

1 H.404

2 Introduced by Representative Brennan of Colchester

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; government operations; water  
6 quality; service delivery

7 Statement of purpose of bill as introduced: This bill requires the Secretary of  
8 Natural Resources (Secretary) to evaluate whether existing regulatory  
9 programs for water quality will achieve water quality standards in each  
10 impaired water of the State. If the Secretary determines that regulatory  
11 programs will not achieve water quality standards, the Secretary would be  
12 required to determine the amount of additional pollutant reduction necessary to  
13 achieve water quality standards in that water. The Secretary would then  
14 allocate the pollutant reduction identified for the water to each clean water  
15 utility located in or partially in the watershed of the impaired water. The clean  
16 water utilities would be responsible for reducing sources of water pollution  
17 within their boundaries in accordance with the allocated pollution reduction  
18 targets established by the Secretary. The bill also would require the Secretary  
19 to administer a grant program to fund the activities of clean water utility. A  
20 separate grant program administered by the Secretary would provide grants to

1 persons who are required to obtain a permit to implement regulatory  
2 requirements that are necessary to achieve water quality standards.

3 An act relating to administration and implementation of water quality  
4 projects

5 It is hereby enacted by the General Assembly of the State of Vermont:

6 Sec. 1. FINDINGS

7 The General Assembly finds that:

8 (1) Within Vermont there are 7,100 miles of rivers and streams and  
9 812 lakes and ponds of at least five acres in size.

10 (2) Current assessment of State waters or water segments indicates that  
11 there are 101 waters or water segments that do not meet the State's water  
12 quality standards for at least one criterion and require a plan for cleanup.

13 (3) In 2015, the General Assembly enacted 2015 Acts and Resolves No.  
14 64, An act relating to improving the quality of state waters (Act 64), for the  
15 purpose, among others, of providing mechanisms, staffing, and financing  
16 necessary for the State to implement regulatory programs that are necessary to  
17 obtain compliance with the Vermont Water Quality Standards for all State  
18 waters.

19 (4) The total maximum daily load (TMDL) issued by the U.S.  
20 Environmental Protection Agency for the Lake Champlain basin established a

1 pollution budget for cleaning up Lake Champlain that requires pollution  
2 reductions that are beyond the regulatory programs administered by the State.

3 (5) Act 64 directed the State Treasurer to recommend to the General  
4 Assembly a long-term mechanism for financing water quality improvement in  
5 the State, including proposed revenue sources for water quality improvement  
6 programs.

7 (6) The State Treasurer submitted a Clean Water Report in January 2017  
8 that included:

9 (A) an estimate that over 20 years it would cost \$2.3 billion to  
10 achieve compliance with water quality requirements;

11 (B) a projection that revenue available for water quality over the 20-  
12 year period would be approximately \$1.06 billion, leaving a 20-year total  
13 funding gap of \$1.3 billion;

14 (C) an estimate of annual compliance costs of \$115.6 million, which,  
15 after accounting for projected revenue, would leave a funding gap of \$48.5  
16 million to pay for the costs of compliance with the first tier of federal and State  
17 water quality requirements; and

18 (D) an estimate of the State share of the funding gap of between \$20  
19 to \$25 million annually.

20 (7) In order to meet the Vermont Water Quality Standards, the State will  
21 need to prioritize its funding on projects that reduce pollutants of concern in

1 impaired waters, enhance its ability to identify and implement these projects,  
2 and operate and maintain these projects so that they continue to reduce  
3 phosphorous.

4 Sec. 2. 10 V.S.A. chapter 37, subchapter 5 is redesignated to read:

5 CHAPTER 5. ~~AQUATIC NUISANCE~~ CONTROL WATER QUALITY  
6 RESTORATION AND IMPROVEMENT

7 Sec. 3. 10 V.S.A. §§ 921–924 are added under 10 V.S.A. chapter 37,  
8 subchapter 5 to read:

9 § 921. WATER QUALITY IMPLEMENTATION PLANNING AND  
10 TARGETS

11 (a) As provided in subsection (c) of this section, after listing a water as  
12 impaired on the list of waters established by 33 U.S.C. § 1313(d), the Secretary  
13 shall conduct the following as part of a plan to implement the requirements of  
14 any total maximum daily load adopted for an impaired water:

15 (1) Evaluate whether existing regulatory programs will achieve water  
16 quality standards in the water. If the Secretary determines that regulatory  
17 programs will not achieve water quality standards, the Secretary shall  
18 determine the amount of additional pollutant reduction necessary to achieve  
19 water quality standards in that water. When making this determination, the  
20 Secretary may express the pollutant reduction in a numeric reduction or

1 through defining best management practices that shall be implemented to  
2 achieve standards.

3 (2) Allocate the pollutant reduction identified under subdivision (a)(1)  
4 of this section to each clean water utility located in or partially in the  
5 watershed of the impaired water. When making an allocation, the Secretary  
6 shall consider the sectors contributing to the water quality impairment in the  
7 clean water utility's boundaries, the contribution of the pollutant from  
8 regulated and nonregulated sources within the clean water utility, and the  
9 geographic extent that the watershed boundaries are in the clean water utility.  
10 Those allocations shall be expressed in annual pollution reduction goals and  
11 five-year pollution reduction targets.

12 (3) Determine the standard cost of pollutant reduction per unit or per  
13 best management practice. When determining standard cost, the Secretary  
14 shall conduct a survey of the costs associated with common pollution reduction  
15 efforts and develop a standard cost based on the survey and the sources of the  
16 pollutants.

17 (b) The Secretary shall conduct the analysis required by subsection (a) for  
18 previously impaired waters as follows:

19 (1) For phosphorous in the Lake Champlain watershed, no later than  
20 November 1, 2021.

1           (2) For phosphorous in the Lake Memphremagog watershed, no later  
2           than November 1, 2022.

3           (3) For all other impaired waters, according to a schedule adopted by the  
4           Secretary for implementation in other impaired waters.

5           § 922. QUANTIFICATION OF NONREGULATORY POLLUTION

6           REDUCTION

7           (a) The Secretary shall develop pollution reduction values associated with  
8           best management practices and other controls. If a person is undertaking a best  
9           management practice or other control for which no pollution reduction value  
10           exists, the Secretary shall establish a value for that specific practice within a  
11           reasonable period of time. These estimates shall be established based on a  
12           review of values established in the TMDL or other jurisdictions, values  
13           recommended by organizations that develop pollutant reduction values for a  
14           practice, applicable monitored data with respect to a practice, if available,  
15           modeled data, or a comparison to other similar practices if no other reduction  
16           value or data exists. Any estimate developed by the Secretary shall be posted  
17           on the Agency website. Pollution reduction values established by the  
18           Secretary shall be the exclusive method for determining the pollutant reduction  
19           value of a best management practice or other control.

20           (b)(1) The Secretary shall develop a design or useful life value associated  
21           with best management practices and other controls. Design or useful life shall

1 be determined based on a review of values established in other jurisdictions,  
2 values recommended by organizations that regularly estimate the design or  
3 useful life of best management practices or other controls, actual data  
4 documenting the design or useful life of a practice, or a comparison to other  
5 similar practices if no other data exists.

6 (2) If a person is undertaking a best management practice or other  
7 control for which no design or useful life value exists, the Secretary shall  
8 establish a value for that specific practice within a reasonable period of time.  
9 Any value developed by the Secretary shall be posted on the Agency website.  
10 Values established by the Secretary shall be the exclusive method for  
11 determining the design or useful life of a best management practice or other  
12 control.

13 (c) Upon the request of a clean water utility, the Secretary shall evaluate a  
14 proposed project and issue a determination as to whether the proposed project  
15 is eligible to receive funding as a part of a block grant awarded by the State.

16 This determination shall be made within 10 days of the request.

17 § 923. CLEAN WATER UTILITY

18 (a) Municipal participation. Municipalities shall be responsible for the  
19 clean water pollution reduction efforts established under section 921 of this  
20 title. Municipalities may satisfy the requirements of section 921 of this title

1 through agreement between any other unit of government or any operator that  
2 is designated as a clean water utility by the Secretary.

3 (b) Designation. A clean water utility may petition the Secretary to be  
4 designated as the utility serving one or more municipalities. As a part of the  
5 petition the clean water utility shall provide the Secretary the following:

6 (1) a resolution by each municipal legislative body designating the clean  
7 water utility as having jurisdiction to operate within the boundaries of that  
8 municipality;

9 (2) a narrative description of how the clean water utility will implement  
10 the requirements of this section;

11 (3) a certification and citation to legal authority that demonstrates that  
12 the clean water utility has the authority to:

13 (A) acquire and hold interests in real property;

14 (B) raise revenue; and

15 (C) enter contracts to design, construct, and maintain clean water  
16 activities.

17 (c) Requirement to provide designation to the Secretary. A municipality in  
18 the watershed of an impaired water shall provide its petition for designation to  
19 the Secretary as follows:

20 (1) For municipalities in the Lake Champlain watershed, no later than  
21 January 1, 2022.



1           (2) For municipalities in the Lake Memphremagog watershed, no later  
2           than January 1, 2023.

3           (3) For all other municipalities in any watershed, within one year of the  
4           allocation of water quality improvement targets as provided in section 921 of  
5           this title.

6           (d) Agency action on designating a clean water utility. The Secretary shall  
7           follow the type 3 notice and comment procedures of 10 V.S.A. § 7114 when  
8           making a determination as to whether a clean water utility is designated. If  
9           designated, that designation shall last until a clean water utility notifies the  
10          Agency that it is dissolving or the Agency revokes the clean water utility's  
11          designation.

12          (e) Purpose. Clean water utilities are responsible for reducing sources of  
13          water pollution within their boundaries in accordance with pollution reduction  
14          targets established by section 921 of this title.

15          (f) Project identification, prioritization, selection. When identifying,  
16          prioritizing, and selecting a best management practice or other control to meet  
17          pollution reduction targets, a clean water utility may consider funding the  
18          following best management practices or controls, provided that the best  
19          management practice or control is not required or subject to State regulation:

20               (1) Developed lands, including municipal separate storm sewers,  
21               operational stormwater discharges, and other developed lands discharges;

1           (2) Natural resource protection and restoration, including river corridor  
2           protection, wetland protection and restoration, and riparian corridor protection  
3           and restoration;

4           (3) Forestry; and

5           (4) Agriculture.

6           (g) Operation and maintenance responsibility. A clean water utility shall  
7           be responsible for maintaining a best management practice or other control for  
8           the entirety of the design or useful life of that project.

9           (h) Reductions from local regulatory programs. A clean water utility may  
10           request that the Secretary determine the pollutant reduction that may be  
11           counted towards the annual pollution reduction goals established in  
12           subdivision 921(a)(2) for municipal ordinances that reduce a pollutant that are  
13           otherwise not required by State law, including ordinances that protect river  
14           corridors or regulate stormwater below the relevant jurisdictional threshold set  
15           forth in section 1264 of this title.

16           (i) Water quality improvement work. If a clean water utility achieves a  
17           greater level of pollutant reduction than the goal or target established by the  
18           Secretary, the utility may carry those reductions forward into a future year. If  
19           a clean water utility achieves its pollutant reduction goal or target and has  
20           excess grant funding available, a utility may use the excess funds towards other  
21           eligible projects, operation and maintenance responsibilities for existing

1 constructed projects, projects within the municipality that are required by State  
2 rule, or other work that improves water quality within the geographic area of  
3 the district, including protecting river corridors, aquatic species passage, and  
4 other similar projects.

5 (j) Reporting. A clean water utility shall report on its progress annually to  
6 the Secretary. The report shall contain a summary of all projects completed in  
7 the preceding year, a summary of any inspections projects previously  
8 constructed and whether those projects continue to operate in accordance with  
9 their design, and the pollutant reduction achieved by the utility as a whole and  
10 by each funded project during the prior year.

11 (k) Revocation of designation. If a clean water utility has not met an  
12 annual pollution reduction goal, the Secretary may, and if the clean water  
13 utility has not met a five-year pollution reduction target the Secretary shall,  
14 initiate proceedings to revoke a clean water utility's designation. Revocations  
15 under this subsection shall be conducted as a contested case pursuant to  
16 3 V.S.A. chapter 25. When a clean water utility's designation has been  
17 revoked or no clean water utility otherwise exists, the Secretary may  
18 administer a program to implement water quality improvement projects in the  
19 relevant municipality or municipalities.

1        § 924. CLEAN WATER IMPLEMENTATION GRANT PROGRAM

2            (a) The Secretary shall administer a Clean Water Implementation Grant  
3        Program to clean water utilities to meet their requirements under this  
4        subchapter. The grant amount shall be based on the annual pollutant reduction  
5        goal established for the clean water utility multiplied by the average cost for  
6        pollutant reduction.

7            (b) The Secretary shall administer a Clean Water Implementation Grant  
8        Program to provide grants to persons who are required to obtain a permit to  
9        implement regulatory requirements that are necessary to achieve water quality  
10       standards. The grant program shall only be available in areas served by a clean  
11       water utility. To the extent funds are available, the grant program shall award  
12       the cost share approved by the Secretary pursuant to subdivision 1389(d)(3)(G)  
13       of this title to fund projects related to subdivisions 1264(g)(2) (stormwater  
14       from municipal roads) and 1264(g)(3) (three acres of impervious surface) of  
15       this title.

16        Sec. 4. 10 V.S.A. § 1253(d)(2) is amended to read:

17            (2) In developing a basin plan under this subsection, the Secretary shall:

18            (A) identify waters that should be reclassified outstanding resource  
19        waters or that should have one or more uses reclassified under section 1252 of  
20        this title;

21            (B) identify wetlands that should be reclassified as Class I wetlands;

1 (C) identify projects or activities within a basin that will result in the  
2 protection and enhancement of water quality;

3 (D) review the evaluations performed by the Secretary under  
4 subdivision 921(a)(1) and (2) and update those findings based on any new data  
5 collected as part of a basin plan;

6 (E) ensure that municipal officials, citizens, watershed groups, and  
7 other interested groups and individuals are involved in the basin planning  
8 process;

9 ~~(E)~~(F) ensure regional and local input in State water quality policy  
10 development and planning processes;

11 ~~(F)~~(G) provide education to municipal officials and citizens regarding  
12 the basin planning process;

13 ~~(G)~~(H) develop, in consultation with the regional planning  
14 commission, an analysis and formal recommendation on conformance with the  
15 goals and objectives of applicable regional plans;

16 ~~(H)~~(I) provide for public notice of a draft basin plan; and

17 ~~(I)~~(J) provide for the opportunity of public comment on a draft basin  
18 plan.



1           (A) be responsible and accountable for planning, coordinating, and  
2 financing of the remediation, improvement, and protection of the quality of  
3 State waters;

4           (B) recommend to the Secretary of Administration expenditures:

5                 (i) appropriations from the Clean Water Fund; and

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

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

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

11                 (1) the Secretary of Administration or designee;

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

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

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

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

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

1 (c) Officers; committees; rules; compensation; term.

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

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

11 (3) Members who are appointed to the Clean Water Board shall be  
12 appointed for terms of four years, except initial appointments shall be made  
13 such that two members appointed by the Governor shall be appointed for a  
14 term of two years. Vacancies on the Board shall be filled for the remaining  
15 period of the term in the same manner as initial appointments.

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

18 (1) The Clean Water Board shall recommend to the Secretary of  
19 Administration the appropriate allocation of funds from the Clean Water Fund  
20 for the purposes of developing the State budget required to be submitted to the  
21 General Assembly under 32 V.S.A. § 306. All recommendations from the



1 Board should be intended to fund clean water utilities to meet the pollution  
2 reduction obligations under 10 V.S.A. chapter 37, subchapter 5 and achieve the  
3 greatest water quality gain for the investment. The recommendations of the  
4 Clean Water Board shall be open to inspection and copying under the Public  
5 Records Act, and the Clean Water Board shall submit to the Senate  
6 Committees on Appropriations, on Finance, on Agriculture, and on Natural  
7 Resources and Energy and the House Committees on Appropriations, on Ways  
8 and Means, on Agriculture and Forestry, and on Natural Resources, Fish, and  
9 Wildlife a copy of any recommendations provided to the Governor.

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

14 (3) The Clean Water Board shall:

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

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

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

1           (D) If the Board determines that there are insufficient funds in the  
2 Clean Water Fund to issue all grants required by section 924 of this title, the  
3 Board shall:

4           (i) direct the Secretary of Natural Resources to prioritize the water  
5 quality improvements and issue grants based on available funding;

6           (ii) make recommendations to the Governor and General  
7 Assembly on additional revenue for the Fund; and

8           (iii) notify the Secretary of Natural Resources that there are  
9 insufficient funds in the Fund. The Secretary of Natural Resources shall  
10 consider additional regulatory controls to address water quality improvements  
11 that could not be funded.

12           (E) issue the annual Clean Water Investment Report required under  
13 section 1389a of this title;

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

18           ~~(F)~~(G) establish a process under which a watershed organization,  
19 State agency, or other interested party may propose that a water quality project  
20 or program identified in a watershed basin plan receive funding from the Clean

1 ~~Water Fund~~ review and approve the cost share for grant programs administered  
2 by State agencies that fund work required by a permit.

3 (e) Priorities.

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

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

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

13 (1) funding to clean water utility implementation grants as provided  
14 under subdivision (d)(3)(A) of this section;

15 (2) to the extent that funding is available after fully funding clean water  
16 utility implementation grants under section 924 of this title;

17 (A) funding State agency programs that support water quality  
18 projects that are legally required by a permit. Funding amounts should be  
19 consistent with the cost share approved under subdivision (d)(3)(G) of this  
20 section.

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

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

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

19           ~~(H)~~ funding to municipalities for the establishment and operation of  
20 stormwater utilities; and

1           ~~(E)~~(E) investment in watershed basin planning, ~~water quality project~~  
2           ~~identification screening, water quality project evaluation, and conceptual plan~~  
3           ~~development of water quality projects.~~

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

11           ~~(3) In developing its recommendations under subsection (d) of this~~  
12           ~~section regarding the appropriate allocation of funds from the Clean Water~~  
13           ~~Fund, the Board shall, after satisfaction of the priorities established under~~  
14           ~~subdivision (1) of this subsection (e), attempt to provide investment in all~~  
15           ~~watersheds of the State based on the needs identified in watershed basin plans.~~

16           (f) Assistance. The Clean Water Board shall have the administrative,  
17           technical, and legal assistance of the Agency of Administration, the Agency of  
18           Natural Resources, the Agency of Agriculture, Food and Markets, the Agency  
19           of Transportation, and the Agency of Commerce and Community  
20           Development for those issues or services within the jurisdiction of the



1           ~~(5)~~(6) “Sewage” is the used water supply of a community, including  
2           such ground water, surface, and storm water as may or may not be mixed with  
3           these liquid wastes from the community.

4           ~~(6)~~(7) “Sewage system” shall include such equipment, pipe line system,  
5           and facilities as are needed for and appurtenant to the treatment or disposal of  
6           sewage and waters, as defined herein, including a sewage treatment or disposal  
7           plant, as defined in section 3601 of this title, and separate pipe lines and  
8           structural or nonstructural facilities as are needed for and appurtenant to the  
9           treatment or disposal of storm, surface, and subsurface waters.

10          ~~(7)~~(8) “Storm water” or “storm sewage” shall have the same meaning as  
11          “stormwater runoff” under 10 V.S.A. § 1264.

12          ~~(8)~~(9) “Surface water” is water other than storm water flowing on or  
13          over the surface of the ground.

14          § 3502. POWERS

15          (a) A municipal corporation may construct, maintain, operate, and repair a  
16          sewage system and take, purchase, and acquire, in the manner hereinafter  
17          mentioned, real estate and easements necessary for its purposes, and enter in  
18          and upon any land for the purpose of making surveys, and lay pipes and sewers  
19          and connect the same as may be necessary to convey sewage and other waters  
20          to an outfall or treatment plant or installing and maintaining a stormwater  
21          treatment system.

1       (b) A municipal corporation may acquire interests in real property to  
2       conserve and protect natural resources that are a part of a clean water project.

3       (c) A municipal corporation may adopt ordinances consistent with the  
4       authority granted in 10 V.S.A. 923(g).

5       (d) A municipal corporation may administer a grant program to fund clean  
6       water projects within its boundaries.

7       (e) A municipal corporation may enter into contracts to implement clean  
8       water projects within its boundaries.

9       § 3507. DUTIES

10       (a) Such sewage system commissioners shall have the supervision of such  
11       municipal sewage system and clean water projects and shall make and  
12       establish all needed rates for rent, with rules and regulations for its control and  
13       operation. Such commissioners may appoint or remove a superintendent at  
14       their pleasure. The rents and receipts for the use of such sewage system shall  
15       be used and applied to pay the interest and principal of the sewage system  
16       bonds of such municipal corporation, the expense of maintenance and  
17       operation of the sewage system, as well as dedicated fund payments provided  
18       for in section 3616 of this title.

19       (b) When a rate established under this section for the management of  
20       stormwater is applied to property owned, controlled, or managed by the  
21       Agency of Transportation, the rate shall not exceed the highest rate category



1 applicable to other properties in the municipality, and the Agency of  
2 Transportation shall receive a 35 percent credit on the rate. The Agency of  
3 Transportation shall receive no other credit on the rate from the municipal  
4 corporation.

5 Sec. 5. 24 V.S.A. § 3616 is amended to read:

6 § 3616. DUTIES; USE OF PROCEEDS

7 ~~Such sewage~~ Sewage disposal commissioners shall have the supervision of  
8 ~~such a~~ municipal sewage disposal department, and shall make and establish all  
9 needful rates for charges, rules, and regulations for its control and operation  
10 including the right to require any individual, person, or corporation to connect  
11 to ~~such the~~ municipal system for the purposes of abating pollution of the  
12 waters of the ~~state~~ State. ~~Such~~ The commissioners may appoint or remove a  
13 superintendent at their pleasure. The charges and receipts of ~~such the~~  
14 department shall only be used and applied to pay the interest and principal of  
15 the sewage disposal bonds of ~~such the~~ municipal corporation as well as the  
16 expense of maintenance and operation of the sewage disposal department or  
17 other expenses of the sewage system. These charges and receipts may also be  
18 used for the development, construction, and maintenance of any clean water  
19 project administered by the department. These charges and receipts also may  
20 be used to develop a dedicated fund ~~which that~~ may be created by the  
21 commissioners to finance major rehabilitation, major maintenance, and

1 upgrade costs for the sewer system. This fund may be established by an annual  
2 set-aside of up to 15 percent of the normal operations, maintenance and bond  
3 payment costs, except that with respect to subsurface leachfield systems, the  
4 annual set-aside may equal up to 100 percent of these costs. The fund shall not  
5 exceed the estimated future major rehabilitation, major maintenance, or  
6 upgrade costs for the sewer system. Any dedicated fund shall be insured at  
7 least to the level provided by FDIC and withdrawals shall be made only for the  
8 purposes for which the fund was established. Any ~~such~~ dedicated fund may be  
9 established and controlled in accord with section 2804 of this title or may be  
10 established by act of the legislative body of the municipality. Funds so  
11 established meet the requirements of subdivision 4756(a)(4) of this title.

12 Where the municipal legislative body establishes ~~such~~ a fund, it shall first  
13 adopt a municipal ordinance authorizing and controlling ~~such~~ the funds. ~~Such~~  
14 The ordinance and any local policies governing the funds must conform to the  
15 requirements of this section.

16 Sec. 6. 24 V.S.A. chapter 105 is amended to read:

17 § 3671. POLICY

18 It is the policy of the ~~state~~ State to authorize two or more contiguous towns  
19 or other municipal corporations to join together to establish a consolidated  
20 sewer district for the purpose of:

1           (1) developing, acquiring, or improving a sewage system for the purpose  
2           of disposing of the sewage from the district;

3           (2) managing stormwater within the district; or

4           (3) developing, constructing, or maintaining clean water projects within  
5           the district.

6           § 3672. DEFINITIONS

7           (a) As used in this chapter, the following words and terms shall have the  
8           following meanings unless the context indicates another or different meaning  
9           or intent:

10           (1) “Town” means any municipality within the meaning of section 126  
11           of Title 1.

12           (2) “Sewage system” includes such equipment, pipeline systems, and  
13           facilities as are needed for and appurtenant to the treatment or disposal of  
14           sewage and waters, including sewage treatment plants and separate pipelines  
15           and structural or nonstructural facilities as are needed for and appurtenant to  
16           the treatment or disposal of storm, surface and subsurface waters, and all  
17           properties, rights, easements, and franchises relating thereto and deemed  
18           necessary or convenient by the sewer commission for the operation thereof.

19           (3) “Sewage” means the used water supply of a community, including  
20           such groundwater, surface and stormwater as may or may not be mixed with  
21           liquid wastes from the community.

1 (4) "Storm water" means the excess water from rainfall.

2 (5) "Surface water" means water other than storm water flowing or  
3 standing on or over the surface of the ground.

4 (6) "Groundwater" means water existing beneath the surface of the  
5 ground.

6 (7) "Improvements" means such repairs, replacements, additions,  
7 extensions and betterments of and to a sewage system as are deemed necessary  
8 by the sewer commissioners to place or maintain such system in proper  
9 condition for its safe, efficient and economic operation or to meet requirements  
10 for service in such areas which may be served by the district and for which no  
11 existing service is being rendered.

12 (8) "Costs" as applied to a sewage system include the purchase price of  
13 any such system, the cost of construction, the cost of all labor, materials,  
14 machinery, and equipment, the cost of improvements, the cost of all lands,  
15 property, rights, easements, and franchises acquired, financing charges, interest  
16 prior to and during construction, and, if deemed advisable by the sewer  
17 commissioners for one year after completion of construction, cost of plans and  
18 specifications, surveys and estimates of cost and of revenues, cost of  
19 engineering and legal services, and all other expenses necessary or incident to  
20 determining the feasibility or practicability of such construction.

1           (9) “Clean water project” means a project that is designed to improve  
2           water quality to achieve a target established under 10 V.S.A. § 922, is not  
3           subject to a permit requirement under 10 V.S.A. chapter 47 or 6 V.S.A.  
4           chapter 215, and is within the activities identified under 10 V.S.A. § 923(e).

5           (b) A consolidated sewer district shall be deemed to be a municipality  
6           within the meaning of 1 V.S.A. § 126.

7           § 3679. FINANCES-SEWER RATES; APPLICATION OF REVENUE

8           (a) The board of sewer commissioners of a consolidated sewer district shall  
9           establish rates for the sewer service or the planning, construction, and  
10           maintenance of a clean water project and all individuals, firms, and  
11           corporations whether private, public, or municipal shall pay to the treasurer of  
12           the district the rates established by the board. The manner of establishment of  
13           the rates shall be in accord with section 3615 of this title. The rates shall be so  
14           established as to provide revenue for the following purposes:

15           (1) to pay current expenses for operating and maintaining the sewer  
16           system;

17           (2) to provide for the payment of interest on the indebtedness created by  
18           the district;

19           (3) to provide each year a sum equal to not less than two percent or  
20           more than five percent of the entire indebtedness created or assumed by the  
21           district to pay for the cost of the sewer system and improvements thereto,

