HOUSE DOCKET, NO. 801 FILED ON: 1/19/2011

HOUSE . . . . . No. 227

The Commonwealth of Massachusetts

PRESENTED BY:

Bradford Hill

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

An Act establishing a water resources conservation act and efficiency program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Bradford Hill	*4th Essex*

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HOUSE . . . . . No. 227

By Mr. Hill of Ipswich, a petition (accompanied by bill, House, No. 227) of Bradford Hill for legislation to establish a water resources conservation and efficiency program. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *749* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act establishing a water resources conservation act and efficiency program.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

Chapter 21 of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by inserting after Section 17F the following sections:—

Section 17G. The Department of Conservation and Recreation, with assistance and support from the Department of Environmental Protection, is authorized and directed to establish a water conservation and water resources protection program. Said program shall be implemented to increase the efficiency of water use, mitigate the environmental impacts of water withdrawals, assess the effectiveness of various water conservation and water resource protection measures in increasing efficiency of water use, and to identify effective measures to protect and conserve water resources and biological resources throughout the Commonwealth. Said program shall include, but not be limited to:

(1) the establishment and implementation of a program for the installation of water conserving plumbing fixtures in residential, municipal, and state-owned buildings; for conducting water audits of residential, commercial and municipal buildings; for the installation of new, highly accurate water meters in commercial, municipal, and state-owned buildings, and for the development and implementation of landscape practices that eliminate or significantly reduce outdoor water use;

17 (2) technical assistance to municipalities, water districts and water authorities for
18 comprehensive system wide water audits, water use accounting and reporting and intensive leak
19 detection and repair programs;

20 (3) the preparation of model municipal bylaws/ordinances for site development,
21 stormwater management, including stormwater infiltration and recharge, landscape and
22 recreational facility design and irrigation and water conservation;

23 (4) the development of model water conserving rate structures and billing procedures
24 that fully incorporate the cost of producing water and protecting water resources;

25 (5) the development of public education programs, school curricula, and supporting
26 materials relating to water conservation and water resource protection;

27 (6) development of a methodology for estimating long-term water needs that
28 considers the impact of community build-out projections and provides technical assistance to
29 municipalities, water districts, and water authorities in developing water needs estimates; and,

30 (7) directing technical assistance to municipalities, water districts and water
31 authorities in the efficient management, use and protection of water resources consistent with the
32 purpose of this Act.

33 Model bylaws/ordinances, educational materials, technical assistance guidance
34 documents, and other resources generated from said program shall be made available for the
35 benefit of all municipalities of the Commonwealth, water districts, and water authorities.
36 Participation of municipalities, water districts, and water authorities in any or all elements of the
37 program shall be voluntary.

38 All elements of the water conservation and water resource protection program
39 implemented by municipalities and water districts and water authorities shall be assessed as to
40 their effectiveness by the Massachusetts Water Resources Commission, with the assistance of
41 participating municipalities, water districts, water authorities and the Department of
42 Environmental Management, the Department of Environmental Protection, and nongovernmental
43 organizations concerned with water resources. Within five years of the passage of this Act the
44 Water Resources Commission shall file a report with the clerk of the House and Senate
45 identifying the success or failure of all measures developed and implemented under said
46 program. Said report shall include recommendations for implementation of water conservation
47 and water resource protection measures throughout the Commonwealth and an estimate of the
48 funding necessary to implement such measures.

49 Section 17H. A sum of $150,000 is hereby provided to the Water Resources Research
50 Center of the University of Massachusetts to conduct a study and prepare a report on the laws,
51 regulations, and policies of the Commonwealth dealing with water conservation, water resource

52 protection, drought preparedness, and instream flow. Said report shall identify any
53 inconsistencies or potential inconsistencies of these laws, regulations and policies with the
54 Federal Clean Water Act. Said report shall include recommendations for legislative, regulatory,
55 and policy changes necessary to ensure the preservation of adequate instream flows to protect the
56 native biological communities of the rivers and streams of the Commonwealth and to ensure an
57 adequate supply of water to meet the health, safety and economic needs of the public. Said report
58 shall include recommendations regarding additional water conservation measures needed to
59 improve the efficiency of residential, commercial, industrial, institutional and agricultural water
60 use in the Commonwealth, including, but not limited to, more aggressive leak detection and
61 repair programs, and programs and/or policies to reduce unaccounted for water, including water
62 meter responsibility for water meters, and the need for tax credits or other financial incentives to
63 encourage water conservation.

64 Section 17I. The position of Massachusetts Water Conservation Coordinator is hereby
65 established within the Executive Office of Environmental Affairs. The Commonwealth's Water
66 Conservation Coordinator shall be responsible for assisting municipalities, water districts, and
67 water authorities of the Commonwealth as established by the Water Resources Commission. The
68 state water conservation coordinator shall also be responsible for administering the water
69 conservation and water resources protection program established under Section 17G of this Act.
70 A sum of $500,000, to be provided in annual increments of $100,000 per year for five years,
71 beginning in the year immediately following the passage of this Act, is provided for funding of
72 the Water Conservation Coordinator and work of said office, and for the development and
73 administration of the water conservation and water resources protection program established in
74 Section 17G of this Act, including technical assistance to municipalities and water districts and
75 authorities, development of educational programs, curricula, and materials, development of
76 model bylaws, ordinances and regulations, and to conduct required studies and prepare reports.

77 Section 17J. The Water Resources Research Center of the University of Massachusetts, in
78 consultation with the Department of Environmental Protection, the Department of Environmental
79 Management, the Massachusetts Department of Fisheries, Wildlife and Environmental Law
80 Enforcement, the United States Fish and Wildlife Service, and the United States Geological
81 Survey, is authorized and directed to develop a methodology or methodologies for determining
82 the level of instream flow sufficient to protect aquatic life in Massachusetts rivers and streams
83 and other surface waters. Said methodology or methodologies shall account for natural annual
84 variations in hydrology, including flow, depth, velocity, groundwater interaction and other
85 relevant factors. Upon completion, said methodology or methodologies shall be submitted to the
86 Department of Environmental Protection, the Department of Environmental Management, and
87 the Water Resources Commission as a recommendation for establishing instream flow needs
88 under the Water Management Act (MGL Chapter 21G) and Interbasin Transfer Act (MGL
89 Chapter 21:8D).

90 No later than two years following the passage of this Act, a methodology or
91 methodologies shall be completed and adopted by the water resources commission, pursuant to
92 the administrative procedures act, and a report describing the methodology or methodologies
93 shall be filed with the clerks of the Senate and House of Representatives. A sum of $250,000 is
94 hereby authorized for the development of said methodology or methodologies. Until said
95 methodology or methodologies are completed, all future instream flow decisions pertaining to
96 new or increased water withdrawals or interbasin transfers pursuant to the Water Management
97 Act and its implementing regulations and the Interbasin Transfer Act and its implementing
98 regulations shall consider site specific information, including but not limited to, stream flows and
99 their variability, groundwater levels and interaction with surface water, water velocity, depth,
100 temperature, water chemistry, native biota and habitat suitability. Insofar as site-specific
101 information sufficient to make permitting decisions is unavailable and unobtainable during the
102 permitting period, the stream flow guidelines of the United States Fish and Wildlife Service
103 Interim Regional Policy for New England Stream Flow Recommendations shall be used.

104 Section 17K. Notwithstanding the provisions of any general or special law to the
105 contrary, the water pollution abatement trust established under the provisions of chapter 29C of
106 the general laws is hereby authorized and directed, subject to the appropriation provided herein,
107 to provide grant, loan and financial assistance to eligible borrowers to finance the costs of water
108 conservation projects, or portions thereof, which have been approved by the department of
109 environmental protection. As used in this section, the term “eligible borrower” shall mean
110 municipalities, water districts, and water authorities. As used in this section, the term “water
111 conservation project” shall mean a project of a type or category which the department has
112 determined shall promote water conservation and increased efficiency of water usage, including,
113 but not limited to, the implementation of programs for the replacement of plumbing fixtures not
114 meeting the 1998 federal water efficiency standards as established by the Federal Energy Act of
115 1992; the conducting of water audits by municipalities, water districts, and water authorities to
116 identify opportunities to reduce water use; the installation of new, highly accurate water meters
117 in commercial, municipal, and state-owned buildings; enhanced municipal ownership and
118 maintenance responsibility for water meters; and the planning and design of other eligible water
119 projects that increase water conservation and the efficiency of water usage. The trust shall
120 provide grant, loan and financial assistance to eligible borrowers for each water conservation
121 project or portion thereof authorized by this section in such manner and under such terms and
122 conditions as shall be determined by the board of trustees of a trust up to a maximum amount of
123 $2,000,000 per fiscal year of the commonwealth and up to $10,000,000 in the aggregate.