

April 4, 2018

David Deen, Chair
House Committee on Natural Resources, Fish and Wildlife
115 State Street
Montpelier, VT 05633

RE: Comments on S. 260 As Passed by the Senate

Dear Chair Deen:

Thank you for the opportunity to provide some testimony on this bill last week. As promised, attached are some edits to Sections 3 and 5 of the S. 260 As Passed by the Senate.

I support Sections 1, 2 and 4, as written. I take no position, nor do I have any comments on sections 6-10.

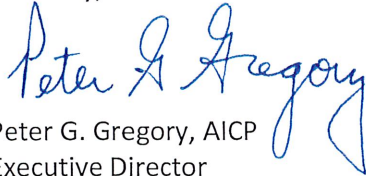
To reiterate on a few points I made orally, I ask you and your Committee to be specific in your direction to the Administration in using local partners, especially regional planning commissions to plan, prioritize, facilitate and manage the implementation of Vermont's water quality programs. We can be effective partners with state government as evidenced by our decades long partnership with VTTrans and can be effective organizers with multiple local partners.

The Legislature must direct more funding for project development and must resist the drastic cuts proposed by ANR in supporting local partners in basin planning, the foundation that we need for project identification.

Trust your local partners to carry out this work.

Thank you for the opportunity to comment.

Sincerely,



Peter G. Gregory, AICP
Executive Director

attachment

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William B. Emmons, III, Chair
Peter G. Gregory, AICP, Executive Director

AS PASSED BY SENATE S.260 2018

* * * Clean Water Board * * *

Sec. 3. 10 V.S.A. § 1389 is amended to read:

§ 1389. CLEAN WATER FUND BOARD

(a) Creation.

(1) There is created the Clean Water Fund Board which that shall:

(A) be responsible and accountable for advising the General Assembly regarding planning, coordinating, and financing of the remediation, improvement, and protection of the quality of State waters;

(B) recommend to the Secretary of Administration expenditures General Assembly:

(i) appropriations from the Clean Water Fund; and

(ii) clean water projects to be funded by capital appropriations.

(2) The Clean Water Fund Board shall be attached to the Agency of Administration for administrative purposes.

(b) Organization of the Board. The Clean Water Fund Board shall be composed of:

(1) the Secretary of Administration or designee;

(2) the Secretary of Natural Resources or designee;

(3) the Secretary of Agriculture, Food and Markets or designee;

(4) the Secretary of Commerce and Community Development or designee; and

(5) the Secretary of Transportation or designee; and

(6) four members of the public, who are not legislators, with expertise in one or more of the following subject matters: public management, civil engineering, agriculture, ecology, wetlands, stormwater system management, forestry, transportation, law, banking, finance, and investment, to be appointed as follows:

(A) the Speaker of the House shall appoint two members of the public, one of whom shall represent a municipality subject to the municipal separate storm sewer system (MS4) permit; and

(B) the Committee on Committees shall appoint two members of the public.

(c) Officers; committees; rules.

(1) The Clean Water Fund Board shall annually elect a chair from its members Secretary of Administration or designee shall serve as the Chair of the Board. The Clean Water Fund Board may elect additional officers from its members, establish committees or subcommittees, and adopt procedural rules as necessary and appropriate to perform its work.

(2) Members of the Board who are not employees of the State of Vermont and who are not otherwise compensated or reimbursed for attendance shall be entitled to per diem compensation and reimbursement of expenses pursuant to 32 V.S.A. § 1010 paid from the budget of the Agency of Administration for attendance of meetings of the Board.

(d) Powers and duties of the Clean Water Fund Board. The Clean Water Fund Board shall have the following powers and authority:

(1) Annually, on or before December 15, the Clean Water Board shall submit to the General Assembly a plan for the appropriation of all State water quality revenues in a manner that:

(A) maintains a water quality budget that is not less than the funding provided in fiscal year 2019 and that is capable of meeting an equivalent level of support, adjusted for inflation, for fiscal years 2020 through 2024; and

(B) adequately funds the following State obligations in the subsequent fiscal years:

(i) federally required or State-required cleanup plans for individual waters or water segments, such as total maximum daily load plans;

(ii) the requirements of 2015 Acts and Resolves No. 64; and

(iii) the Agency of Natural Resources' Combined Sewer Overflow Rule.

(2) The Clean Water Fund Board shall recommend to the Secretary of Administration General Assembly the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required be submitted to the General Assembly under 32 V.S.A. § 306 financing the Board's recommended annual financing plan. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment.

(2)(3) The Clean Water Fund Board may pursue and accept grants, gifts, donations, or other funding from any public or private source and may administer such grants, gifts, donations, or funding consistent with the terms of the grant, gift, or donation.

(3)(4) The Clean Water Fund Board shall:

(A) establish a process by which watershed organizations, State agencies, and other interested parties may propose water quality projects or programs for financing from the Clean Water Fund;

(B) develop an annual revenue estimate and proposed budget for the Clean Water Fund;

(C) establish measures for determining progress and effectiveness of expenditures for clean water restoration efforts;

(D) issue the annual Clean Water Investment Report required under section 1389a of this title; and

(E) solicit, consult with, and accept public comment from organizations interested in improving water quality in Vermont regarding recommendations under this subsection (d) for the allocation of funds from the Clean Water Fund.

(e) Priorities.

(1) In making recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall prioritize:

(A) funding to programs and projects that address sources of water pollution in waters listed as impaired on the list of waters established by 33 U.S.C. § 1313(d);

(B) funding to projects that address sources of water pollution identified as a significant contributor of water quality pollution, including financial assistance to grant recipients at the initiation of a funded project;

(C) funding to programs or projects that address or repair riparian conditions that increase the risk of flooding or pose a threat to life or property;

(D) assistance required for State and municipal compliance with stormwater requirements for highways and roads;

(E) funding for education and outreach regarding the implementation of water quality requirements, including funding for education, outreach, demonstration, and access to tools for the implementation of the Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont, as adopted by the Commissioner of Forests, Parks and Recreation;

(F) funding for innovative or alternative technologies or practices designed to improve water quality or reduce sources of pollution to surface waters, including funding for innovative nutrient removal technologies and community-based methane digesters that utilize manure, wastewater, and food residuals to produce energy;

(G) funding to purchase agricultural land in order to take that land out of practice when the State water quality requirements cannot be remediated through agricultural Best Management Practices; and

(H) funding to municipalities for the establishment and operation of stormwater utilities.

(I) funding equal to or exceeding 10% of the amount anticipated to be obligated in the coming year for project construction for project development activities.

(J) funding basin planning support to regional planning commissions and natural resource conservation districts at a level equal to that allocated in FY 17.

(2) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Clean Water Fund Board shall, during the first three years of its existence and within the priorities established under subdivision (1) of this subsection (e), prioritize awards or assistance to municipalities for municipal compliance with water quality requirements, and to municipalities for the establishment and operation of stormwater utilities.

(3) In developing its recommendations under subsection (d) of this section regarding the appropriate allocation of funds from the Clean Water Fund, the Board shall, after satisfaction of the priorities established under subdivision (1) of this subsection (e), attempt to provide for equitable apportionment of awards from the Fund to all regions of the State and for control of all sources of point and non-point nonpoint sources of pollution in the State.

(f) Assistance. The Clean Water Fund Board shall have the administrative, technical, and legal assistance of the Agency of Administration, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, and the Agency of Commerce and Community Development for those issues or services within the jurisdiction of the respective agency. The cost of the services provided by agency staff shall be paid from the budget of the agency providing the staff services.

(g) Terms; appointed members. Members who are appointed to the Clean Water Board shall be appointed for terms of four years, except initially, appointments shall be made such that one member appointed by the Speaker shall be appointed for a term of two years, and one member appointed by the Committee on Committees shall be appointed for a term of one year. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments.

* * * Water Quality Block Grant * * *

Sec. 5. WATER QUALITY BLOCK GRANTS

(a) Definition. As used in this section, "local partner" means a regional planning commission, natural resource conservation district, or watershed organization located or operating in the watershed for which the Agency of Natural Resources has issued a watershed basin plan.

(b) Establishment; purpose.

(1) The Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall coordinate prior to awarding water quality grants or financing in order to maximize the water quality benefit or impact of funded projects in a watershed planning basin. When possible, grants or financing for water quality programs shall be issued as a block grant that enhances the capacity of local partners. The Secretary of Natural Resources shall negotiate scopes of work attached to contracts with local partners.

(2) A portion of each block grant issued under this section shall include funds authorized for the following:

(A) to financially support the administrative capacity of local partners to implement projects in the watershed basin; and

(B) to identify and develop water quality projects listed under the basin plan for the watershed as necessary for the restoration and protection of the waters of the State.

(c) Requirements. On or before January 1, 2019, the Secretary of Natural Resources, the Secretary of Agriculture, Food and Markets, and the Secretary of Transportation shall establish a process for

coordinating water quality grants and issuing water quality block grants under this section. The process shall address the following:

- (1) requirements for eligibility;
- (2) a system of priorities for the award of block grants;
- (3) performance measures, reporting requirements, or accountability requirements for recipients of water quality block grants;
- (4) uses for which a recipient of a water block grant may allocate or award portions of the block grants to other eligible entities for implementation of water quality programs or projects in a river basin;
- (5) methods for identifying watersheds or other areas where the State should focus on enhancing the capacity of local partners; and
- (6) any other provision necessary to implement the block grants under this section.