

1 S.96

2 Introduced by Senators Bray, Lyons, Balint and Starr

3 Referred to Committee on

4 Date:

5 Subject: Conservation and development; water quality financing; assessment

6 Statement of purpose of bill as introduced: This bill proposes to establish a

7 Clean Water Assessment on all parcels in the State. Monies collected under

8 the Clean Water Assessment would be deposited in the Clean Water Fund to

9 fund water quality improvement projects in the State.

10 An act relating to establishing a Clean Water Assessment to fund State
11 water quality programs

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

13 Sec. 1. 10 V.S.A. § 1389 is amended to read:

14 § 1389. CLEAN WATER BOARD

15 (a) Creation.

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

17 (A) be responsible and accountable for planning, coordinating, and
18 financing of the remediation, improvement, and protection of the quality of
19 State waters;

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

- 1 (i) appropriations from the Clean Water Fund; and
2 (ii) clean water projects to be funded by capital appropriations.

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

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

- 7 (1) the Secretary of Administration or designee;
8 (2) the Secretary of Natural Resources or designee;
9 (3) the Secretary of Agriculture, Food and Markets or designee;
10 (4) the Secretary of Commerce and Community Development or
11 designee;
12 (5) the Secretary of Transportation or designee; and
13 (6) four members of the public, who are not legislators, with expertise in
14 one or more of the following subject matters: public management, civil
15 engineering, agriculture, ecology, wetlands, stormwater system management,
16 forestry, transportation, law, banking, finance, and investment, to be appointed
17 by the Governor.

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

19 (1) The Secretary of Administration shall serve as the Chair of the
20 Board. The Clean Water Board may elect additional officers from its

1 members, establish committees or subcommittees, and adopt procedural rules
2 as necessary and appropriate to perform its work.

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

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

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

15 (1) The Clean Water Board shall recommend to the Secretary of
16 Administration the appropriate allocation of funds from the Clean Water Fund
17 for the purposes of developing the State budget required to be submitted to the
18 General Assembly under 32 V.S.A. § 306. All recommendations from the
19 Board should be intended to achieve the greatest water quality gain for the
20 investment. The recommendations of the Clean Water Board shall be open to
21 inspection and copying under the Public Records Act, and the Clean Water

1 Board shall submit to the Senate Committees on Appropriations, on Finance,
2 on Agriculture, and on Natural Resources and Energy and the House
3 Committees on Appropriations, on Ways and Means, on Agriculture and
4 Forestry, and on Natural Resources, Fish, and Wildlife a copy of any
5 recommendations provided to the Governor.

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

10 (3) The Clean Water Board shall:

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

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

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

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

20 (E) solicit, consult with, and accept public comment from
21 organizations interested in improving water quality in Vermont regarding

1 recommendations under this subsection (d) for the allocation of funds from the
2 Clean Water Fund; and

3 (F) establish a process under which a watershed organization, State
4 agency, or other interested party may propose that a water quality project or
5 program identified in a watershed basin plan receive funding from the Clean
6 Water Fund.

7 (4) Every three years, the Clean Water Board shall develop a financing
8 plan pursuant to subsection (g) of this section for the disbursement of money
9 from the Clean Water Fund for water quality programs and projects in the State
10 necessary for the remediation, improvement, and protection of the quality of
11 State waters.

12 (5) The Clean Water Board shall adopt by rule under section 1389d of
13 this title criteria for adjusting the Clean Water Assessment under section 1389c
14 of this title. The criteria shall be based on the degree of adverse effect a parcel
15 type poses on the waters of the State. Annually, the Clean Water Board shall
16 submit to the House Committee on Ways and Means and the Senate
17 Committee on Finance recommended fee adjustments for each criterion or
18 category of parcel established by rule.

19 (e) Priorities.

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

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

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

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

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

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

19 (F) funding for innovative or alternative technologies or practices
20 designed to improve water quality or reduce sources of pollution to surface
21 waters, including funding for innovative nutrient removal technologies and

1 community-based methane digesters that utilize manure, wastewater, and food
2 residuals to produce energy;

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

6 (H) funding to municipalities for the establishment and operation of
7 stormwater utilities; and

8 (I) investment in watershed basin planning, water quality project
9 identification screening, water quality project evaluation, and conceptual plan
10 development of water quality projects.

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

18 (3) In developing its recommendations under subsection (d) of this
19 section regarding the appropriate allocation of funds from the Clean Water
20 Fund, the Board shall, after satisfaction of the priorities established under

1 subdivision (1) of this subsection (e), attempt to provide investment in all
2 watersheds of the State based on the needs identified in watershed basin plans.

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

10 (g) Financing plans.

11 (1) The Clean Water Board shall design the financing plans required
12 under subsection (d) of this section to disburse the amount needed to fund the
13 costs of complying with the following water quality programs after accounting
14 for other available sources of State and federal revenue:

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

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

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

20 (2) A financing plan shall include all of the following:

1 (A) a management strategy for the disbursement of funds over the
2 term of the three-year plan;

3 (B) the type of projects or programs to be funded;

4 (C) criteria for prioritizing the funding of projects; and

5 (D) methods or measurements to ensure accountability of funded
6 projects.

7 (3) The Clean Water Board shall submit a copy of each three-year plan
8 to the Senate Committee on Natural Resources and Energy, the Senate
9 Committee on Finance, the House Committee on Natural Resources, Fish, and
10 Wildlife, and the House Committee on Ways and Means.

11 Sec. 2. 10 V.S.A. §§ 1389c-1389e are added to read:

12 § 1389c. CLEAN WATER ASSESSMENT

13 (a) Assessment; administration. There is imposed an annual Clean Water
14 Assessment on all parcels in the State. The Commissioner of Taxes shall
15 administer and enforce the collection of the Clean Water Assessment under
16 section 1389e of this title.

17 (b) Assessment amount.

18 (1) The amount of the Clean Water Assessment shall be \$40.00 per
19 parcel plus or minus any adjustment adopted by the General Assembly and
20 assessed to the parcel based on the criteria or category of property adopted by
21 the Clean Water Board by rule under section 1389d of this title.

1 (2) As used in this section, “parcel” means all contiguous land in the
2 same ownership, together with all improvements therein and shall include a
3 parcel exempt from taxation under 32 V.S.A. § 3802.

4 (c) Exemption. The Commissioner shall not collect the Clean Water
5 Assessment from the owner of a parcel that:

6 (1) is composed entirely of a railroad track right-of-way, provided that
7 the Commissioner shall collect the Clean Water Assessment for parcels on
8 which railroad stations, maintenance buildings, or other developed land used
9 for railroad purposes is located; or

10 (2) the State lacks authority under State or federal law on which to
11 impose the fee established by this section.

12 (d) Calculation. In calculating the Clean Water Assessment, the
13 Commissioner shall round the acreage of a parcel down to the nearest whole
14 acre.

15 § 1389d. RULEMAKING; PRIORITIES; ADJUSTMENTS; CREDIT

16 (a) General authority. The Clean Water Board may adopt rules in
17 accordance with 3 V.S.A. chapter 25 for the purpose of assessing the Clean
18 Water Assessment.

19 (b) Fee adjustment; criteria; parcel category. The Clean Water Board shall
20 adopt by rule criteria or categories of parcels for which the Board annually
21 shall recommend to the General Assembly adjustments to the base Clean

1 Water Assessment. In adopting the criteria or categories, the Board shall

2 consider:

3 (1) the size of the parcel;

4 (2) the location of the parcel;

5 (3) whether the parcel or use of the parcel contributes to an impairment
6 of a water of the State or otherwise adversely affects water quality;

7 (4) an assessment of the surface coverage of the parcel, including:

8 (A) the amount of impervious surface on the parcel;

9 (B) the amount of cropland on the parcel; or

10 (C) the number of residential, commercial, or industrial structures on
11 the parcel;

12 (5) stormwater treatment practices or other water quality measures
13 implemented on the parcel;

14 (6) whether to provide credits or reduced charges for payment of a
15 municipal stormwater utility fee or other similar water quality charge, provided
16 that no Clean Water Assessment for a parcel shall be reduced by more than
17 75 percent; and

18 (7) whether the enforcement history or continuing violation of a parcel
19 owner shall be a basis for an adjustment to the Clean Water Assessment for a
20 parcel.

21 § 1389e. COLLECTION OF CLEAN WATER ASSESSMENT

1 (a) Collection. The Clean Water Assessment established under section
2 1389c of this title shall be assessed and collected as part of the tax bill issued
3 under 32 V.S.A. § 5402(b), provided that the Clean Water Assessment shall be
4 listed separately from the tax collected.

5 (b) Municipal retention. A municipality may retain 0.225 of one percent of
6 the total of the Clean Water Assessment collected, provided that the
7 municipality timely remits net payment to the State Treasurer.

8 (c) Remittance. The treasurer of each municipality shall remit the collected
9 Clean Water Assessment minus the municipally retained amount to the
10 Commissioner of Taxes in two payments due on December 1 and June 1 of
11 each year for deposit in the Clean Water Fund.

12 (d) Insufficient payments. In case of insufficient payment of the Clean
13 Water Assessment by a taxpayer to a municipality, the municipality shall not
14 be required to remit to the State the amount of full liability for all parcels
15 within the municipality, provided that the municipality submits to the
16 Commissioner of Taxes a list of those taxpayers who are delinquent in the
17 payment of the Clean Water Assessment.

18 (e) Offset. The Commissioner of Taxes may, under chapter 151,
19 subchapter 12 of this title, offset any delinquent Clean Water Assessment
20 against any refund owed the delinquent taxpayer, including, notwithstanding
21 the monetary limit of 32 V.S.A. § 5933(a), an amount of less than \$50.00.

1 (f) Form or format. The Commissioner of Taxes shall specify the form or
2 format for the remission of the collected Clean Water Assessment.

3 (g) Abatement. A person may seek and a municipality may grant
4 abatement under 24 V.S.A. § 1535 of the Clean Water Assessment assessed
5 under this section.

6 (h) Disposition. The Commissioner of Taxes shall deposit all assessments
7 and fees collected under this section in the Clean Water Fund, established
8 under section 1389 of this title, for the authorized uses of the Fund.

9 Sec. 3. IMPLEMENTATION

10 (a) On or before January 1, 2020, the Clean Water Board shall adopt the
11 rules required under 10 V.S.A. § 1389d.

12 (b) On or before January 15, 2020, the Clean Water Board shall provide to
13 the General Assembly the first financing plan required under 10 V.S.A. § 1389
14 and its first recommended adjustments to Clean Water Assessments as required
15 by 10 V.S.A. § 1389d.

16 (c) On or before July 1, 2021, the Clean Water Assessment, as adjusted by
17 the General Assembly, shall be collected as provided for under 10 V.S.A.
18 § 1389e.

19 Sec. 4. REPEAL

20 10 V.S.A. §§ 1389-1389e (Clean Water Board; Clean Water Assessment)
21 shall be repealed on July 1, 2040.

1 Sec. 5. EFFECTIVE DATE

2 This act shall take effect on July 1, 2019.