

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:

20 § 1264. STORMWATER MANAGEMENT

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(d) Exemptions.

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

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(g) General permits.

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(3) Within 120 days after the adoption by the Secretary of the rules required under subsection (f) of this section, the Secretary shall issue a general

1 permit under this section for discharges of stormwater from impervious surface
2 of three or more acres in size, when the stormwater discharge previously was
3 not permitted or was permitted under an individual permit or general permit
4 that did not incorporate the requirements of the 2002 Stormwater Management
5 Manual or any subsequently adopted Stormwater Management Manual. Under
6 the general permit, the Secretary shall:

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

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

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

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

20 (B) Establish criteria and technical standards, such as best
21 management practices, for implementation of stormwater improvements for the

1 retrofitting of impervious surface subject to permitting under this subdivision
2 (3).

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

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

10 * * *

11 Sec. 2. REPEALS; SUNSET OF PROPERTY TRANSFER TAX CLEAN
12 WATER SURCHARGE

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

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

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

18 (b) Purpose and intent.

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

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

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

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

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

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

11 Sec. I.12. EFFECTIVE DATES

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

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

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

20 (1) Sec. D.100 of this act appropriates \$11,304,840.00 in fiscal year
21 2018 from the Vermont Housing and Conservation Trust Fund to the Vermont

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

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

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

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

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

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

20 The Secretary shall administer a Developed Lands Implementation ~~Grant~~
21 Program to provide ~~grants or financing~~ financial assistance to persons who are

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

14 § 928. MUNICIPAL STORMWATER IMPLEMENTATION ~~GRANT~~
15 PROGRAM

16 The Secretary shall administer a Municipal Stormwater Implementation
17 Grant Program to provide ~~grants~~ financial assistance to any municipality
18 required under section 1264 of this title to obtain or seek coverage under the
19 municipal roads general permit, the municipal separate storm sewer systems
20 permit, a permit for impervious surface of three acres or more, or a permit
21 required by the Secretary to reduce the adverse impacts to water quality of a

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

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

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

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

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

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

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

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

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

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

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

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

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

1 \$1,000,000.00 annually for costs of complying with permitting requirements
2 under subdivision 1264(c)(7) of this title;

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

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

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

14 Sec. 8. APPROPRIATION

15 Notwithstanding any other provision of law, the Clean Water Board shall
16 direct \$5,000,000.00 from the Clean Water Fund in fiscal year 2027 to the
17 Municipal Stormwater Implementation Program Section 928 of this title for
18 costs of complying with permitting requirements under subdivision 1264(c)(7)
19 of this title, including for residential subdivisions when the municipality
20 assumes full legal responsibility for the stormwater system.

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

4 (7) a representative of an environmental advocacy organization,
5 appointed by the Speaker of the House.

6 (c) Powers and duties. The Study Committee shall review the feasibility of
7 establishing regional stormwater utility districts in the State. The Study
8 Committee shall:

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

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

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

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

20 (3) review and recommend cost-effective and equitable approaches for
21 regional level revenue raising and distribution of project funding for the

1 purpose of stormwater controls to meet total maximum daily load plans

2 (TMDLs) including:

3 (A) consideration of prior revenue-raising recommendations made in
4 the 2017 Clean Water Report from the Office of the State Treasurer;

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

9 (C) propose how a regional stormwater utility district could be
10 eligible for Clean Water State Revolving Loan Fund awards and access State-
11 level financial assistance for the design, construction, and operation and
12 maintenance of regulatory and non-regulatory stormwater systems, including
13 from the Clean Water State Revolving Loan Fund; and

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

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

1 (5) estimate a cost to operate proposed regional stormwater utility
2 districts.

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

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

11 (f) Meetings.

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

14 (2) The Commissioner of Environmental Conservation or designee shall
15 be the Chair.

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

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

18 (g) Compensation and reimbursement. Members of the Study Committee
19 shall be entitled to per diem compensation and reimbursement of expenses as
20 permitted under 32 V.S.A. § 1010 for not more than eight meetings. These

1 payments shall be made from monies appropriated to the Agency of Natural
2 Resources.

3 Sec. 11. EFFECTIVE DATE

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