

### **Context of Testimony**

- Referencing the new S310, and especially the provisions regarding rates as based on owned impervious surfaces, and the language authorizing ANR to make grants to support the formation of Stormwater Utilities (SWU).
- The Water Investment Division DEC also notes and supports the inclusion of water and wastewater operational personnel as essentially emergency personnel in section 4.
- This testimony provides an initial impression based on our understanding of the text in the bill and is informed by our perspective on SW utilities operating to date.
- SW utilities can be a useful framework to consolidate funds from property owners within a municipality to support municipal stormwater operations that are required under Federal and state stormwater requirements. A stormwater utility is a user fee system that charges property owners a fee based on area of impervious surfaces.
- An important point to note that funding raised by SW utilities supports local requirements, but also may duplicate other public funds or processes currently levied to support regulatory and non-regulatory stormwater pollution control.
- At this point, I can discuss the historical context of SWUs and their funding, or bypass that and discuss the current state and a couple of concerns. My submitted testimony will contain anything we skip.

### **Recent History of SWU in VT**

- Stormwater utilities were initially promoted as a clean water revenue raising mechanism by the state, through incentive payments and with some technical assistance provided to municipalities to pursue development of utilities.
- Act 158 of 2016 amended the Clean Water Fund's (CWF) statutory priorities to incorporate funding to municipalities for the establishment and operation of stormwater utilities. Funds were administered in the form of \$25k/year incentive payments for established stormwater utilities, paid out initially by VTrans and then later by Agency of Administration.
- In the interceding time, legislative discourse over how to fund the long-term revenues to the CWF ensued over a period of four years, culminating with passage of Act 76 of 2019. This Act codified the long-term funding sources to the CWF, adding the Meals and Rooms Tax to the existing Property Transfer Tax Clean Water Surcharge and escheats from unreturned bottle deposits. At this time, stormwater utilities were removed from

the CWF's statutory priorities, since the state had established a long term clean water funding source from other statewide revenue streams.

- The reason SWUs were removed as a statutory CWF priority is that the GA explicitly set the revenue sources for these activities in Act 76. Essentially, residents of a Utility service area that pay into the utility, while also contributing to the CWF revenue streams are essentially paying twice relative to residents of a municipality that does not have a utility.

### **SWUs at the current time**

- There are currently six municipalities have established stormwater utilities: Williston, Colchester, South Burlington, St. Albans City, St. Albans Town, and Burlington. Some other municipalities may be considering establishing utilities.
- First – what's in and what's out:
  - VTrans is independently regulated through the VT TS4 permit. VTrans pays SW Utility Fees in those municipalities that have SWU set up and will be subject to fees for new SWUs. At the same time, VTrans owned and operated impervious surface is managed by VTrans, not existing or new SWUs.
  - Agricultural operations and their impervious were explicitly exempted from SWU fees in last years legislative session. This means that the acreage of agriculture-related impervious is not available to SWU as a revenue source. Because of this change, the Town of St Albans recently elected to cease charging fees to fund its Stormwater Utility.
- SWUs provide local revenue to support municipal stormwater management programs targeting municipal stormwater regulatory requirements (e.g., MS4 permit or MRGP), and in some cases, voluntary stormwater management measures. Local revenues from the SWU supplement state and federal funding/financing sources to support these activities. SWUs often target stormwater treatment system personnel, operation and maintenance, or matching funds, as state and federal funding are typically eligible to fund design and construction of capital projects.
- ANR/DEC does have a few concerns with Section 9 of this bill (grants) and we would be happy to provide additional information as this legislation takes shape.

- Some Concerns
  - Stormwater utilities are a great tool to fill funding gaps for municipalities that have greater stormwater regulatory requirements to fulfill but may not be a good fit or efficient at scale for all municipalities.
  - Stormwater utilities require an investment in municipal staff capacity to establish and maintain a utility long term; municipal governments have varied and limited capacity to be able to take this on.
  - Promoting and supporting establishment of sustainable and long-term stormwater utilities with state financial assistance/incentives may require a significant amount of state technical assistance—staff capacity the ANR does not have.
  - ANR/DEC promoting the formation of utilities would also put the agency in the position of trying to influence local/municipal taxation/fund raising. If local government opts against forming a stormwater utility, the grant funds and agency staff capacity invested in promoting the formation of the utility could be sunk.
  - ANR/DEC's will continue to provide financial assistance to municipalities to implement stormwater management projects. There are several existing funding/financing programs available statewide.
    - Clean Water Funded planning and assessment, stormwater infrastructure mapping and reports.
    - Clean Water Funded design and implementation, for regulatory and non-regulatory projects.
    - VTrans Municipal Roads General Permit funding.