

1 H.481

2 Introduced by Committee on Environment

3 Date:

4 Subject: Conservation and development; water quality; stormwater; three-acre
5 permit

6 Statement of purpose of bill as introduced: This bill proposes to amend
7 requirements related to the permitting of stormwater systems in the State. The
8 bill would extend the deadline by which owners of impervious surface subject
9 to the three-acre impervious surface permit must complete permitting. The bill
10 also would allow municipalities that assume full legal responsibility for a
11 stormwater system to assess municipal impact fees on users of the stormwater
12 system. In addition, the bill repeals the sunset of the clean water surcharge on
13 the property transfer tax. The bill also would create the Study Committee on
14 the Creation of Regional Stormwater Utility Districts to review the feasibility
15 and benefit of creating regional stormwater utility districts to facilitate
16 implementation and compliance with the water quality laws of the State.

17 An act relating to stormwater management

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

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

1 § 1264. STORMWATER MANAGEMENT

2 * * *

3 (d) Exemptions.

4 * * *

5 (2) No permit is required under subdivision (c)(1), (5), or (7) of this
6 section and for which a municipality has assumed full legal responsibility as
7 part of a permit issued to the municipality by the Secretary. As used in this
8 subdivision, “full legal responsibility” means legal control of the stormwater
9 system, including a legal right to access the stormwater system, a legal duty to
10 properly maintain the stormwater system, and a legal duty to repair and replace
11 the stormwater system when it no longer adequately protects waters of the
12 State. Notwithstanding the provisions of 24 V.S.A. § 3254 to the contrary,
13 when a municipality assumes full legal responsibility for a stormwater system,
14 the municipality may assess municipal impact fees on users of the stormwater
15 system provided that a majority of the property owners subject to the impact
16 fee consented and the impact fee assessed is a fair apportionment to the user of
17 the cost of the improvement in accordance with the benefits the user received.

18 * * *

19 (g) General permits.

20 * * *

1 (3) Within 120 days after the adoption by the Secretary of the rules
2 required under subsection (f) of this section, the Secretary shall issue a general
3 permit under this section for discharges of stormwater from impervious surface
4 of three or more acres in size, when the stormwater discharge previously was
5 not permitted or was permitted under an individual permit or general permit
6 that did not incorporate the requirements of the 2002 Stormwater Management
7 Manual or any subsequently adopted Stormwater Management Manual. Under
8 the general permit, the Secretary shall:

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

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

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

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

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

5 (C) Require that a discharge of stormwater from impervious surface
6 subject to the requirements of this section comply with the standards of
7 subsection (h) of this section for redevelopment of or renewal of a permit for
8 existing impervious surface.

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

12 * * *

13 Sec. 2. REPEALS; SUNSET OF PROPERTY TRANSFER TAX CLEAN
14 WATER SURCHARGE

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

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

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

20 (b) Purpose and intent.

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

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

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

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

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

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

13 Sec. I.12. EFFECTIVE DATES

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

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

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

1 (1) Sec. D.100 of this act appropriates \$11,304,840.00 in fiscal year
2 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont
3 Housing and Conservation Board. Upon the effective date of this act,
4 \$1,500,000.00 shall revert to the Fund, resulting in a fiscal year 2018 total
5 appropriation to the Board of \$9,804,840.00. In fiscal year 2018 only, the
6 amount of \$1,500,000.00 from the Vermont Housing and Conservation Trust
7 Fund shall be transferred to the General Fund.

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

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

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

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

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

1 The Secretary shall administer a Developed Lands Implementation ~~Grant~~
2 Program to provide ~~grants or financing~~ financial assistance to persons who are
3 required to obtain a permit to implement regulatory requirements that are
4 necessary to achieve water quality standards. ~~The grant or financing program~~
5 ~~shall only be available in basins where a clean water service provider has met~~
6 ~~its annual goals or is making sufficient progress, as determined by the~~
7 ~~Secretary, towards those goals.~~ This grant program shall fund or provide
8 financing for projects related to the permitting of impervious surface of three
9 acres or more under subdivision 1264(g)(3) of this title and for a permit
10 renewal under subdivision 1264(h)(2) of this title for a discharge to a
11 stormwater-impaired water that was permitted under an individual permit or a
12 general permit that did not incorporate the requirements of the 2002
13 Stormwater Management Manual or any subsequently adopted Stormwater
14 Management Manual. Not more than 15 percent of the total grant amount
15 awarded shall be used for administrative costs.

16 § 928. MUNICIPAL STORMWATER IMPLEMENTATION ~~GRANT~~
17 PROGRAM

18 The Secretary shall administer a Municipal Stormwater Implementation
19 Grant Program to provide ~~grants~~ financial assistance to any municipality
20 required under section 1264 of this title to obtain or seek coverage under the
21 municipal roads general permit, the municipal separate storm sewer systems

1 permit, a permit for impervious surface of three acres or more, or a permit
2 required by the Secretary to reduce the adverse impacts to water quality of a
3 discharge or stormwater runoff. ~~The grant program shall only be available in~~
4 ~~basins where a clean water service provider has met its annual goals or is~~
5 ~~making sufficient progress, as determined by the Secretary, towards those~~
6 ~~goals.~~ Not more than 15 percent of the total grant amount awarded shall be
7 used for administrative costs. This program shall be available to a
8 municipality to comply with a permit for impervious surface of three acres or
9 more for a residential subdivision when the municipality assumes full legal
10 responsibility for the stormwater system of the residential subdivision under
11 subsection 1264(c)(7) of this title.

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

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

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

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

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

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

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

9 (E) funding to partners for basin planning, basin water quality
10 council participation, education, and outreach as provided in subdivision
11 1253(d)(3) of this title, provided funding shall be at least \$500,000.00.

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

14 (A) funding to programs or projects that address or repair riparian
15 conditions that increase the risk of flooding or pose a threat to life or property;

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

1 (C) funding for the Municipal Stormwater Implementation Grant
2 Program as provided in section 928 of this title, including at least
3 \$1,000,000.00 annually for costs of complying with permitting requirements
4 under subdivision 1264(c)(7) of this title;

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

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

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

16 ~~Sec. 8. APPROPRIATION~~

17 ~~Notwithstanding any other provision of law, the Clean Water Board shall~~
18 ~~direct \$5,000,000.00 from the Clean Water Fund in fiscal year 2027 to the~~
19 ~~Municipal Stormwater Implementation Program Section 928 of this title for~~
20 ~~costs of complying with permitting requirements under subdivision 204(c)(7)~~

1 ~~of this title, including for residential subdivisions when the municipality~~
2 ~~assumes full legal responsibility for the stormwater system.~~

Sec. 8. RECOMMENDED APPROPRIATION

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

3 Sec. 9. 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;

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

7 * * *

8 (6) for groundwater, surface, or stormwater an equivalent residential
9 unit based on an average or median of the area of impervious surface on
10 residential property within the municipality; or

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

13 * * *

14 Sec. 10. STUDY COMMITTEE ON CREATION OF REGIONAL
15 STORMWATER UTILITY DISTRICTS

16 (a) Creation. There is created the Study Committee on the Creation of
17 Regional Stormwater Utility Districts to review the feasibility and benefit of
18 creating regional stormwater utility districts to facilitate implementation and
19 compliance with the water quality laws of the State.

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

1 (1) the Commissioner of Environmental Conservation or designee;

2 (2) a representative of the Vermont League of Cities and Towns,

3 appointed by the Speaker of the House;

4 (3) a representative of a municipality subject to the municipal separate

5 storm sewer system (MS4) permit, appointed by the Committee on

6 Committees;

7 (4) a representative of a municipality with a population under 2,500

8 persons, appointed by the Speaker of the House;

9 (5) a representative of the Green Mountain Water Environment

10 Association, appointed by the Speaker of the House;

11 (6) a commercial or industrial business owner subject to the three-acre

12 stormwater permit or other stormwater requirements, appointed by the

13 Committee on Committees; and

14 (7) a representative of an environmental advocacy organization,

15 appointed by the Speaker of the House.

16 (c) Powers and duties. The Study Committee shall review the feasibility of

17 establishing regional stormwater utility districts in the State. The Study

18 Committee shall:

19 (1) review current statutory authority for the development of regional

20 stormwater utility districts comprised of multiple municipalities, including

21 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) consideration of prior revenue-raising recommendations made in
14 the 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 non-regulatory stormwater systems, including
2 from the Clean Water State Revolving Loan Fund; and

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;

7 (4) propose how statute should be amended to implement any of the
8 recommendations of the Study Committee, including stormwater management
9 planning for purposes of overall regional phosphorus pollutant reductions; and

10 (5) estimate a cost to operate proposed regional stormwater utility
11 districts.

12 (d) Assistance. The Study Committee shall have the administrative,
13 technical, and legal assistance of the Department of Environmental
14 Conservation.

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

20 (f) Meetings.

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

3 (2) The Commissioner of Environmental Conservation or designee shall
4 be the Chair.

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

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

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

12 Sec. 11. EFFECTIVE DATE

13 This act shall take effect on July 1, 2025.