriations from one or more of the following:

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

7 (2) the Environmental Contingency Fund established under section 1289
8 of this title;

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

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

13 (5) capital funds and other monies available from the Secretary of
14 Natural Resources for water quality programs or projects; and

15 (6) General Fund appropriations.

16 § 1315. LAKE IN CRISIS PROGRAM FUND

17 (a) There is created a special fund known as the Lake in Crisis Program
18 Fund to be administered by the Secretary of Natural Resources. The Fund
19 shall consist of funds that may be appropriated by the General Assembly.

20 (b) The Secretary shall use monies deposited in the Fund for the
21 Secretary's implementation of a crisis response plan for Lake in Crisis and for

1 financial assistance under section 1313 of this title to persons subject to a lake
2 in crisis order.

3 (c) Notwithstanding the requirements of 32 V.S.A. § 588(3) and (4),
4 interest earned by the Fund and the balance of the Fund at the end of the fiscal
5 year shall be carried forward in the Fund and shall not revert to the General
6 Fund.

7 § 1316. PUBLIC HEARING; TRANSPARENCY

8 The Secretary shall hold at least one public hearing in the watershed of the
9 lake in crisis and shall provide an opportunity for public notice and comment
10 for each water quality program, project, or crisis order proposed for
11 implementation in the watershed of the lake in crisis.

12 Sec. 2. LAKE CARM; LAKE IN CRISIS

13 The General Assembly declares Lake Carmi as a lake in crisis under
14 10 V.S.A. chapter 47, subchapter 2a. The crisis response plan for Lake Carmi
15 shall include implementation of runoff controls.

16 Sec. 3. 10 V.S.A. § 8003(a) is amended to read:

17 (a) The Secretary may take action under this chapter to enforce the
18 following statutes and rules, permits, assurances, or orders implementing the
19 following statutes, and the Board may take such action with respect to
20 subdivision (10) of this subsection:

21 (1) 10 V.S.A. chapter 23, relating to air quality;

1 (2) 10 V.S.A. chapter 32, relating to flood hazard areas;

2 (3) 10 V.S.A. chapters 47 and 56, relating to water pollution control,

3 water quality standards, ~~and~~ public water supply, and lakes in crisis;

4 * * *

5 Sec. 4. 10 V.S.A. § 8503(a) is amended to read:

6 (a) This chapter shall govern all appeals of an act or decision of the
7 Secretary, excluding enforcement actions under chapters 201 and 211 of this
8 title and rulemaking, under the following authorities and under the rules
9 adopted under those authorities:

10 (1) The following provisions of this title:

11 (A) chapter 23 (air pollution control);

12 (B) chapter 50 (aquatic nuisance control);

13 (C) chapter 41 (regulation of stream flow);

14 (D) chapter 43 (dams);

15 (E) chapter 47 (water pollution control; lakes in crisis);

16 * * *

17 Sec. 5. EFFECTIVE DATE

18 This act shall take effect on passage.

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3 (Committee vote: _____)

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Representative _____

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FOR THE COMMITTEE