

Recommendations on S.96

Prepared for the House Committee on Natural Resources, Fish & Wildlife
by Charlie Baker, Executive Director, Chittenden County Regional Planning Commission
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Thank you for the opportunity to testify this morning on S.96. These comments and recommendations have been developed by CCRPC staff, reviewed by CCRPC's Clean Water Advisory Committee and Executive Committee and are scheduled for CCRPC Board action at their April 17th meeting.

Sec. 3, 10 V.S.A. § 1387. FINDINGS, PURPOSE, CLEAN WATER INITIATIVE - The bill includes language that the State should commit to annually appropriate \$50-60 million to ensure the maintenance of effort. As we have testified previously, *CCRPC supports the State investing adequately in the efforts to achieve clean water. We support the development of a long-term, consistent funding mechanism this session.*

Sec. 1, 10 V.S.A. §922. WATER QUALITY IMPLEMENTATION PLANNING AND TARGETS - The Secretary of ANR shall determine any additional pollutant reduction needed beyond what can be expected to be achieved from the existing regulatory programs. If there are additional pollutant reductions required, the Secretary shall make an allocation of the pollutant reductions to each basin and clean water service provider in annual and five-year pollution reduction targets. The Secretary shall also determine the standard cost per unit of pollutant reduction starting with Lake Champlain by November 1, 2021. *CCRPC supports allocating grant funding by basin based upon pollutant reduction need.*

Sec. 1, 10 V.S.A. §923. QUANTIFICATION OF POLLUTION REDUCTION; CLEAN WATER PROJECTS – The Secretary shall publish methodologies for calculating pollution reduction values and design life associated with clean water projects. *CCRPC supports this effort, but would like to see the same language to determine pollution reduction values in (a) that is in (b) to determine design life: "...shall be determined based on a review of values established in other jurisdictions, values recommended by organizations that regularly estimate the [pollution reduction] of clean water projects, actual data documenting the [pollution reduction] of a practice, or a comparison to other similar practices if no other data exists." In addition, we would like to see a more general statement that this shall be determined by the best science. We would also like to see a provision added that would allow a person to justify a higher pollution reduction or longer design life by providing supporting data to the Secretary. We want to make sure that we and the State are getting full credit for additional efforts in design and maintenance that may go beyond the normal project.*

Sec. 1, 10 V.S.A. §924. CLEAN WATER SERVICE PROVIDER; RESPONSIBILITY FOR CLEAN WATER PROJECTS – The Secretary shall assign clean water service providers through rule making, defaulting to an RPC. This section describes responsibilities of a CWSP including selecting projects, funding clean water projects, maintaining clean water projects, reporting on progress, and measures the Secretary may take to hold a CWSP accountable. *CCRPC supports formalizing a process for all the partners in a basin to work together as the basin water quality council in deciding, not advising, upon priority clean water projects with advice from technical staff. CCRPC supports holding a CWSP accountable, however, would like to see the following changes made to reduce the risk to a CWSP and share more responsibility with ANR, a basin water quality advisory council, and property owners. We are concerned that no regional planning commission or other entity will agree to take on this work with these risks. Recommended changes are detailed below.*

- In (a)(4) When selecting projects for implementation or funding, *a basin water quality advisory council regional planning commission* shall prioritize projects identified in the basin plan for the area where the

project is located and consider the pollutant targets provided by the Secretary and the recommendations of ~~the~~ *a technical committee consisting of the basin planner from the Agency of Natural Resources, the natural resources conservation district staff, the regional planning commission staff, and watershed association staff.* ~~basin water quality advisory council.~~ *The clean water service provider shall implement the decisions of the basin water quality council.*

- In (c) Maintenance responsibility. A clean water service provider shall be responsible for ~~maintaining reporting on the maintenance of~~ a clean water project ~~by the property owner or other responsible party or ensuring the maintenance~~ for the entirety of the design life of that clean water project. The Secretary and clean water service providers shall develop mutually agreeable language to be used in grant agreements, maintenance agreements, and easements between the clean water service provider, ANR, and a property owner clearly defining the maintenance responsibilities and consequences for failing to maintain the project.
- In (e) Reporting. A clean water service provider shall report annually, after approval of the report by the basin water quality council, to the Secretary.
- In (f) Accountability for pollution reduction goals. ...The Secretary may take the following steps:
 - (1) Enter a plan to ensure that clean water service provider meets current and future year pollution;
 - ~~(2) Initiate an enforcement action pursuant to chapter 201 or 211 of this title for the failure of a clean water service provider to meet its obligations;~~ or
 - (3) Initiate rulemaking to designate an alternative entity as accountable for the basin.
- (g)(1) ...The purpose of the council is to make ~~decisions~~ recommendations to the regional planning commission on identifying the most significant water quality impairments that exist in the basin and prioritizing the projects and partners to be funded by the clean water service provider that will address those impairments.
- (g)(2) *CCRPC feels that is important that all municipalities be represented on the basin council and participate in the decisions. We do not think municipalities will be interested in taking on these types of clean water projects as they work to comply with requirements on municipal roads and stormwater projects. Adding a technical committee that is more balanced with technical staff can address concerns about inequity.*

Sec. 1, 10 V.S.A. §925. WATER QUALITY GRANT PROGRAMS - The Secretary shall administer four grant programs: 1) a Water Quality Restoration Formula Grant to address annual pollution reduction targets in impaired watersheds, 2) a Water Quality Enhancement Grant of at least \$1.5 million to protect high quality waters, 3) a Stormwater Implementation Grant for persons who are required to obtain a permit, and 4) a Municipal Stormwater Assistance Grant for municipalities required to obtain a permit. *CCRPC is supportive of these grant programs, but are concerned about the implications on other funding programs such as for municipal roads. Will this new grant program take away from the grant assistance that the State has been providing municipalities, farmers, conservation districts, and watershed associations? Will a shift reduce or improve the State's ability to achieve our clean water goals? Also, we suggest clarifying the language to make it clear that clean water service providers are only involved in the Water Quality Restoration Formula Grant program.*

Thank you for your consideration of these comments and recommendations.