

No. 173. An act relating to surface water diversions and financial surety requirements for holding tanks.

(H.833)

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. SURFACE WATER DIVERSIONS AND TRANSFERS STUDY

GROUP; REPORT

(a) Creation. The Secretary of Natural Resources (Secretary) shall convene a Surface Water Diversions and Transfers Study Group to investigate and make recommendations to the General Assembly regarding the environmental, economic, and recreational impacts of surface water diversions, including the transfer of surface water between watersheds.

(b) Membership. The Surface Water Diversions and Transfers Study Group shall be composed of the following members:

(1) the Secretary of Natural Resources or designee;

(2) the Secretary of Agriculture, Food and Markets or designee;

(3) one member of the Senate Committee on Natural Resources and Energy, appointed by the Committee on Committees;

(4) one member of the House Committee on Natural Resources, Fish, and Wildlife, appointed by the Speaker of the House;

(5) two persons representing businesses or industries reliant on large quantities of surface water, appointed by the Committee on Committees;

(6) two persons representing nonprofit environmental advocacy groups, appointed by the Speaker of the House;

(7) one hydrologist, appointed by the Secretary; and

(8) one person representing an agriculture or forest products business conducted on working lands, appointed by the Secretary of Agriculture, Food and Markets.

(c) Duties. The Surface Water Diversions and Transfers Study Group shall:

(1) develop a baseline inventory of the current and projected quantity, location, and usage of diversions and transfers of surface water in Vermont;

(2) recommend whether or not surface water transfers between watersheds should occur;

(3) identify whether the State of Vermont should develop and implement a statewide permitting or other regulatory regime for diversions or other transfers of surface water, including:

(A) the scale or size of a watershed subject to regulation;

(B) how a permitting program would comply with the Vermont water quality standards;

(C) how or if the permitting program should address the impact of a diversion on groundwater; and

(D) how to address reducing the demands for water through water recycling, reuse, and efficiency measures;

(4) analyze potentially viable regimes to address the use of surface water in Vermont;

(5) if necessary, propose legislative changes to implement the recommendations of the Study Group; and

(6) if necessary, identify any water quality rules, policies, or procedures that may require updating to implement the recommendations of the Study Group.

(d) Assistance. The Surface Water Diversions and Transfers Study Group shall have the administrative, technical, and legal assistance of the Agency of Natural Resources and shall have the legal and drafting assistance of the Office of Legislative Council.

(e) Report. On or before December 15, 2021, the Surface Water Diversions and Transfers Study Group shall submit a written report to the House Committee on Natural Resources, Fish, and Wildlife and the Senate Committee on Natural Resources and Energy providing its findings and recommendations under subsection (c) of this section.

(f) Meetings.

(1) The Secretary of Natural Resources shall call the first meeting of the Surface Water Diversions and Transfers Study Group.

(2) The Secretary of Natural Resources or designee shall be the chair of the Surface Water Diversions and Transfers Study Group.

(3) A majority of the membership of the Surface Water Diversions and Transfers Study Group shall constitute a quorum.

(4) The Surface Water Diversions and Transfers Study Group shall cease to exist on February 1, 2022.

(g) Compensation and reimbursement.

(1) For attendance at meetings during adjournment of the General Assembly, a legislative member of the Surface Water Diversions and Transfers Study Group serving in his or her capacity as a legislator shall be entitled to per diem compensation and reimbursement of expenses pursuant to 2 V.S.A. § 406 for not more than six meetings. These payments shall be made from monies appropriated to the General Assembly.

(2) Other members of the Surface Water Diversions and Transfers Study Group shall be entitled to per diem compensation and reimbursement of expenses as permitted under 32 V.S.A. § 1010 for not more than six meetings. These payments shall be made from monies appropriated to the Agency of Natural Resources.

Sec. 2. 10 V.S.A. § 1979(b) is amended to read:

(b)(1) The Secretary shall approve the use of sewage holding and pumpout tanks for existing or proposed buildings or structures that are owned by a charitable, religious, or nonprofit organization when he or she determines that:

(A) the plan for construction and operation of the holding tank will not result in a public health hazard or environmental damage;

(B) a designer demonstrates that an economically feasible means of meeting current standards is significantly more costly than the construction and

operation of sewage holding and pumpout tanks, based on a projected 20-year life of the project; and

(C) the design flows do not exceed 600 gallons per day or the existing or proposed building or structure shall not be used to host events on more than 28 days in any calendar year.

~~(2) Before constructing a holding tank permitted under this subsection, the applicant shall post a bond or other financial surety sufficient to finance maintenance of the holding tank for the life of the system, which shall be at least 20 years. [Repealed.]~~

(3)(A) A permit issued under this subsection shall run with the land for the duration of the permit and shall apply to all subsequent owners of the property being served by the holding tank regardless of whether the owner is a charitable, religious, or nonprofit organization.

~~(B) All permit conditions, including the financial surety requirement of subdivision (2) of this subsection (b), shall apply to a subsequent owner.~~

(C) A subsequent owner shall not increase the design flows of the holding and pumpout tank system without approval from the Secretary.

Sec. 3. EFFECTIVE DATE

This act shall take effect on passage.

Date Governor signed bill: October 8, 2020