**DRAFT MINUTES**

**Act 73 Working Group on Water Quality Funding**

**National Life, Catamount Room**

**Call-In Number: (802) 448-4858**

**Friday, July 28, 2017**

**10:00-11:30**

Working Group Members: ANR Secretary Julie Moore, Tax Commissioner Kaj Samsom, AAFM Secretary Anson Tebbetts, VCGI Director John Adams, VLCT Gwynn Zakov, John Grenier of Grenier Engineering

Others: Tax Analyst Andrew Stein, VTrans Michele Boomhower, AAFM Diane Bothfeld (by phone), DEC Deputy Commissioner Rebecca Ellis, Vermont Chamber Ashley Romeo-Boles, LCC Jared Carpenter, Rep. David Deen (by phone), Douglas Farnham, Dominic Cloud, Sen. Chris Bray, Jeff Wennberg, Chuck Ross, Ashten Stringer, Matt Musgrave

1. Review Agenda. The Working Group reviewed the draft agenda for 7/28/2017. There were no changes to the draft agenda.
2. Minutes from 7/14/2017. The Working Group reviewed the minutes from the 7/14/2017 meeting and corrections were noted. The motion to approve the minutes as amended passed unanimously.
3. Administration of Parcel and Impervious Surface Stormwater Fees.

The Working Group reviewed various options for the administration of stormwater fees. The four options under consideration, and discussed on 7/14/2017, are: (1) statewide collection of both the education property tax and stormwater fee; (2) parallel collection systems with the education property tax collected locally and stormwater fee collected by the state; (3) municipal collection of both the education property tax and stormwater fee; and (4) collection of stormwater fees by local, regional, statewide or agricultural utilities.

* 1. Statewide collection of both the education property tax and stormwater fee. The Working Group discussed extensively the idea of collecting both the education property tax and a stormwater fee at the state level. It was noted that statewide collection of the education tax would represent a fundamental shift in Vermont tax policy.

The Vermont Tax Department emphasized that a shift of this magnitude must be transparent and would require strong legislative support. Vermont municipalities are divided on whether the education property tax should be collected locally or by the state. Residents would be unhappy if they needed to drive to Montpelier to grieve tax assessments, and the question was raised whether grievances could remain local.

The Tax Department listed numerous issues that would need to be resolved prior to the transition to statewide collection of the education property tax and a stormwater fee.

* How quickly could the State stand up the system? It was noted that the State would need to conduct an extensive the request-for-proposal process to upgrade the information technology to support a statewide property tax.
* Would municipalities continue to collect the municipal property tax, or would the state collect it and send it back to municipalities?
* How would property assessments be handled? Would assessments remain local? Under the current system, property owners have the right to request an inspection of their property by the local civil board of authority. The inspection right is a significant element of the existing appeals process. If assessments remain local, a process for communicating local appeals to the statewide billing and collection program would need to be established. If assessments were handled by the state, a possible advantage would be increased consistency in property valuation, particularly for high-value commercial properties.
* Would town clerks continue to hold land records? How would the shift impact revenue that is currently collected by town clerks?
* Would overall costs related to tax collection go up or down? There are currently 300 to 500 FTEs in the municipal property tax system. Overall administrative costs may rise unless municipalities reduce staff. Statewide administrative efficiencies and reduced software licensing costs could exert downward pressure on costs.

Following this presentation by the Tax Department, a comment was made that a stormwater fee is not a property tax, and that it should not be billed alongside the property tax. It was also stated that municipalities do not like to be on the front lines collecting unpopular taxes and fees. The view was put forward that a stormwater fee should be billed separately from any existing tax or utility bill. The Tax Department noted that compliance and collection rates will be much higher if attached to an existing billing system. It was also expressed that the same entity that collects the fee should make decisions about how to spend the fee, to increase accountability.

Another view was that a system that is easy to administer may or may not have a close nexus to the problem being addressed, and that there may be tension between efficiency and nexus. For example, it was acknowledged that the property transfer tax surcharge, which provides revenues for the Clean Water Fund, is administratively efficient but its nexus to water quality is low. One opinion expressed was that an impervious surface fee has a closer nexus to water quality, but that it may be expensive to calculate.

It was asked if one set of fees, such as parcel fees, could be used to fund one set of actions, while another set of fees, such as impervious surface fees, could be used to fund another set of actions. It was suggested that it might be worthwhile to look at the purpose of the spending to decide which revenue source for that spending is most appropriate. Nexus may vary depending on the type of fee.

In sum, it was agreed that Vermonters will want a funding system that is rational (nexus), fair (enforceable) and efficient (low administrative costs). To be fair, it was noted that the collection system must be enforceable. This led to a discussion of how to achieve high compliance rates. It was suggested that liens could be placed on delinquent property owners, to which it was noted that very complicated if two different entities had authority to place liens and conduct fee sales.

* 1. Parallel Collection Systems: Statewide collection of stormwater fee and municipal collection of the education property tax. The Working Group recapped some of the discussion from July 14. It was noted that setting up a statewide system to collect a stormwater fee, while maintaining local collection of the education property tax, would be very expensive. At the meeting on July 14, the Tax Department estimated that it would need to hire up to 25 FTEs to collect and implement a statewide stormwater fee. The Vermont Tax Department currently spends roughly $17.7 million to collect $1.67 billion in income tax revenues. To implement statewide collection of a parcel or impervious surface fee, the Vermont Tax Department would need to spend, in addition to up-front expenses, roughly $4 million to collect $18 million.

Given the administrative inefficiency of standing up a separate statewide system to collect stormwater fees, it was suggested this option should be dropped from the list of considerations.

* 1. Municipal collection of both the education property tax and stormwater fee. The Working Group briefly discussed municipal collection of a stormwater fee. It was suggested that the state could provide municipalities with impervious parcel data.

This led to a discussion of parcel fees versus impervious surface fees. It was suggested that the Working Group identify the risks associated with different methods of assessment and collection, and the ease with which various risks can be mitigated, since an approach that is equitable and efficient might also be high risk. For example, statewide impervious surface data won’t be available by summer 2018, and statewide parcel data won’t be available until 2020. Even then, the parcel data will not be survey-quality. If the parcel data is used to invoice people, the state and municipalities will need to understand the risk. If the error rate is 1%, and the state or the municipalities impose an impervious surface fee on 300,000 parcels, potentially 3,000 parcels will have incorrect data. Furthermore, the cost of updating the impervious surface data will need to be estimated, especially in relation to subdivisions, which are not always reported to the state. VCGI will provide some estimates of the cost and risks to stand up an assessment system based on statewide impervious surface data.

* 1. Collection of stormwater fees by local, regional, statewide or agricultural utilities (or combination). Several scenarios were briefly put forward.

1. Municipalities or regional entities might step up to collect a local stormwater fee if collection is not mandatory. If the municipality or region does not impose its own a stormwater fee, maybe a statewide stormwater fee (collected by the state) would kick in. VLCT will provide some cost estimates for standing up local collection of stormwater fees.

ii. Regulated entities with stormwater operating permits could be required to pay an additional state stormwater fee. Regulated entities would be obligated to update impervious surface data held by the state.

1. Updated TMDL, CSO and Act 64 compliance costs estimates for 2020-2024

It was noted that the Treasurer’s Report (January 2017) provided annualized averages of water quality compliance costs over a 20-year period, but that for budgeting purposes the state needs to look at cost curves. Costs of compliance may be less in early years, more in middle years, less in out years.

Furthermore, not all of the gaps identified in the Treasurer’s Report need to be filled by the state, and not all sectors need to be subsidized at the same rate. Generally, municipal wastewater treatment facilities are eligible for municipal pollution control grants up to 35% of project costs, farmers who implement best management practices are eligible for federal and state grants up to 80% or 90% of project costs, municipal road projects are eligible for incentives up to 80% of project costs, while private property owners are eligible for 0% of project costs. In addition, not all funding sources can be used to all purposes; for example, the Transportation Bill cannot fund wastewater treatment facility upgrades. As a next step, state agencies (ANR, AAFM and VTrans) will review the projected costs in the Treasurer’s Report for the years SFY2020 to SFY2024. The Working Group will review these costs and the level of incentives by landowner type.

1. Letter from Sen. Bray. Senator Bray welcomed the opportunity to address the Act 73 Working Group, and to follow up on his letter dated July 17th. Sen. Bray emphasized the need for clarity concerning how revenues will be spent, and that clarity on spending will facilitate the legislative process for funding. The Working Group acknowledged the need for more clarity, and will be reviewing costs at the next meeting on August 11th.
2. Next steps
   * VCGI will provide some estimates of the cost and risks to stand up an assessment system based on statewide impervious surface data.
   * VLCT will provide some cost estimates for standing up local collection of stormwater fees.
   * ANR, AAFM and VTrans will review the projected costs in the Treasurer’s Report for the years SFY2020 to SFY2024 and provide updates.
   * Existing funding sources (other than a parcel or impervious surface fee) also need to be explored.

**Future Meetings**

Friday, August 11 (9:00-10:30)

Friday, August 25 (9:00-10:30)

Early September (Meeting #1 with Advisory Council)

Early October (Meeting #2 with Advisory Council)

Early November (Meeting #3 with Advisory Council)

November 15 – Report Due