

Summary of Testimony to Vermont State Senate Institutions Committee, Tom DiPietro, South Burlington Director of Public Works

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What is a Stormwater Utility?

At its core, a stormwater utility is simply a mechanism to raise funds to address stormwater issues. This could include costs to meet stormwater permit requirements (e.g. MS4 or state stormwater permits), capital projects like construction of stormwater treatment practices, culvert replacement or other drainage improvements, and ongoing maintenance of stormwater infrastructure.

Fees collected can only be used for stormwater related purposes. They can't be used for other municipal needs like paving, buying police cars, etc. Utilities are set up as "enterprise funds" in the same way that municipal wastewater or drinking water programs are established.

Why have a stormwater fee versus a tax?

Stormwater utility fees are not a tax. When implemented correctly, they function more like your drinking water meter. For drinking water, we measure the water used on that property and there is a fee based on that volume. In the case of stormwater, we don't measure water, but we do measure the impervious surfaces on each property. Impervious surfaces generate more stormwater runoff. The more stormwater you generate, the higher your fee. However, for ease of program administration, most communities use an equivalent residential unit (ERU) approach for billing. That means that single family homes pay a flat rate and commercial properties pay based on the # of ERUs on their property.

In many cases, an impervious surface based stormwater fee is considered a more equitable way to charge people for the issues and challenges related to stormwater management than a tax. The main reason for this is that taxes are NOT charged to tax-exempt properties. This includes municipal, state, and federal properties as well as

universities, museums, churches, etc. Some of these properties generate considerable stormwater runoff. It is common for non-taxable property to have an outsized impact on drainage.

Example: When South Burlington worked with Shelburne to develop their stormwater fee we observed that tax exempt properties were 19% of the land area, but accounted for 32% of the impervious area in Town. In South Burlington (back in 2006) 22% of land area was non-taxable, but accounted for 29% of impervious surface.

If taxes were used to address stormwater issues, tax-exempt properties would not pay into these costs. An impervious surface based stormwater fee is more of an “all in” approach to funding stormwater needs.

Stormwater Costs and Municipalities

Costs related to stormwater management are significant. On the infrastructure side, replacement of larger culverts can be more than a municipal budget line item can carry.

Example: In 2021 the City of South Burlington replaced a large culvert across Muddy Brook and it cost over \$2.7M. Smaller culvert replacement can still cost 10's of thousands.

Construction of stormwater treatment practices required by State regulation can be similarly expensive (10's of thousands of dollars to a million or more). Maintenance of stormwater infrastructure takes staff and specialized machinery (e.g. sweepers, vacators) which is also expensive.

All Vermont municipalities have costs to comply with the municipal roads general permit. MS4 communities incur even more significant costs to comply with that permit and the “6 minimum measures”.

Municipalities also face costs associated with Lake Champlain P TMDL compliance, Stormwater TMDLs, and most recently compliance with Vermont's “3 Acre Permit”. This latest permit requirement is causing concern for public and private property owners alike.

Regional Utilities

All Stormwater Utilities in VT, and most utilities across the nation, are restricted to municipal boundaries. However, there are many examples of regional utilities. Vermont is currently undertaking a process to consider some form of a regional or statewide

stormwater utility. The discussion is just beginning, and the role to be played by any new regional stormwater entity is not yet defined. Until this is better defined, it is difficult to comment on proposed legislation. However, I'd like to provide the following overarching comments:

- Stormwater utility fees are critical to many municipalities. Without utility fees, these municipalities would have to raise taxes significantly in order to meet stormwater obligations.
- Legislators should be careful not to do anything that impedes a municipality's ability to create a utility or regulate stormwater locally.
- Understand what a regional entity would do (i.e. what services would it provide and not provide) before discussing fees. Talking about fees first puts "the cart before the horse" and fails to first make the case why a regional entity is necessary.
- Think carefully about fees. If we refer to something as a regional or statewide stormwater utility ensure that:
 - It follows the rules of a utility fee and is not set up as a tax. Don't "muddy the waters" by calling a tax-based program a utility. It will undermine existing utilities and erode support for the concept.
 - Any regional program should be set up so that it doesn't discourage or disincentivize municipalities from adopting utilities or maintaining existing utilities. Whatever shape it takes, a regional entity is not likely to address all stormwater needs / costs that municipalities face. There will likely still be a desire to consider options locally, so the ability to start/maintain a stormwater utility locally should be "built into" any regional or statewide proposal.

Finally, I want to remind everyone that a similar regional stormwater utility discussion occurred in Vermont in the mid 2010's. I recommend that everyone review a [report prepared by then State Treasurer Beth Pearce \(2017\)](#). This report did a thorough job of laying out some options and challenges for a statewide utility. Much of it is still relevant today and might provide answers, or at least background information, for the current conversation.