

1 TO THE HONORABLE SENATE:

2 The Committee on Natural Resources and Energy to which was referred
3 House Bill No. 481 entitled “An act relating to stormwater management”
4 respectfully reports that it has considered the same and recommends that the
5 Senate propose to the House that the bill be amended by striking out all after
6 the enacting clause and inserting in lieu thereof the following:

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

8 § 1264. STORMWATER MANAGEMENT

9 * * *

10 (c) Prohibitions.

11 * * *

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

1 (d) Exemptions.

2 * * *

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

17 * * *

18 (g) General permits.

19 * * *

20 (3) Within 120 days after the adoption by the Secretary of the rules
21 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 also 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 or has
8 assumed full legal responsibility for the stormwater system of the residential
9 subdivision under subdivision 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. RECOMMENDED APPROPRIATION; PRIORITIES

15 (a) Notwithstanding any other provision of law, the Clean Water Board
16 shall recommend \$5,000,000.00 from the Clean Water Fund in fiscal year 2027
17 to the Municipal Stormwater Implementation Program in 10 V.S.A. § 928 for
18 costs of complying with permitting requirements under 10 V.S.A.
19 § 1264(c)(7), including for residential subdivisions when the municipality
20 assumes full legal responsibility for the stormwater system.

1 (b) Before January 1, 2032, the Secretary of Natural Resources shall
2 provide to a property subject to the three-acre stormwater permit under 10
3 V.S.A. § 1264(c)(7), priority in award of financing under the Municipal
4 Stormwater Implementation Program and under the Developed Lands
5 Implementation Program when residential housing used as primary residences
6 are located on the property.

7 Sec. 9. STORMWATER MANAGEMENT PUBLIC RESOURCE GUIDE

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

15 (b) The Resource Guide shall:

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

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

1 (A) the lack of a homeowner’s association to assume permitting
2 responsibility;

3 (B) lack of available property to implement stormwater management,
4 including whether and how a person subject to stormwater permits can
5 implement an off-site offset project to comply with permitting requirements;
6 and

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

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

13 (4) provide a contact at the Agency of Natural Resources that can assist
14 persons subject to stormwater permitting by answering questions, providing
15 referrals to creative or alternative solutions to achieving permit compliance,
16 and recommending available financial resources.

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

1 Sec. 10. AGENCY OF NATURAL RESOURCES REPORT ON

2 STORMWATER MANAGEMENT

3 On or before December 1, 2025, the Secretary of Natural Resources shall
4 submit to the Senate Committee on Natural Resources and Energy and the
5 House Committee on Environment a report regarding the improvement of
6 stormwater regulation in the State. The report shall include:

7 (1) a review of the phosphorus load allocation under the Lake
8 Champlain Total Maximum Daily Load (TMDL) Plan to assess whether
9 phosphorus load reductions attributed to stormwater regulation of developed
10 lands should be reallocated to other sectors to improve the equity and
11 effectiveness of the TMDL, including whether permit requirements addressing
12 stormwater runoff should be staggered or phased in order to achieve greater
13 phosphorus reductions;

14 (2) a summary of how other states regulate stormwater, including:

15 (A) whether other states regulate stormwater under regional, county,
16 or municipal government and whether those states that regulate at the regional

1 or county level achieve greater efficiencies and equitable regulation due to the
2 ability to improve efficiency of regulation;

3 (B) how other states regulate runoff from developed lands under
4 TMDLs;

5 (C) how other states regulate orphan stormwater systems; and

6 (D) whether Vermont should implement any programs or practices
7 implemented in other states;

8 (3) a recommendation for streamlining stormwater permits that
9 municipalities are required to obtain, including how to streamline permit
10 applications and fees; and

11 (4) a recommendation on how to address stormwater runoff from
12 upstream properties contributing to stormwater systems subject to State
13 stormwater operating permits, such as the three-acre stormwater permit,
14 including whether upstream properties should be required to pay for the costs
15 of its share of a stormwater runoff to a stormwater system.

16 Sec. 11. 10 V.S.A. § 1389(e)(2)(C) is amended to read:

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

Sec. 12. 24 V.S.A. § 3616 is amended to read:

§ 3616. RENTS; RATES

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

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

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

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

* * *

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

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

* * *

Sec. 13. STUDY COMMITTEE ON CREATION OF REGIONAL
STORMWATER UTILITY DISTRICTS

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

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

(1) the Commissioner of Environmental Conservation or designee;

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

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

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

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;

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

6 (8) a representative of a regional planning commission, appointed by the
7 Committee on Committees.

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

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

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

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

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

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

5 (A) consider prior revenue-raising recommendations made in the
6 2017 Clean Water Report from the Office of the State Treasurer;

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

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

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

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

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

6 (d) Assistance. The Study Committee shall have the administrative,
7 technical, and legal assistance of the Department of Environmental
8 Conservation.

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

14 (f) Meetings.

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

17 (2) The Commissioner of Environmental Conservation or designee shall
18 be the Chair.

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

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

Sec. 14. EFFECTIVE DATES

This act shall take effect on July 1, 2025, except that Sec. 11 (future Clean Water Fund priorities) shall take effect October 1, 2032.

(Committee vote: _____)

Senator _____

FOR THE COMMITTEE