



To: Members of the House Natural Resources, Fish and Wildlife Committee  
From: Karen Horn, Director, Public Policy and Advocacy  
Date: April 9, 2019  
Re: S. 96 - Clean Water Assessment, As Passed by Senate

Thank you for the opportunity to testify regarding this year's clean water legislation.

Clearly long term stable funding for cleaning up the waters of the state is the most significant issue today. We agree with the State Treasurer that *at least* an additional investment of \$25 million per year beyond current funding is needed to pay for clean water efforts in Vermont. The first priority must be to provide that funding for regulatory obligations – the projects that local governments, agriculture and others are mandated to put in place. We also agree with the Water Coalition 2019 principles that:

- ❖ funding sources must be stable, predictable and reliable from year to year to support ongoing clean water protection and restoration efforts
- ❖ an on-going legislative commitment must assure sustained sufficient funding over the next twenty years that is not diverted to other priorities
- ❖ funding must be flexible so as to meet evolving clean water needs
- ❖ funding must minimize impacts on low-income Vermonters and
- ❖ revenues should be raised from statewide revenue sources that do not target one particular group of tax payers so as to give meaning to the “all in” funding strategy.

Revenue raising mechanisms must recognize the substantial contributions of those who are paying today and whose future contributions are counted when estimating additional funds that are needed. Municipalities are spending millions today to implement clean water projects. While some of those dollars are grants, many are loans from state revolving loan funds and still other dollars are raised at the local level to address stormwater and wastewater priorities. Agency of Natural Resources estimates of additional dollars needed presume substantial municipal contributions.

We applaud the effort in S. 96 to move toward a model of project funding, delivery and accountability that is based on a basin –wide effort. We supported the efforts to create a state-wide utility last year and have been involved in water quality conversations for decades. The EPA requirement to secure long term funding for cleaning up the waters of the state exists primarily because of the phosphorus pollution in our lakes, most notably Lake Champlain. Thus the priority for funding needs to target addressing those pollutants named in the Total Maximum Daily Loads (TMDLs) for waterways that have been approved by EPA.

We are concerned that S. 96 does not address necessary elements of any devolution of authority to a basin-based entity.

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There must be an affirmative vote at the local level to join a clean water service provider and that requirement must be established in legislation. The secretary may not just assign municipalities to a new entity. Almost every inter-municipal entity in the state – and there are many – is based upon the municipality voting to be part of the entity.

The legislation must make clear that once a clean water service provider is created and deemed the responsible entity for implementing projects, the Agency of Natural Resources (ANR) steps back. The ANR responsibilities and limits of responsibility must be enumerated in the law. If clean water service providers are created and the ANR then spends all its time overseeing every aspect of operation, we have done nothing more than create another layer of governmental bureaucracy. Once a clean water service provider is designated, the prioritization and evaluation of projects as well as implementation and accountability for projects should rest with that entity. This is how “block grant” programs generally work. The secretary should not continue to approve individual projects or funding for individual projects. (page 5)

The bill provides for four types of grants, at least one of which is competitive, affirming the expectation that funding for implementation will be insufficient over time. If there is insufficient funding, then the obligation to complete projects must be likewise reduced and clean water service providers should not be judged on implementation of projects when the legislature has abandoned its funding efforts. We know there will not be enough money and we know legislative priorities will shift over time.

To this point, we urge you to revise the language at page 16, which reads “(3) to ensure success in implementing the Clean Water Initiative, the State shall ~~should~~ commit to funding the Clean Water Initiative...”

We urge you to make clear that the dollars provided for Water Quality Restoration Formula Grants, Water Quality Enhancement Grants, Stormwater Implementation Grants and Municipal Stormwater Assistance Grants maybe used for operations and maintenance of infrastructure once projects are in place. (page 12-13)

We are concerned about the makeup of the Basin Water Quality Advisory Council. That council is charged with making recommendations for prioritization of projects. As written, a council would include a representative from each natural resource conservation district and each watershed protection organization operating in that basin, and representatives from applicable local or statewide land conservation organizations. Such entities must be defined and their qualification for membership and expertise must be established. As bodies that are governing implementation, such organizations need to be accountable themselves. As we understand it, a watershed protection organization and land conservation organization may be created at any time by a group of people. We are thinking of creating a land conservation organization in my hometown. Is that organization entitled to a decision making seat at the table?

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Finally, we wonder what does success look like? When will the clean water service provider know that it has finished the job? Conversely, how do you decide that a service provider has failed? We hear this morning that the state achieved a two ton reduction of phosphorus last year despite the target being a reduction of ten tons. Would that be considered a fail? The bill needs to clarify what constitutes success or failure (or maintenance of effort).

Thank you for the opportunity to testify.

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