

1 Introduced by Committee on Environment

2 Date:

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

5 Statement of purpose of bill as introduced: This bill proposes to amend
6 requirements related to the permitting of stormwater systems in the State. The
7 bill would extend the deadline by which owners of impervious surface subject
8 to the three-acre impervious surface permit must complete permitting. The bill
9 also would allow municipalities that assume full legal responsibility for a
10 stormwater system to assess municipal impact fees on users of the stormwater
11 system. In addition, the bill repeals the sunset of the clean water surcharge on
12 the property transfer tax. The bill also would establish the Local Community
13 Implementation Special Fund to provide grants to municipalities to assist in the
14 stormwater permitting of residential subdivisions or orphan systems in the
15 State.

16 An act relating to stormwater management

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

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

19 § 1264. STORMWATER MANAGEMENT

20 * * *

1 (b) Definitions. As used in this section:

2 * * *

3 (2) “Development” means the construction of impervious surface on a
4 tract or tracts of land where no impervious surface previously existed.

5 (3) “Expansion” and “the expanded portion of an existing discharge”
6 mean an increase or addition of impervious surface, such that the total resulting
7 impervious area is greater than the minimum regulatory threshold.

8 * * *

9 (6) “Impervious surface” means those manmade surfaces, including
10 paved and unpaved roads, parking areas, roofs, driveways, and walkways, from
11 which precipitation runs off rather than infiltrates.

12 * * *

13 (10) “Regulated stormwater runoff” means precipitation, snowmelt, and
14 the material dissolved or suspended in precipitation and snowmelt that runs off
15 impervious surfaces and discharges into surface waters or into groundwater via
16 infiltration.

17 (11) “Stormwater impact fee” means the monetary charge assessed to a
18 permit applicant for the discharge of regulated stormwater runoff in order to
19 mitigate impacts that the discharger is unable to control through on-site
20 treatment or completion of an offset on a site owned or controlled by the
21 permit applicant.

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

9 * * *

10 (f) Rulemaking. On or before December 31, 2017, the Secretary shall
11 adopt rules to manage stormwater runoff. At a minimum, the rules shall:

12 * * *

13 (7) Allow municipal governments to assume the full legal responsibility
14 for a stormwater system permitted under these rules as a part of a permit issued
15 by the Secretary, including authority of municipalities to assess municipal
16 impact fees on users of a stormwater system for which the municipal
17 government has assumed full responsibility.

18 (8) Include standards with respect to the use of offsets and stormwater
19 impact fees.

20 * * *

21 (g) General permits.

1 **Sec. 3. CONFORMING AMENDMENT TO REPEAL OF SUNSET OF**
2 **CLEAN WATER SURCHARGE**

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

4 (b) Purpose and intent.

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

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

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

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

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

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

17 Sec. I.12. EFFECTIVE DATES

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

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

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

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

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

19 (3) ~~After July 1, 2027, pursuant to 32 V.S.A. § 9602a as amended in~~
20 ~~Sec. I.10 of this act, \$1,000,000.00 in total revenue generated by the clean~~

1 ~~water surcharge of 0.04 percent shall be transferred to the Vermont Housing~~
2 ~~and Conservation Trust Fund. [Repealed.]~~

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

5 Sec. 6. 10 V.S.A. § 1264c is added to read:

6 § 1264c. LOCAL COMMUNITY IMPLEMENTATION SPECIAL FUND

7 (a) There is established the Local Community Implementation Special
8 Fund to be administered by the Secretary of Natural Resources in accordance
9 with 32 V.S.A. chapter 7, subchapter 5 to provide grants to municipalities to
10 assist in the stormwater permitting of residential subdivisions or orphan
11 systems in the State. The Fund shall consist of:

12 (1) an annual appropriation of at least \$1,000,000.00 from the Clean
13 Water Fund;

14 (2) private gifts, bequests, and donations made to the State for any of the
15 purposes for which the Fund was established; and

16 (3) other funds from any public or private source intended for use for
17 any of the purposes for which the Fund has been established.

18 (b) The Secretary may issue grants from the funds to:

19 (1) a municipality subject to the permitting requirement under
20 subdivision 1264(c)(3) of this title for its municipal separate storm sewer
21 system when the municipality assumes under its municipal separate storm

1 sewer system permit the permitting requirements of an orphan system or other
2 residential stormwater system under subdivision 1264(d)(2) of this title; or

3 (2) a municipality that is not subject to the permitting requirement under
4 subdivision 1264(c)(3) of this title for its municipal separate storm sewer
5 system when the municipality assumes the full legal responsibility for a
6 stormwater system under subdivision 1264(d)(2) of this title or agrees to be a
7 co-applicant for a permit for an orphan system within the municipality.

8 (c) The Secretary of Natural Resources shall accept applications for grants
9 from the Fund until September 1 of each fiscal year. Grants shall be awarded
10 on a priority basis for stormwater systems with impending timing constraints
11 or for those projects that will achieve the greatest reduction in pollutant load.

12 (d) Annually, on or before January 31, the Department shall report to the
13 House Committee on Environment and the Senate Committee on Natural
14 Resources and Energy regarding operation and administration of the Local
15 Community Implementation Special Fund. The report shall include a
16 description of each grant awarded from the Fund in the previous calendar year.

17 (e) As used in this section, “orphan stormwater system” means a
18 stormwater system:

19 (1) that serves a residential subdivision;

20 (2) that operates under an expired stormwater discharge permit or was
21 never issued a stormwater discharge permit; and

1 (3) for which the original permittee, in the discretion of the Secretary of
2 Natural Resources, is no longer associated with the system.

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

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

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

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

12 (B) grants to municipalities or property owners to assist with the
13 costs of complying with permitting requirements under subdivisions
14 1264(c)(1) and (7) of this title;

15 (C) the Water Quality Restoration Formula Grant under section 925
16 of this title;

17 ~~(D)~~ the Agency of Agriculture, Food and Markets' agricultural
18 water quality programs; ~~and~~

19 ~~(D)~~(E) the Water Quality Enhancement Grants under section 926 of
20 this title at a funding level of at least 20 percent of the annual balance of the

1 Clean Water Fund, provided that the maximum amount recommended under
2 this subdivision ~~(D)~~ (E) in any year shall not exceed \$5,000,000.00; and
3 ~~(E)~~(F) funding to partners for basin planning, basin water quality
4 council participation, education, and outreach as provided in subdivision
5 1253(d)(3) of this title, provided funding shall be at least \$500,000.00.

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

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

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

15 (C) funding for the Municipal Stormwater Implementation Grant as
16 provided in section 928 of this title;

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

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

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

7 Sec. 8. APPROPRIATION

8 Notwithstanding any other provision of law, \$5,000,000.00 is transferred
9 from the Clean Water Fund to the Local Community Implementation Special
10 Fund in fiscal year 2026.

11 Sec. 9. 24 V.S.A. § 3616 is amended to read:

12 § 3616. RENTS; RATES

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

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

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

