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Act No. 76 (S.96). Conservation and land development; water quality; funding; water quality services

An act relating to the provision of water quality services

This act establishes a long-term funding source for water quality programs and amends how clean water projects are implemented, administered, and funded. Under the act, six percent of revenues from the meals and rooms taxes are deposited into the Clean Water Fund. The percentage of the rooms and meals tax dedicated to the General Fund is reduced by six percent.

The act establishes a mechanism for delivery of water quality services in impaired waters. The Agency of Natural Resources (ANR) shall designate by rule an entity, known as a clean water service provider, to be responsible for identification, design, construction, operation, and maintenance of clean water projects in a basin of an impaired water. A provider shall maintain clean water projects for at least the design life of each project. Each provider shall establish a basin water quality council to establish policy and make project decisions. ANR shall assign a provider for Lake Champlain and Lake Memphremagaog by November 1, 2020. ANR shall assign providers for other impaired waters six months prior to scheduled pollution allocations.

After a water is listed as impaired, ANR shall, as part of the cleanup plan for the water, evaluate whether existing regulatory programs will achieve water quality standards in the water. If existing programs will not achieve water quality standards, ANR shall determine the amount of additional pollutant reduction necessary to achieve water quality standards. ANR shall allocate to each clean water service provider for that water an amount of pollution reduction the provider shall be responsible for achieving. The allocations shall be expressed in annual pollution reduction goals and five-year pollution reduction targets.

ANR shall establish a methodology for establishing the standard cost per unit of pollutant reduction. The standard cost shall include the costs of project identification, design, and construction. ANR also shall publish methodologies for establishing the design life of a project and for calculating pollution reduction values for a clean water project in that water. ANR shall conduct the pollution reduction and standard costs analyses for Lake Champlain by November 1, 2021 and for Lake Memphremagag by November 1, 2022. For all other impaired waters, ANR shall adopt an implementation schedule by November 1, 2023.

A clean water service provider shall report annually to ANR regarding implementation of clean water projects and compliance with pollution reduction allocations. If a clean water service provider fails to meet its allocated reduction goals or its five-year target or fails to maintain previously implemented clean water projects, ANR shall take appropriate steps to hold the provider accountable, including entering a compliance plan or designating an alternate provider.

The act establishes four new grant programs to fund water quality programs in the State. The Water Quality Restoration Formula Grant Program provides grants to clean water service providers to meet the pollution reduction requirements. The Water Quality Enhancement Grant Program funds projects that protect high quality waters, maintain or improve water quality in all waters, restore degraded or stressed waters, create resilient watersheds communities, and promote the public use and enjoyment of waters. The Developed Lands Implementation Grant Program provides grants to persons who are required to obtain a three-acre impervious surface permit. The Municipal Stormwater Assistance Grant Program provides grants to municipalities to implement a municipal roads general permit, MS4 permit, or a three-acre impervious surface permit.

The act adds a finding that success in implementing the Clean Water Initiative will depend on sustained and adequate funding to support implementation, including committing to annual appropriations of between \$50 and \$60 million. The act also clarifies that when making recommendations for appropriations from the Clean Water Fund, the Clean Water Fund shall make its recommendations according to established priorities. In addition, the Board shall make funding recommendations for water quality programs and projects to be funded from capital appropriations, not from the Clean Water Fund.

The act amends the priorities for the Clean Water Board's recommended appropriations from the Clean Water Fund. First and equal priority shall be given to: grants to clean water service providers to fund costs associated with clean water projects; agricultural water quality programs; the Water Quality Enhancement Grant Program, at a funding level of at least 20 percent of the Clean Water Fund, with a \$5 million annual maximum; funding to partners for basin planning of at least \$500,000.00 annually. As a second priority, the Board shall recommend funding for programs or projects to address riparian conditions; funding for education, outreach, demonstration, and water quality practices on logging jobs; and funding for the Municipal Stormwater Assistance Grant. Third priority shall be funding for the Developed Lands Implementation Grant Program.

The act also clarifies the authority of natural resource conservation districts and regional planning commissions to act as clean water service providers. It requires ANR to report to the General Assembly with recommendation for implementing a market-based mechanism that allows the purchase of water quality credits by water quality and other entities. The act requires ANR to convene a Land and Water Conservation Study Stakeholder Group to develop a

recommended framework for statewide land conservation. Last, the act requires the Secretary of Administration to report to the General Assembly regarding administration and funding of water quality projects on farms.

Multiple effective dates, beginning on July 1, 2019