

CONFIDENTIAL
LEGISLATIVE BILL REVIEW FORM: 2015

Bill Number: H35 Name of Bill: An act relating to improving the quality of State waters

Agency/ Dept: Agriculture Author of Bill Review: J. Leland

Date of Bill Review: 5/15/15 Related Bills and Key Players: Agency of Natural Resources, Transportation

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

Recommended Position:

☒ x 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.*

This bill makes substantial changes to the Ag water quality sections of title 6 and creates new programs, initiatives and provides for new enforcement authorities for the Agency. The following is a brief list of changes, requirements and dates of implementation:

a) Creation of a Small Farm Certification Program. This program will require Small Farms; as defined by the Secretary to self certify as to compliance with the Required Agricultural Practices. The identification of those entities that will be required to self certify will be established within the Required Agricultural Practices rules. The self certification process, inspection process and process for prioritizing farms as to water quality needs will also be established within the RAP rules. Fees associated with self certification are referenced in Section 4803 which establishes the Ag water quality special fund. In 4803(a) it is stated that "Fees collected under this chapter, including fees for permits or certifications issued under the chapter, shall be deposited in the fund." Actual fees for small farm certifications will have to be proposed in the next fee bill. It was the general intent of the house ag committee that these fees be graduated or tiered in some fashion in order to reflect on the impact to farm income. The language of the bill does not specifically state that small farms certifying shall pay a fee. The bill allows the Secretary to waive certification requirements for farms deemed not to cause a water quality threat. The bill also allows the Secretary to specify those farms that are required to comply with the certification requirements based on the farms potential impacts. These rules will be a re-draft of the existing Accepted Agricultural Practices rules and are required to be finished by 7/1/16.

b) Amending Accepted Agricultural Practices rules. As noted above, the bill requires the Agency to amend the existing AAPs (which will now be called RAPs) by 7/1/16. Many specific changes are required in the bill the largest of which are the creation of the Small Farm Certification Program, training program requirements for all farms and a certification program requirement for custom manure applicators. Other required changes of note are requirements for livestock exclusion from surface water, cover crop requirements, site specific buffer standards, and requirements for nutrient management planning. In addition, the Agency will be required to adopt standards for the management of tile drainage water in 2018 after providing the legislature a report on this issue in January 2017.

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c) Fees for the support of Ag water quality efforts: The following fees have been approved in order to provide support for the requirements of this bill:

Large farm permit fee: \$2,500/year

Medium farm permit fee: \$1,500/year

Pesticide registration fee increase from \$110/product/year to \$125/product/year.

Non agricultural fertilizer tonnage fee increase from \$0.25 per ton to \$30.25 per ton.

These fees will support the addition of 8 positions within the Agency of Agriculture needed to accomplish the goals of H35.

d) In addition to re-drafting the AAP rules the Agency will be required to re-draft the Memorandum of Understanding with the Department of Environmental Conservation relating to program implementation, basin planning and enforcement. This will also be due on 7/1/16. Prior to the completion of the MOU the legislature has required that both Agencies develop 3 measures of program accomplishment for the programs established in H35 and provide a report by January 2016. Annual reporting of these measures will then be required. The measures will be required to be incorporated into the MOU as well.

e) Enforcement Provisions: Numerous changes have been made to Title 6, Chapter 215 enforcement provisions in this bill. The following are the major changes:

- provides the Secretary authority to issue emergency orders
- provides the Secretary authority to require corrective actions
- provides the Secretary authority to require animal removal when waste generated exceeds the facilities capabilities to manage it
- provides for civil penalty authority
- provides ANR authority to enforce water quality provisions of Title 6 upon referral from the Secretary
- provides authority for Tax Dept to remove parcels from use value program upon notification from the Secretary of farms not in compliance with the requirements of Chapter 215.

2. Is there a need for this bill? Yes; in order to reduce agricultural pollutants entering Vermont waters and to improve water quality in Vermont waters.

3. What are likely to be the fiscal and programmatic implications of this bill for this Department?

The addition of 8 positions to the Agency and their associated operational costs is substantial. The Agency believes that \$1,000,000 per year will be needed to support these positions alone. Further funding will be needed over time to support program implementation as needed.

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 will be significant implications for ANR and Transportation.

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)*

6. Other Stakeholders:

6.1 Who else is likely to support the proposal and why? Farm entities and partner organizations

6.2 Who else is likely to oppose the proposal and why? None known.

7. Rationale for recommendation: *Justify recommendation stated above.*

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Provides clarity for those seeking financial assistance that they must be in good standing. Provides cost share opportunity for high risk fields so that they can be better managed.

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.*

9. Gubernatorial appointments to board or commission?

Secretary/Commissioner has reviewed this document:



Date:

5-21-15