

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H.428 Name of Bill: An act relating to an environmental impact fee on utilities and the Vermont Clean Water Fund

Agency/ Dept: DEC Author of Bill Review: Kevin Burke, Environmental Analyst, Lakes & Ponds

Date of Bill Review: 3/11/2015 Related Bills and Key Players: Representatives Turner, Representative Beyor; H.35 and S. 49.

Status of Bill: (check one): ☒ Upon Introduction ☐ As passed by 1st body ☐ As passed by both

Recommended Position:

☐ Support ☐ Oppose ☐ Remain Neutral ☒ Support with modifications identified in #8 below

Analysis of Bill

1. **Summary of bill and issue it addresses.** *Describe what the bill is intended to accomplish and why.* The bill aims to establish an environmental impact fee structure for natural gas or electric utility transmission lines that cross Lake Champlain and that are subject to an encroachment permit under 29 V.S.A. Chapter 11. The impact fee would be separate from the encroachment permit application fee, and would be deposited into the Vermont Clean Water Fund established under 10 V.S.A. Chapter 47. This impact fee is not to cover staff time associated with administrative and technical review of an encroachment permit, but would likely be similar to a lease payment for use of state waters and the state lands lying thereunder, and aimed to fund ongoing water quality efforts on Lake Champlain. The rate of this required fee would be determined by DEC and would be commensurate with the amount of power transmitted through the line. The fee would be paid on an annual basis until such time that a line no longer transmits power.
2. **Is there a need for this bill?** *Please explain why or why not.* It is the Department's understanding that the State already has the authority to require lease payments for the use of submerged lands, however this may help to identify the types of encroachment projects for which a lease or similar impact fee is charged, so as to distinguish from other encroachments such as marinas, shoreline stabilization, and transportation infrastructure, which may provide more of a direct public benefit to the state of Vermont.
3. **What are likely to be the fiscal and programmatic implications of this bill for this Department?**
There would not appear to be any fiscal implications of this bill on the Department, however the Department and perhaps the Lakes & Ponds Program would be tasked with establishing the rate of fee as the bill is drafted now, and there is little guidance in the bill on what level of fees is appropriate for a given project, or whether there is a term after which an impact fee is reevaluated or adjusted in the future. Currently, the bill's only guidance is that the fee "shall be commensurate with the amount of power transmitted through the line."
4. **What might be the fiscal and programmatic implications of this bill for other departments in state government, and what is likely to be their perspective on it?** There would not appear to be any direct fiscal implications of this bill on other state departments, however it is possible that utilities could pass the cost of any impact fee onto utility rate payers, including state government.

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5. What might be the fiscal and programmatic implications of this bill for others, and what is likely to be their perspective on it? (for example, public, municipalities, organizations, business, regulated entities, etc) Again, there would not appear to be any direct negative fiscal implications of this bill on the public at large, and perhaps the public, including municipalities, businesses, etc. would benefit as the Clean Water Fund would have an additional source of funding to restore and maintain Lake Champlain water quality. Regulated entities, such as VELCO, that have a direct relationship with electric transmission in Vermont would be likely to oppose the bill as this would be an added cost for any project they propose in the Lake.

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? NGO's and all others in support of Lake Champlain water quality efforts would likely support this bill, as this could bolster needed funding to implement the TMDL for Lake Champlain.

6.2 Who else is likely to oppose the proposal and why? All electric and gas utility companies would likely oppose the bill as this has the potential for added costs on potential projects that cross Lake Champlain.

7. Rationale for recommendation: *Justify recommendation stated above.* The Department supports the concept of the bill; however, the Department also recognizes that the state of Vermont currently has the legal authority to require a lease for use of state lands by utilities, including state waters and the lands lying thereunder. Support of this bill with modifications will ensure large utility encroachments provide direct public benefits.

8. Specific modifications that would be needed to recommend support of this bill: *Not meant to rewrite bill, but rather, an opportunity to identify simple modifications that would change recommended position.* The bill is entirely focused on utility transmission projects (gas or electric) that cross Lake Champlain and would not cover additional utilities, such as telecommunication transmission lines. Since the Clean Water Fund is meant to fund state-wide water quality efforts, it may also be appropriate to broaden the bill to include any lake or pond utility encroachment subject to lake encroachment permitting. For example an upcoming utility project is expected to cross Lake Champlain and Lake Bomoseen. Lake Champlain is also crossed by numerous telecommunication transmission lines, and thus it may be appropriate to include all utilities. Additionally, this bill should provide more guidance to the Department on how to assess the rate of fee.

9. Gubernatorial appointments to board or commission?

Commissioner has reviewed this document:

Date:

3/12/15

Secretary has reviewed this document:

Date:

3-19-15