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Fiscal Note

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H.481 – An act relating to stormwater management

As recommended by the Senate Committee on Natural Resources and Energy, Draft 4.1[1,i]

Bill Summary

This bill would make various changes to stormwater permitting requirements and related State programs. It would extend the deadline by which owners of properties subject to three-acre impervious surface permits must complete permitting from 2023 to 2028. The bill would also allow municipalities that assume full legal responsibility for a stormwater system to assess municipal special assessment fees on system users and receive funding from the Clean Water Fund to help manage those systems. The bill would remove statutory language that reduces the current Clean Water Surcharge rate of 0.22% to 0.04% in 2027 and remove the 2039 sunset of the surcharge. The bill would also create a study committee on the feasibility and benefits of regional stormwater utility districts.

Fiscal Impact

Several provisions of the bill would have fiscal impacts:

- The authorization of municipal special assessment fees for certain municipally operated stormwater systems could reduce State revenue from stormwater permits. However, the exact magnitude of this effect is difficult to estimate and depends on future municipal and State actions.
- The repeal of the Clean Water Surcharge rate decrease in 2027 would maintain current funding levels provided to the Clean Water Fund and the $1 million statutory allocation to the Vermont Housing and Conservation Board.
- Amending the Municipal Stormwater Implementation Program to allow it to make grants to municipalities for municipally owned residential stormwater systems will require funding. As passed by the House, the bill would direct the Clean Water Board to recommend $5 million in fiscal year 2027 to support this work and to prioritize a $1 million annual investment from the Clean Water Fund for municipally owned stormwater systems in municipal developments. As recommended by the Senate Committee on Natural Resources and Energy, this $1 million annual prioritization would be repealed effective October 1, 2032.
- As recommended by the Senate Committee on Natural Resources and Energy, the proposed Study Committee on the Creation of Regional Stormwater Utility Districts would cost approximately $7,500 for per diem and expense reimbursements across fiscal years 2026 and 2027 to the Agency of Natural Resources (ANR).

[1] *The Joint Fiscal Office (JFO) is a nonpartisan legislative office dedicated to producing unbiased fiscal analysis – this fiscal note is meant to provide information for legislative consideration, not to provide policy recommendations.*

Background and Details

The following sections have fiscal impacts that can be categorized as follows: 1) State permit fee revenue; 2) Clean Water Surcharge revenue; 3) funding priorities within the Clean Water Fund and State water quality programs; and 4) minor expenses related to a temporary study committee.

Section 1: Permitting Timelines and Municipal Special Assessment Fees

Section 1 would extend the deadline by which owners of properties subject to the three-acre impervious surface permit must achieve compliance. For impervious surfaces in the Lake Champlain or Lake Memphremagog watersheds, or the watershed of any stormwater-impaired water, the deadline is extended from October 1, 2023 to October 1, 2028. The deadline for all other impervious surfaces is extended from October 1, 2033 to October 1, 2038, or not later than five years after a stormwater-specific waste-load allocation has been established for that watershed – whichever occurs first. ANR does not expect this provision to significantly affect State permit fee revenue.

This section would also allow municipalities that assume full legal responsibility for a stormwater system to assess municipal special assessment fees on stormwater system users. While the Joint Fiscal Office (JFO) cannot estimate this provision's fiscal impact to municipalities, based on information provided by ANR, this provision could decrease future State operating revenue from municipal separate storm sewer system (MS4) permits and municipal road general permits (MRGP). ANR indicates that a reliable dollar estimate of future revenue decreases cannot be generated, as this would depend on the extent to which municipalities assume full legal responsibility for these systems in the future.

MS4 permits raise annual operating revenue for the State through a $10 per-acre fee assessed on private and municipal impervious surfaces within the permit's boundary. MRGPs generate annual operating revenue from fees based on a permittee's municipal population and total road miles managed, with annual operating fees ranging from $0 to $1,800. Under the MS4 permits, municipal assumption of legal responsibility could result in forgone State revenue from privately owned impervious surfaces, which would otherwise have paid annual operating fees to the State. Similarly, under the MRGP, municipal assumption of legal responsibility would prevent ANR from receiving annual operating fees from privately owned surfaces. This potential revenue loss could be partially offset by the environmental and operational benefits of increased municipal responsibility for stormwater systems.

Sections 2-5: Clean Water Surcharge Sunset Repeal

The Clean Water Surcharge to the Property Transfer Tax was created by Act 64 of 2017 and was originally 0.2% of the value of transfer value for non-principal residences and 0.2% of the transfer value above $100,000 for principal residence transfers. Act 181 of 2024 increased the transfer value exemption threshold from $100,000 to $200,000 and increased the surcharge rate from 0.2% to 0.22%, effective August 1, 2024.

Under current law, the Clean Water Surcharge will decrease to 0.04% in 2027 and be repealed entirely in 2039. This section would remove those provisions and extend the 0.22% rate indefinitely. In fiscal year 2024, the surcharge generated $8.2 million. The revenue impacts of changes made in Act 181 are still unclear, though according to information from the Department of Taxes the surcharge generated approximately $6.9 million through the first eight months of fiscal year 2025.

Sections 6-8, 10, and 13: Funding Priorities for the Developed Lands Implementation Program and Municipal Stormwater Implementation Program

Section 6 would amend the Developed Lands Implementation Program. In addition to the Program's current support for three-acre stormwater permitting, this section would allow the Program to provide financial assistance for three-acre rule permit renewals.

Section 6 would also add language stating that the Municipal Stormwater Implementation Program can provide financial assistance to municipalities for compliance with permits for impervious surface of three acres or more for residential subdivision stormwater systems for which a municipality assumes full legal responsibility.

Section 7 would amend the statutory requirements governing how the Clean Water Board prioritizes recommendations for the allocation of funds from the Clean Water Fund. Specifically, it would require the Board to recommend at least $1 million annually for the Municipal Stormwater Implementation Program to support compliance with three-acre stormwater permitting requirements. Sections 10 and 13 would repeal this provision on October 1, 2032.

Section 8 would direct the Clean Water Board to recommend $5,000,000 from the Clean Water Fund to the Municipal Stormwater Implementation Program in fiscal year 2027 for the purposes identified in Section 6. As recommended by the Senate Committee on Natural Resources and Energy, this section would also direct the Secretary of Natural Resources to provide properties subject to a three-acre stormwater permit additional financing priority under the Municipal Stormwater Implementation and Developed Lands Implementation programs when those properties also contain residential housing that is used as a primary residence.

Section 12: Study Committee on the Creation of Regional Stormwater Utility Districts

Section 12 would establish the Study Committee on the Creation of Regional Stormwater Utility Districts. The Study Committee would investigate the potential for regional stormwater utility districts to advance implementation of the State's water quality laws, make recommendations for associated statutory changes, and estimate the cost of utility district operation.

As recommended by the Senate Committee on Natural Resources and Energy, the Study Committee would be composed of eight members: the Commissioner of Environmental Conservation or designee; a representative of the Vermont League of Cities and Towns; a representative of a municipality subject to the municipal separate storm sewer system (MS4) permit; a representative of a municipality with a population under 2,500; a representative of the Green Mountain Water Environment Association; a commercial or industrial business owner subject to the three-acre stormwater permit or other stormwater requirements; a representative of an environmental advocacy organization; and a representative of a regional planning commission. The Study Committee would have the administrative, technical, and legal assistance of ANR.

The Study Committee would be required to deliver a report of its findings and recommendations for legislative action to the House Committees on Environment and on Government Operations and Military Affairs and the Senate Committees on Natural Resources and Energy and on Government Operations by January 15, 2027. The Committee would cease to exist on March 1, 2027.

Study Committee members not otherwise compensated or reimbursed for their attendance would be entitled to per diem compensation ($50 per day) and expense reimbursement for up to eight meetings, as permitted under 32 V.S.A. § 1010. Per diems and expense reimbursement for Study Committee members would cost approximately $7,500 to ANR, split between fiscal years 2026 and 2027. ANR may also incur additional staffing demands associated with providing administrative, technical, and legal assistance to the Study Committee.

[i] *The full fiscal note history is available on the fiscal tab of the bill page on the General Assembly website and can be accessed through a bill number search on the JFO page.*