

TO THE HONORABLE SENATE

The Committee on Agriculture to which was referred Senate Bill No. S. 260, entitled "An act relating to funding the cleanup of State waters"

respectfully reports that it has considered the same and recommends that the bill be amended by striking out all after the enacting clause and inserting in lieu thereof the following:

* * * Clean Water Planning, Funding, and Implementation Committee * * *

Sec. 1. LEGISLATIVE CLEAN WATER PLANNING, FUNDING, AND IMPLEMENTATION COMMITTEE

(a) Creation. There is created the Clean Water Planning, Funding, and Implementation Committee to recommend to the General Assembly draft legislation to establish an equitable and effective long-term funding method for:

(1) financing the necessary water quality programs and projects that will remediate, improve, and protect the quality of the waters of the State;

(2) coordinating water quality financing in the State;

(3) planning for the water quality financing needs of the State; and

(4) ensuring accountability of the State's efforts to clean up impaired waters, maintain or achieve the Vermont Water Quality Standards in all waters, and prevent the future degradation of waters.

(b) Membership. The Clean Water Planning, Funding, and Implementation Committee shall be composed of the following eight members:

(1) the Chair of the Senate Committee on Appropriations or designee;

(2) the Chair of the House Committee on Appropriations or designee;

(3) the Chair of the Senate Committee on Natural Resources and Energy or designee;

(4) the Chair of the House Committee on Natural Resources, Fish, and Wildlife or designee;

(5) the Chair of the Senate Committee on Finance or designee;

(6) the Chair of the House Committee on Ways and Means or designee;

(7) the Chair of the Senate Committee on Agriculture or designee; and

(8) the Chair of the House Committee on Agriculture and Forestry or designee.

(c) Powers and duties.

(1) The Clean Water Planning, Funding, and Implementation Committee

shall study how to develop a financing plan for water quality programs and projects in the State that will generate revenue sufficient to fund the following State obligations:

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

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

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

(2) In developing a financing plan for water quality programs and projects in the State under this subsection, the Committee shall:

(A) evaluate implementation of a per parcel fee or other revenue source that can be assessed equitably on all property in the State, based on the impact or effect of the property on water quality;

(B) base its revenue recommendation on maintaining 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

(C) review whether the State Treasurer's estimate of State funding needs in the Clean Water Report in January 2017 should be revised or updated after fiscal 2024 due to economic conditions or due to the need to reflect the most effective measures to improve water quality.

(d) Assistance. The Clean Water Planning, Funding, and Implementation Committee shall have the administrative, technical, legal, and fiscal assistance of the Office of Legislative Council and the Joint Fiscal Office. The Committee shall also be entitled to seek financial, technical, and scientific input or services from the Office of the State Treasurer, the Agency of Natural Resources, the Agency of Agriculture, Food and Markets, the Agency of Transportation, the Vermont Center for Geographic Information Services, the Agency of Commerce and Community Development, and the Department of Taxes.

(e) Report. On or before January 15, 2019, the Clean Water Planning, Funding, and Implementation Committee shall submit to the General Assembly draft legislation that addresses the issues set forth under subsection (c) of this section. The Clean Water Planning, Funding, and Implementation Committee shall cease to exist on February 1, 2019.

(f) Meetings.

(1) The Office of Legislative Council shall call the first meeting of the Clean Water Planning, Funding, and Implementation Committee to occur on or before August 1, 2018.

(2) The Committee shall select a chair or co-chairs from among its members at its first meeting.

(3) A majority of the membership of the Committee shall constitute a quorum.

(g) Compensation and reimbursement. For attendance at meetings during adjournment of the General Assembly, a legislative member of the Clean Water Planning, Funding, and Implementation Committee shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

* * * Clean Water Fund Board * * *

Sec. 2. 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 recommend to the Secretary of Administration expenditures:

(A) appropriations from the Clean Water Fund; and

(B) 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;

(5) the Secretary of Transportation or designee; and

(6) two members of the public who are not legislators, one of whom shall represent a municipality subject to the municipal separate storm sewer system (MS4) permit and one of whom shall represent a municipality that is not subject to the MS4 permit, appointed as follows:

(A) the Speaker of the House shall appoint the member from an MS4 municipality; and

(B) the Committee on Committees shall appoint the member who is

not from an MS4 municipality.

(c) Officers; committees; rules.

(1) The Clean Water Fund Board shall annually elect a chair from its members Secretary of Administration 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 their 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) The Clean Water Fund Board shall recommend to the Secretary of Administration the appropriate allocation of funds from the Clean Water Fund for the purposes of developing the State budget required to be submitted to the General Assembly under 32 V.S.A. § 306. All recommendations from the Board should be intended to achieve the greatest water quality gain for the investment. The recommendations of the Clean Water Fund Board shall be open to inspection and copying under the Public Records Act, and the Clean Water Fund Board shall submit to the Senate Committees on Appropriations, on Finance, on Agriculture, and on Natural Resources and Energy and the House Committees on Appropriations, on Ways and Means, on Agriculture and Forestry, and on Natural Resources, Fish and Wildlife a copy of any recommendations provided to the Governor.

(2) 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) 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.

(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 Fund Board shall be appointed for terms of four years, except initial appointments shall be made such that the member appointed by the Speaker shall be appointed for a term of two years. Vacancies on the Board shall be filled for the remaining period of the term in the same manner as initial appointments.

Sec. 3. CLEAN WATER FUND BOARD FUNDING AND SERVICE DELIVERY REPORT

On or before November 15, 2018, the Clean Water Fund Board shall report to the Senate Committees on Appropriations, on Finance, on Agriculture, and on Natural Resources and Energy and the House Committees on Appropriations, on Ways and Means, on Agriculture and Forestry, and on Natural Resources, Fish and Wildlife on the following:

(1) A recommendation on the appropriate State share with respect to grants to support governmental and private obligations to comply with water quality improvement. In addition to this recommendation, the Board shall provide:

(A) an inventory of existing State grant and funding programs related to water quality improvement;

(B) the existing State share with respect to each grant or funding program identified in subdivision (A); and

(C) whether that existing State share is required by State or federal law and a reference to that legal requirement.

(2) A recommendation on how funding and services should be delivered to ensure compliance with the phosphorous reduction targets in the Lake Champlain total maximum daily load and the State's water quality objectives. At a minimum, the Board shall evaluate as a part of its recommendation a statewide clean water authority, a regional utility or service-delivery model, and a municipal model. The evaluation shall include an assessment of the ability of the entity to raise revenue, administer programs, and fund projects.

* * * Joint Lake Carmi Pilot Project * * *

Sec. 4. AGENCY OF NATURAL RESOURCES AND AGENCY OF
AGRICULTURE, FOOD AND MARKETS JOINT LAKE CARMİ
PILOT PROGRAM FOR PHOSPHORUS MANAGEMENT

(a) Farm-specific plans.

(1) On or before July 1, 2018, the Secretary of Natural Resources, in consultation with the Secretary of Agriculture, Food and Markets, shall contract with a third-party consultant to develop individual water quality remediation plans for each owner or operator of farmland within the Lake Carmi watershed.

(2) A water quality remediation plan shall:

(A) include an analysis of the soil phosphorus levels, the nutrient sources produced or imported to farmland to be applied on the land, the crop nutrient requirements, phosphorus index rating, tillage methods, land application of nutrients, methods and timing of nutrient application, and any other data necessary to ensure that the nutrient management plan for the farmland meets the State and federal requirements;

(B) specify measures or management practices that an owner or operator of farmland shall implement according to the nutrient management plan; and

(C) identify options available to owners or operators of farmland to protect their land in a manner that mitigates existing environmental impacts while maintaining economic viability or to provide alternatives when the costs of improving water quality exceed the value of the farmland.

(2) Beginning on May 1, 2018, the owner or operator of farmland within the Lake Carmi watershed shall document the following on an annual basis:

(A) the amount of total nutrient sources imported to, produced on, or applied to the farmland in the past year; and

(B) a summary of practices that an owner or operator of farmland has implemented in the last year in order to prevent an increase of phosphorus loads.

(b) Monitoring. The Secretary of Natural Resources shall conduct monitoring of the watershed to establish accountability for the non-point source pollution load into the Lake Carmi watershed.

(c) Best management practices. If monitoring conducted under subsection (c) of this section indicates increasing phosphorus loads in the waters due to non-point source pollution from farmland within the Lake Carmi watershed, the Secretary of Agriculture, Food and Markets shall require the owner or operator of the farmland to implement best management practices under 6 V.S.A. § 4810 to reduce runoff from the farmland.

* * * Report on Future Farming Practices * * *

Sec. 5. AGENCY OF AGRICULTURE, FOOD AND MARKETS
REPORT ON FARMING PRACTICES IN VERMONT

The Secretary of Agriculture, Food and Markets shall convene a Nutrient Management Commission in order to review farming practices in Vermont and recommend ways to revise them in a manner that mitigates existing environmental impacts while maintaining economic viability. On or before January 15, 2019, the Secretary of Agriculture, Food and Markets shall submit to the Senate Committees on Natural Resources and Energy and on Agriculture and to the House Committees on Natural Resources, Fish, and Wildlife and on Agriculture and Forestry a report summarizing the recommendations of the Nutrient Management Commission. The report shall include potential strategies and timelines for implementing the following:

(1) building healthy soils;

(2) reducing agriculturally based pollution in areas of highly polluted, stressed, or impaired waters;

(3) establishing a carrying capacity or maximum number of livestock that the land used for nutrient application on a farm can support without contributing nutrients to a water;

(4) including whole-farm nutrient balancing principles into the nutrient management standards for farms in the State;

(5) ways to provide financial and technical support to facilitate the implementation by farms of less-polluting practices, including:

(A) cover cropping;

(B) reduced tillage or no tillage;

(C) options available to farms to protect their land in a manner that mitigates existing environmental impacts while maintaining economic viability or to provide alternatives when the costs of improving water quality exceed the value of the farm;

(D) ways to accelerate the implementation of best management practices (BMPs);

(E) ways to evaluate the effectiveness of using riparian buffers in excess of 25 feet;

(F) ways to accelerate the use of and accountability for direct manure injection;

(G) ways to use crop rotations to build soil health, including limits on the continuous planting of corn; and

(H) ways to eliminate, or at least reduce, the use of herbicides in the termination of cover crops.

* * * Effective Date * * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: 5-0-0)

Senator Collamore
FOR THE COMMITTEE