

1 TO THE HONORABLE SENATE:

2 The Committee on Agriculture to which was referred Senate Bill No. 260
3 entitled “An act relating to funding the cleanup of State waters” respectfully
4 reports that it has considered the same and recommends that the bill be
5 amended by striking out all after the enacting clause and inserting in lieu
6 thereof the following:

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

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

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

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

16 (2) coordinating water quality financing in the State;

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

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

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

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

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

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

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

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

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

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

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

14 **(c) Powers and duties.**

15 **(1) The Clean Water Planning, Funding, and Implementation Committee**
16 **shall study how to develop a financing plan for water quality programs and**
17 **projects in the State that will generate revenue sufficient to fund the following**
18 **State obligations:**

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

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

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

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

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

8 (B) base its revenue recommendation on maintaining a water quality
9 budget that is not less than the funding provided in fiscal year 2019 and that is
10 capable of meeting an equivalent level of support, adjusted for inflation, for
11 fiscal years 2020 through 2024; and

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

16 (d) Assistance. The Clean Water Planning, Funding, and Implementation
17 Committee shall have the administrative, technical, legal, and fiscal assistance
18 of the Office of Legislative Council and the Joint Fiscal Office. The
19 Committee shall also be entitled to seek financial, technical, and scientific
20 input or services from the Office of the State Treasurer, the Agency of Natural
21 Resources, the Agency of Agriculture, Food and Markets, the Agency of

1 Transportation, the Vermont Center for Geographic Information Services, the
2 Agency of Commerce and Community Development, and the Department of
3 Taxes.

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

9 (f) Meetings.

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

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

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

17 (g) Compensation and reimbursement. For attendance at meetings during
18 adjournment of the General Assembly, a legislative member of the Clean
19 Water Planning, Funding, and Implementation Committee shall be entitled to
20 per diem compensation and reimbursement of expenses pursuant to 2 V.S.A.

1 § 406 for not more than six meetings. These payments shall be made from
2 monies appropriated to the General Assembly.

3 * * * Clean Water Fund Board * * *

4 Sec. 2. 10 V.S.A. § 1389 is amended to read:

5 § 1389. CLEAN WATER FUND BOARD

6 (a) Creation.

7 (1) There is created the Clean Water Fund Board which that shall
8 recommend to the Secretary of Administration expenditures:

9 (A) appropriations from the Clean Water Fund; and

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

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

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

15 (1) the Secretary of Administration or designee;

16 (2) the Secretary of Natural Resources or designee;

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

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

20 (5) the Secretary of Transportation or designee; and

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

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

7 (B) the Committee on Committees shall appoint the member who is
8 not from an MS4 municipality.

9 (c) Officers; committees; rules.

10 (1) The Clean Water Fund Board shall annually elect a chair from its
11 members Secretary of Administration shall serve as the Chair of the Board.

12 The Clean Water Fund Board may elect additional officers from its members,
13 establish committees or subcommittees, and adopt procedural rules as
14 necessary and appropriate to perform its work.

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

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

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

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

17 (3) The Clean Water Fund Board shall:

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

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

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

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

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

11 (e) Priorities.

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

15 (A) funding to programs and projects that address sources of water
16 pollution in waters listed as impaired on the list of waters established by
17 33 U.S.C. § 1313(d);

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

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

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

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

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

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

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

20 (2) In developing its recommendations under subsection (d) of this
21 section regarding the appropriate allocation of funds from the Clean Water

1 Fund, the Clean Water Fund Board shall, during the first three years of its
2 existence and within the priorities established under subdivision (1) of this
3 subsection (e), prioritize awards or assistance to municipalities for municipal
4 compliance with water quality requirements; and to municipalities for the
5 establishment and operation of stormwater utilities.

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

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

20 (g) Terms; appointed members. Members who are appointed to the Clean
21 Water Fund Board shall be appointed for terms of four years, except initial,

1 appointments shall be made such that the member appointed by the Speaker
2 shall be appointed for a term of two years. Vacancies on the Board shall be
3 filled for the remaining period of the term in the same manner as initial
4 appointments.

5 Sec. 3. CLEAN WATER FUND BOARD FUNDING AND SERVICE

6 DELIVERY REPORT

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

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

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

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

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

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

8 * * * Joint Lake Carmi Pilot Project * * *

9 Sec. 4. AGENCY OF NATURAL RESOURCES AND AGENCY OF
10 AGRICULTURE, FOOD AND MARKETS JOINT LAKE CARMI
11 PILOT PROGRAM FOR PHOSPHORUS MANAGEMENT

12 (a) Farm-specific plans.

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

18 (2) A water quality remediation plan shall:

19 (A) include an analysis of the soil phosphorus levels, the nutrient
20 sources produced or imported to farmland to be applied on the land, the crop
21 nutrient requirements, phosphorus index rating, tillage methods, land

1 application of nutrients, methods and timing of nutrient application, and any
2 other data necessary to ensure that the nutrient management plan for the
3 farmland meets the State and federal requirements;

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

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

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

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

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

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

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

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

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

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

10 (A) cover cropping;

11 (B) reduced tillage or no tillage;

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

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

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

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

- 1 (G) ways to use crop rotations to build soil health, including limits on
2 the continuous planting of corn; and
3 (H) ways to eliminate, or at least reduce, the use of herbicides in the
4 termination of cover crops.

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* * * Effective Date * * *

Sec. 6. EFFECTIVE DATE

This act shall take effect on passage.

(Committee vote: _____)

Senator _____
FOR THE COMMITTEE

(Committee vote: _____)

Senator _____
FOR THE COMMITTEE