

1 H.481

2 An act relating to stormwater management

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

4 Sec. 1. 10 V.S.A. § 1264 is amended to read:

5 § 1264. STORMWATER MANAGEMENT

6 * * *

7 (c) Prohibitions.

8 * * *

9 (7) In accordance with the schedule established under subdivision (g)(3)
10 of this section, a person shall not discharge stormwater from impervious
11 surface of three or more acres in size without first obtaining an individual
12 permit or coverage under a general permit issued under this section if the
13 discharge was never previously permitted or was permitted under an individual
14 permit or general permit that did not incorporate the requirements of the 2002
15 Stormwater Management Manual or any subsequently adopted Stormwater
16 Management Manual. The Secretary shall provide notice to all owners of
17 property subject to the permit required under this subdivision.

18 (d) Exemptions.

19 * * *

20 (2) No permit is required under subdivision (c)(1), (5), or (7) of this
21 section and for which a municipality has assumed full legal responsibility as
22 part of a permit issued to the municipality by the Secretary. As used in this

1 subdivision, “full legal responsibility” means legal control of the stormwater
2 system, including a legal right to access the stormwater system, a legal duty to
3 properly maintain the stormwater system, and a legal duty to repair and replace
4 the stormwater system when it no longer adequately protects waters of the
5 State. Notwithstanding the provisions of 24 V.S.A. § 3254 to the contrary,
6 when a municipality assumes or has assumed full legal responsibility for a
7 stormwater system, the municipality may assess municipal special assessment
8 fees on users of the stormwater system provided that a majority of the property
9 owners subject to the special assessment fee consented and the fee assessed is a
10 fair apportionment to the user of the cost of the improvement in accordance
11 with the benefits the user received.

12 * * *

13 (g) General permits.

14 * * *

15 (3) Within 120 days after the adoption by the Secretary of the rules
16 required under subsection (f) of this section, the Secretary shall issue a general
17 permit under this section for discharges of stormwater from impervious surface
18 of three or more acres in size, when the stormwater discharge previously was
19 not permitted or was permitted under an individual permit or general permit
20 that did not incorporate the requirements of the 2002 Stormwater Management

1 Manual or any subsequently adopted Stormwater Management Manual. Under
2 the general permit, the Secretary shall:

3 (A) Establish a schedule for implementation of the general permit by
4 geographic area of the State. The schedule shall establish the date by which an
5 owner of impervious surface shall apply for coverage under this subdivision

6 (3). The schedule established by the Secretary shall require an owner of
7 impervious surface subject to permitting under this subdivision to obtain
8 coverage by the following dates:

9 (i) for impervious surface located within the Lake Champlain
10 watershed, the Lake Memphremagog watershed, or the watershed of a
11 stormwater-impaired water on or before October 1, ~~2023~~ 2028; and

12 (ii) for impervious surface located within all other watersheds of
13 the State, ~~no~~ not later than October 1, ~~2033~~ 2038 or not later than five years
14 after a binding stormwater-specific waste-load allocation has been established
15 for that watershed, whichever occurs first.

16 (B) Establish criteria and technical standards, such as best
17 management practices, for implementation of stormwater improvements for the
18 retrofitting of impervious surface subject to permitting under this subdivision
19 (3).

20 (C) Require that a discharge of stormwater from impervious surface
21 subject to the requirements of this section comply with the standards of

1 subsection (h) of this section for redevelopment of or renewal of a permit for
2 existing impervious surface.

3 (D) Allow the use of stormwater impact fees, offsets, and phosphorus
4 credit trading within the watershed of the water to which the stormwater
5 discharges or runs off.

6 * * *

7 Sec. 2. REPEALS; SUNSET OF PROPERTY TRANSFER TAX CLEAN
8 WATER SURCHARGE

9 (a) 2017 Acts and Resolves No. 85, Sec. I.10 (sunset of clean water
10 surcharge), as amended by 2024 Acts and Resolves No. 181, is repealed.

11 (b) 2017 Acts and Resolves No. 85, Sec. I.11(a)(5) (effective date of sunset
12 of clean water surcharge) is repealed.

13 Sec. 3. 2017 Acts and Resolves No. 85, Sec. I.1(b) is amended to read:

14 (b) Purpose and intent.

15 (1) The purpose of Secs. I.1–I.12 of this act is to promote the
16 development and improvement of housing for Vermonters.

17 (2) It is the intent of the General Assembly:

18 (A) to extend the clean water surcharge to provide ~~an interim~~ a
19 source of revenue for addressing water quality issues throughout the State; and

1 (B) to continue its work on identifying a long-term funding source or
2 sources that are sufficient in scope and targeted in design to address these
3 water quality issues; and

4 ~~(C) once one or more long-term funding sources are identified and~~
5 ~~enacted, but not later than July 1, 2027, to reduce the amount of the clean~~
6 ~~water surcharge to 0.04 percent.~~

7 Sec. 4. 2017 Acts and Resolves No. 85, Sec. I.12 is amended to read:

8 Sec. I.12. EFFECTIVE DATES

9 (a) Secs. I.1–I.12 shall take effect on July 1, 2017, ~~except that Sec. I.10~~
10 ~~(allocating clean water surcharge revenue to Vermont Housing and~~
11 ~~Conservation Trust Fund) shall take effect on July 1, 2027.~~

12 Sec. 5. 2017 Acts and Resolves No. 85, Sec. I.7(d) is amended to read:

13 (d) To compensate for this reduction of available property transfer tax
14 revenue, it is the intent of the General Assembly through this act to provide for
15 the transfer of \$2,500,000.00 to the Vermont Housing and Conservation Trust
16 Fund, as follows:

17 (1) Sec. D.100 of this act appropriates \$11,304,840.00 in fiscal year
18 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont
19 Housing and Conservation Board. Upon the effective date of this act,
20 \$1,500,000.00 shall revert to the Fund, resulting in a fiscal year 2018 total
21 appropriation to the Board of \$9,804,840.00. In fiscal year 2018 only, the

1 amount of \$1,500,000.00 from the Vermont Housing and Conservation Trust
2 Fund shall be transferred to the General Fund.

3 (2) As provided in Sec. I.9 of this act, ~~from July 1, 2017 until~~
4 ~~July 1, 2027~~, pursuant to 32 V.S.A. § 9602a, the first \$1,000,000.00 in revenue
5 generated by the clean water surcharge of ~~0.2~~ 0.22 percent shall be transferred
6 to the Vermont Housing and Conservation Trust Fund. In fiscal year 2018
7 only, the Commissioner shall transfer the amount of \$1,000,000.00 from the
8 Vermont Housing and Conservation Trust Fund to the General Fund.

9 (3) ~~After July 1, 2027, pursuant to 32 V.S.A. § 9602a as amended in~~
10 ~~Sec. I.10 of this act, \$1,000,000.00 in total revenue generated by the clean~~
11 ~~water surcharge of 0.04 percent shall be transferred to the Vermont Housing~~
12 ~~and Conservation Trust Fund. [Repealed.]~~

13 (4) ~~As provided in Sec. I.11 of this act, the clean water surcharge will be~~
14 ~~repealed in its entirety on July 1, 2039. [Repealed.]~~

15 Sec. 6. 10 V.S.A. §§ 927 and 928 are amended to read:

16 § 927. DEVELOPED LANDS IMPLEMENTATION ~~GRANT~~ PROGRAM

17 The Secretary shall administer a Developed Lands Implementation ~~Grant~~
18 Program to provide ~~grants or financing~~ financial assistance to persons who are
19 required to obtain a permit to implement regulatory requirements that are
20 necessary to achieve water quality standards. ~~The grant or financing program~~
21 ~~shall only be available in basins where a clean water service provider has met~~

1 ~~its annual goals or is making sufficient progress, as determined by the~~
2 ~~Secretary, towards those goals.~~ This grant program shall fund or provide
3 financing for projects related to the permitting of impervious surface of three
4 acres or more under subdivision 1264(g)(3) of this title and for a permit
5 renewal under subdivision 1264(h)(2) of this title for a discharge to a
6 stormwater-impaired water that was permitted under an individual permit or a
7 general permit that did not incorporate the requirements of the 2002
8 Stormwater Management Manual or any subsequently adopted Stormwater
9 Management Manual. Not more than 15 percent of the total grant amount
10 awarded shall be used for administrative costs.

11 § 928. MUNICIPAL STORMWATER IMPLEMENTATION ~~GRANT~~
12 PROGRAM

13 The Secretary shall administer a Municipal Stormwater Implementation
14 Grant Program to provide ~~grants~~ financial assistance to any municipality
15 required under section 1264 of this title to obtain or seek coverage under the
16 municipal roads general permit, the municipal separate storm sewer systems
17 permit, a permit for impervious surface of three acres or more, or a permit
18 required by the Secretary to reduce the adverse impacts to water quality of a
19 discharge or stormwater runoff. ~~The grant program shall only be available in~~
20 ~~basins where a clean water service provider has met its annual goals or is~~
21 ~~making sufficient progress, as determined by the Secretary, towards those~~

1 ~~goals.~~ Not more than 15 percent of the total grant amount awarded shall be
2 used for administrative costs. This program also shall be available to a
3 municipality to comply with a permit for impervious surface of three acres or
4 more for a residential subdivision when the municipality assumes or has
5 assumed full legal responsibility for the stormwater system of the residential
6 subdivision under subdivision 1264(c)(7) of this title. Municipalities may
7 receive assistance under this program for design or engineering services
8 necessary for the formation of a municipal stormwater utility.

9 Sec. 7. 10 V.S.A. § 1389(e) is amended to read:

10 (e) Priorities. In making recommendations under subsection (d) of this
11 section regarding the appropriate allocation of funds from the Clean Water
12 Fund, the Board shall prioritize as follows:

13 (1) As a first priority, make recommendations regarding funding for the
14 following grants and programs, which shall each be given equal priority:

15 (A) grants to clean water service providers to fund the reasonable
16 costs associated with the inspection, verification, operation, and maintenance
17 of clean water projects in a basin;

18 (B) the Water Quality Restoration Formula Grant under section 925
19 of this title;

20 (C) the Agency of Agriculture, Food and Markets' agricultural water
21 quality programs; and

1 (D) the Water Quality Enhancement Grants under section 926 of this
2 title at a funding level of at least 20 percent of the annual balance of the Clean
3 Water Fund, provided that the maximum amount recommended under this
4 subdivision (D) in any year shall not exceed \$5,000,000.00; and

5 (E) funding to partners for basin planning, basin water quality
6 council participation, education, and outreach as provided in subdivision
7 1253(d)(3) of this title, provided funding shall be at least \$500,000.00.

8 (2) As the next priority after reviewing funding requests for programs
9 identified under subdivision (1) of this subsection:

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

17 (C) funding for the Municipal Stormwater Implementation ~~Grant~~
18 Program as provided in section 928 of this title, including at least
19 \$1,000,000.00 annually for costs of complying with permitting requirements
20 under subdivision 1264(c)(7) of this title;

1 (D) funding for innovative or alternative technologies or practices
2 designed to improve water quality or reduce sources of pollution to surface
3 waters, including funding for innovative nutrient removal technologies and
4 community-based methane digesters that utilize manure, wastewater, and food
5 residuals to produce energy; and

6 (E) funding to purchase agricultural land in order to take that land out
7 of practice when the State water quality requirements cannot be remediated
8 through agricultural Best Management Practices.

9 (3) As the next priority after reviewing funding requests under
10 subdivisions (1) and (2) of this subsection, funding for the Developed Lands
11 Implementation ~~Grant~~ Program as provided in section 927 of this title.

12 Sec. 7a. 10 V.S.A. § 1389a is amended to read:

13 § 1389a. CLEAN WATER INVESTMENT REPORT

14 (a) Beginning on January 15, 2017, and annually thereafter, the Secretary
15 of Administration shall publish the Clean Water Investment Report. The
16 Report shall summarize all investments, including their cost-effectiveness,
17 made by the Clean Water Board and other State agencies for clean water
18 restoration over the prior fiscal year. The Report shall include expenditures
19 from the Clean Water Fund, the General Fund, the Transportation Fund, and
20 any other State expenditures for clean water restoration, regardless of funding
21 source.

1 (b) The Report shall include:

2 * * *

3 (7) Beginning on January 2028 and every four years thereafter, a review
4 of the sufficiency of the Clean Water Surcharge to the Property Transfer Tax
5 under 32 V.S.A. § 9602a, including an assessment of whether the revenue
6 generated by the surcharge remains necessary to fulfill the State's clean water
7 initiatives. The review shall include an assessment of whether the Clean Water
8 Surcharge should be continued, whether the amount of the surcharge should be
9 adjusted, and whether the surcharge should be repealed at a specified date.

10 * * *

11 Sec. 8. RECOMMENDED APPROPRIATION; PRIORITIES

12 (a) Notwithstanding any other provision of law, the Clean Water Board
13 shall recommend \$5,000,000.00 from the Clean Water Fund in fiscal year 2027
14 to the Municipal Stormwater Implementation Program in 10 V.S.A. § 928 for
15 costs of complying with permitting requirements under 10 V.S.A.
16 § 1264(c)(7), including for residential subdivisions when the municipality
17 assumes full legal responsibility for the stormwater system.

18 (b) Before January 1, 2032, the Secretary of Natural Resources shall
19 provide properties subject to the three-acre stormwater permit under 10 V.S.A.
20 § 1264(c)(7) additional priority points when awarding financing under the
21 Municipal Stormwater Implementation Program and under the Developed

1 Lands Implementation Program when residential housing used as primary
2 residences are located on the relevant properties.

3 Sec. 9. STORMWATER MANAGEMENT PUBLIC RESOURCE GUIDE

4 (a) On or before January 1, 2027, the Secretary of Natural Resources shall
5 publish a Public Resource Guide to Stormwater Management that informs
6 persons subject to stormwater operating permits under 10 V.S.A. § 1264 with
7 information and resources related to complying with and paying for
8 stormwater permitting requirements. The Resource Guide shall be user
9 friendly and designed to encourage the public to engage with the Agency of
10 Natural Resources in finding solutions to stormwater permitting needs.

11 (b) The Resource Guide shall:

12 (1) summarize the statutory requirements for stormwater permits, with
13 specific emphasis on the three-acre stormwater permit required under 10
14 V.S.A. § 1264(c)(7), including why the permits are required;

15 (2) recommend available, practical, cost-effective measures for how
16 persons subject to stormwater permit requirements can address parcel-based
17 issues, including:

18 (A) the lack of a homeowner's association to assume permitting
19 responsibility;

20 (B) lack of available property to implement stormwater management,
21 including whether and how a person subject to stormwater permits can

1 implement an off-site offset project to comply with permitting requirements;

2 and

3 (C) how to address or manage stormwater runoff from other
4 stormwater systems entering stormwater systems subject to permitting;

5 (3) recommend resources where funding for compliance with
6 stormwater permitting requirements may be accessed or applied for, including
7 how to apply for financial assistance from the Agency of Natural Resources;

8 (4) provide a contact at the Agency of Natural Resources that can assist
9 persons subject to stormwater permitting by answering questions, providing
10 referrals to creative or alternative solutions for achieving permit compliance,
11 and recommending available financial resources; and

12 (5) provide a model bylaw or ordinance for the formation of a municipal
13 stormwater utility.

14 (c) The Secretary of Natural Resources shall submit a copy of the Resource
15 Guide to the Senate Committee on Natural Resources and Energy and the
16 House Committee on Environment. The Secretary shall also make the
17 Resources available free of cost to the public from the Agency's website.

18 Sec. 10. 10 V.S.A. § 1389(e)(2)(C) is amended to read:

19 (C) funding for the Municipal Stormwater Implementation Program
20 as provided in section 928 of this title, ~~including at least \$1,000,000.00~~

1 ~~annually for costs of complying with permitting requirements under~~
2 ~~subdivision 1264(c)(7) of this title;~~

3 Sec. 11. 24 V.S.A. § 3616 is amended to read:

4 § 3616. RENTS; RATES

5 (a) A municipal corporation, through its board may establish rates, rents, or
6 charges to be paid as the board may prescribe. The board may establish annual
7 charges separately for bond repayment, fixed operations and maintenance costs
8 and variable operations and maintenance costs dependent on flow.

9 (b) The rates, rents, or charges may be based upon:

10 (1) the metered consumption of water on premises connected with the
11 sewer system, however, the board may determine no user will be billed for
12 fixed operations and maintenance costs and bond payment less than the
13 average single-family charge;

14 (2) the number of equivalent units connected with or served by the
15 sewage system based upon their estimated flows compared to the estimated
16 flows from a single-family dwelling, however, the board may determine no
17 user will be billed less than the minimum charge determined for the single-
18 family dwelling charge for fixed operations and maintenance costs and bond
19 payment;

20 * * *

(7) any combination of these bases, provided the combination is equitable.

Sec. 12. STUDY COMMITTEE ON STORMWATER MANAGEMENT
AND CREATION OF REGIONAL STORMWATER UTILITY
DISTRICTS

(b) Membership. The Study Committee shall be composed of the following members:

appointed by the Speaker of the House;

(3) a representative of a municipality subject to the municipal separate storm sewer system (MS4) permit, appointed by the Committee on Committees;

1 (4) a representative of a municipality with a population under 2,500
2 persons, appointed by the Speaker of the House;

3 (5) a representative of the Green Mountain Water Environment
4 Association, appointed by the Speaker of the House;

5 (6) a commercial or industrial business owner subject to the three-acre
6 stormwater permit or other stormwater requirements, appointed by the
7 Committee on Committees;

8 (7) a representative of an environmental advocacy organization,
9 appointed by the Speaker of the House;

10 (8) a representative of a regional planning commission, appointed by the
11 Committee on Committees; and

12 (9) a representative of a municipality with a designated downtown area
13 served by water and sewer infrastructure that is not subject to a MS4 permit,
14 appointed by the Speaker of the House.

15 (c) Powers and duties. The Study Committee shall review the feasibility of
16 establishing regional stormwater utility districts in the State. The Study
17 Committee shall:

18 (1) review current statutory authority for the development of regional
19 stormwater utility districts comprised of multiple municipalities, including
20 identifying any potential disincentives or obstacles to utility formation;

1 (2) propose an approach the State could use for implementing a regional
2 stormwater utility that would allow the utilities to assume liability and
3 responsibility for compliance with water quality laws, including how a utility
4 could assume responsibility for:

5 (A) securing the permitting of properties subject to the three-acre
6 stormwater permit; and

7 (B) achieving the phosphorus reduction targets for the three-acre
8 stormwater permitted properties within the utility district;

9 (3) review and recommend cost-effective and equitable approaches for
10 regional level revenue raising and distribution of project funding for the
11 purpose of stormwater controls to meet total maximum daily load plans
12 (TMDLs) including:

13 (A) consider prior revenue-raising recommendations made in the
14 2017 Clean Water Report from the Office of the State Treasurer;

15 (B) recommend whether and how to authorize a regional stormwater
16 utility to assess fees or charges to all landowners, residents, and businesses
17 within the regional stormwater utility district for the purpose of stormwater
18 controls to meet TMDLs;

19 (C) propose how a regional stormwater utility district could be
20 eligible for Clean Water State Revolving Loan Fund awards and access State-
21 level financial assistance for the design, construction, and operation and

1 maintenance of regulatory and nonregulatory stormwater systems, including
2 from the Clean Water State Revolving Loan Fund;

3 (D) recommend whether and how a regional stormwater utility can
4 allocate resources and cost-effectively and equitably achieve pollutant
5 reduction measures that are not fully achieved by regulated sites, as might be
6 articulated in a regional stormwater management plan; and

7 (E) recommend whether and how a regional stormwater utility could
8 improve the management of parcel-based issues in a more cost-effective and
9 equitable manner, such as how a regional utility could address regulation of
10 stormwater systems lacking a homeowners' association or other accountable
11 entity or how a regional utility could improve management of upstream
12 properties that drain into stormwater systems subject to permitting;

13 (4) recommend whether stormwater permitting for municipalities or
14 others could be streamlined to improve the application process, permit
15 renewal, or fee requirements;

16 (5) propose how statute should be amended to implement any of the
17 recommendations of the Study Committee, including stormwater management
18 planning for purposes of overall regional phosphorus pollutant reductions; and

19 (6) estimate a cost to operate proposed regional stormwater utility
20 districts.

1 (d) Assistance. The Study Committee shall have the administrative,
2 technical, and legal assistance of the Department of Environmental
3 Conservation.

4 (e) Report. On or before January 15, 2027, the Study Committee shall
5 submit a written report to the House Committees on Environment and on
6 Government Operations and Military Affairs and the Senate Committees on
7 Natural Resources and Energy and on Government Operations with its findings
8 and any recommendations for legislative action.

9 (f) Meetings.

10 (1) The Commissioner of Environmental Conservation or designee shall
11 call the first meeting of the Study Committee.

12 (2) The Commissioner of Environmental Conservation or designee shall
13 be the Chair.

14 (3) A majority of the membership shall constitute a quorum.

15 (4) The Study Committee shall cease to exist on March 1, 2027.

16 (g) Compensation and reimbursement. Members of the Study Committee
17 shall be entitled to per diem compensation and reimbursement of expenses as
18 permitted under 32 V.S.A. § 1010 for not more than eight meetings. These
19 payments shall be made from monies appropriated to the Agency of Natural
20 Resources.

1 Sec. 13. EFFECTIVE DATES

2 This act shall take effect on July 1, 2025, except that Sec. 10 (future Clean
3 Water Fund priorities) shall take effect October 1, 2032.