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SENATE COMMITTEE ON NATURAL RESOURCES AND ENERGY

TO: Act 73 Working Group on Water Quality Funding:
Sec. Julie Moore, Comm. Kaj Samson, Sec. Anson Tebbetts, Andrew Stein, John Adams, Ashley Romeo-Boles, Rebecca Ellis, Karen Horn

FROM: Christopher Bray, Chair, Senate Natural Resources and Energy 

CC: Senate Natural Resources and Energy Committee, House Natural Resources, Fish and Wildlife Committee, President Pro Tempore Ashe, Speaker Johnson

RE: Goals and Assumptions Related to the Draft Legislation being Developed by the Working Group on Water Quality Funding pursuant to Act 73, Section 26

DATE: July 17, 2017

Out of respect for the effort the Working Group is expending, and with the goal of maximizing the utility of your work product (draft legislation), I want to share some thoughts and questions now, at the outset. Next year, in the legislature, one of our tasks will be to use the clean water funding “engine” you develop in combination with the budget and other programming to deliver the outcomes prescribed by Act 64 and related legal commitments on water quality.

More specifically, I am writing to inquire about

- (i) the assumptions regarding the scope of work upon which the Working Group’s draft legislation will be built;
- (ii) the funding implications of those assumptions; and
- (iii) the planning implications of those assumptions.

I. Assumptions

Act 73, Section 26, (d) specified “(d) Powers and duties. The Working Group on Water Quality Funding shall recommend to the General Assembly draft legislation to establish equitable and effective long term funding methods to support *clean water efforts in Vermont*.” [emphasis added]

In order to meet this comprehensive design goal, I want to inquire about the financial basis for the Working Group’s planning. Is the Working Group using as its starting point the financial assessment defined by the January 15, 2017 Clean Water Report produced by Treasurer Pearce?

Assuming so, the Treasurer's Clean Water Report report sorts the tasks necessary to improve water quality in the State into two tiers of work, with Tier 1 being described to me by an ANR manager as "the minimum that must be done to meet Act 64," and Tier 2 as steps that would "accelerate the State's progress" toward the overall goal of "clean water in Vermont."

As the overarching goal of the State's water quality work is not merely to meet the statutory minimums of Act 64, but to facilitate the enhancement and maintenance of water quality across the state, I would like to verify that your draft legislation will propose "equitable and effective long-term funding methods" for both Tiers 1 and 2.

Please confirm.

If you do not plan to develop draft legislation to address both Tiers 1 and 2, then I think it is incumbent on the Working Group to note explicitly within its report what tasks the State would not complete to improve water quality in the State and the financial and environmental implications of postponing this work.

For example, if a Tier 2 capitol investment in farm-based equipment (e.g. no-till planters) were to reduce phosphorus-carrying farm run-off, but the State chose not to make such a Tier 2 investment in year x , then how much more phosphorus, and at what cost, would the State have to address in year $x + 1$, $x + 2$, $x + 3$, etc.?

Without such an analysis, it will not be possible to assess the trade-offs between differing levels of investment and mitigation. My concern is akin to costs associated with deferred maintenance, which often ultimately produce higher levels of total expense.

II. Implications — Funding

The Treasurer's Clean Water Report¹ estimates Clean Water Initiative annual funding gaps (i.e. costs - revenues) as follows:

Tier 1 & 2:	\$52.4M
Tier 1 only:	\$38.5M
Difference:	\$13.9M

The Treasurer's report projects that the State's water quality work will continue for at least 20 years. If the State does not budget for the full body of work (Tiers 1 & 2), Vermont will arrive at

¹ From Clean Water Report Required by Act 64, Office of the State Treasurer, January 15, 2017:

Annual costs and gaps by sector are outlined below:

- (1) Municipal wastewater treatment facilities: \$43.4 million in costs, \$29.7 million in revenues, \$13.7 million gap
(tier 1 gap: \$6.1 million; tier two gap: \$7.6 million);
- (2) Agriculture: \$28.7 million in costs, \$10.5 million in revenues, \$18.2 million gap
(tier 1 gap: \$15.9 million; tier 2 gap: \$2.3 million);
- (3) Developed Lands (stormwater treatment): \$36.4 million in costs, \$11.1 million in revenues, \$25.3 million gap
(tier one gap: \$23.9 million; tier 2 gap: \$1.3 million);
- (4) Natural resources restoration: \$7.14 million in costs, \$1.97 million in revenues, \$5.17 million gap
(tier 1 gap: \$2.55 million; tier 2 gap: \$2.62 million).

Year 20 with a cumulative funding shortfall of \$278M (13.9 * 20).² This “shortfall” should be noted if the Working Group is not planning on having the State fully fund the two tiers.

In addition, the Treasurer’s FY18 and FY19 “bridge funding” proposal (via bonded debt) proposes to expend \$25M per annum on water quality work, leaving the Tier 1 & 2 budget underfunded by \$27.4M (52.4-25) for the first two years (totaling \$54.8M).

1. Will the State accomplish the work represented by the \$54.8M by adding to the project timeline —e.g. one more year to the planned period of work (making it 21 years)?
2. Will the debt service on the bonded debt for Years 1 and 2 reduce the monies for water quality work available in Years 1, 2, 3 and beyond?
3. Beyond the FY19 and FY20 period of “bridge funding” what role do you anticipate for the use of *bonded debt* versus *revenues* to support water quality work?

III. Implications — Planning

Given the State’s current clean water work costs of approximately \$60M annually, and given the Clean Water Initiative annual funding gap of approximately \$52M, the state will roughly be doubling its clean water work. Does the State have the capacity to cost-effectively make such a large additional investment?

That is, do we have the capacity currently to

- (i) identify an adequate number of water quality projects—i.e. can we continue “to fill the project pipeline”?
- (ii) assess projects for their relative cost-effectiveness and prioritize the most cost-effective?
- (iii) monitor projects for their water quality impacts?
- (iv) monitor projects for regulatory compliance?
- (v) continually define/redefine best practices?

In addition to the project-level data described above, what public large-scale baseline water quality documents establish our water quality “starting point”? And are these baseline water quality documents updated regularly so that we can assess the ongoing impact of our water quality work?³

Last, what are the staffing implications of roughly doubling the State’s water quality work—e.g. will ANR need additional staff? Are we planning on relying on private contractors to take on this

² It’s my understanding that the Treasurer’s Clean Water Report uses current dollars. It would be helpful if your draft legislation could address the impacts of inflation. For example, a flat per acre fee would generate a revenue stream whose value would be reduced over time by inflation; meanwhile, the cost of the projects the funding would support (e.g. clean water infrastructure) would be increased by inflation. Rather than create a funding plan that will begin to experience shortfalls in Year 2, I hope the Working Group will provide a mechanism to address this problem from the outset—for instance, an inflation adjuster. If no such mechanism is proposed, then the report should explicitly note this foreseeable structural funding problem.

³ That is, the citizens of the state will—along with all of us in government—want to know if our investments are effective. Making progress in water quality will be essential to maintaining support for the funding necessary to run the State’s water quality programs. One of our current challenges is that we are making investments in water segments in which water quality continues to decline.

technical consulting and engineering work? And what are the implications (financial and otherwise) of providing these services via state government versus through the private sector?

* * *

I thank you for your consideration of these questions, and I look forward to hearing from the Working Group.

I know we all want to make certain that the draft legislation developed will be effective in helping the State meet the water quality goals prescribed by Act 64 and related legal commitments. In addition, your reply will also enable legislators to prepare with greater clarity for next session.