

**SENATE . . . . . No. 2488**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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An Act relative to water company infrastructure projects.

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

1 SECTION 1. Chapter 165 of the General Laws is hereby amended by inserting after  
2 Section 2B, the following section:-

3 Section 2C. (a) The following words as used in this section shall have the following  
4 meanings, unless otherwise expressly provided or the context otherwise requires:--

5 "Eligible projects", those water company plant projects not previously included in the  
6 water company's rate base in its most recent general rate case and that are intended to improve or  
7 protect the quality and reliability of service to customers, including (1) renewal or replacement  
8 of existing infrastructure, including mains, valves, services, meters and hydrants that have either  
9 reached the end of their useful life, are worn out, are in deteriorated condition, are or will be  
10 contributing to unacceptable levels of unaccounted for water, or are negatively impacting water  
11 quality or reliability of service if not replaced; (2) main cleaning and relining projects; (3)  
12 relocation of facilities as a result of government actions, the capital costs of which are not  
13 otherwise eligible for reimbursement; and (4) purchase of leak detection equipment or  
14 installation of production meters, and pressure reducing valves.

15 "Infrastructure assessment report", a report filed by a water company with the department  
16 that identifies water system infrastructure needs and the company's criteria for determining the  
17 priority for eligible projects related to infrastructure.

18 "Pretax return", the revenue necessary, after deduction of depreciation and property taxes,  
19 to produce net operating income equal to the water company's weighted cost of capital as  
20 approved by the department in the company's most recent general rate case multiplied by the new  
21 original cost of eligible projects.

22 "Reconciliation adjustment", the difference between revenues actually collected through  
23 the water infrastructure and conservation adjustment and the amount allowed under the WICA  
24 for that period for the eligible projects. The amount of revenues over collected or under collected  
25 through the adjustment will be recovered or refunded, as appropriate, as a reconciliation  
26 adjustment over a one-year period commencing on April first.

27 "Water infrastructure and conservation adjustment", an adjustment applied as a charge or  
28 credit to a company's rates to recover the depreciation and property tax expenses and associated  
29 return on completed eligible projects.

30 "Water infrastructure and conservation adjustment revenues", the revenues provided  
31 through a water infrastructure and conservation adjustment for eligible projects.

32 (b) The department may authorize a company to use a rate adjustment mechanism, such  
33 as a water infrastructure and conservation adjustment, for eligible projects completed and in  
34 service for the benefit of the customers. A company may only charge customers such an  
35 adjustment to the extent allowed by the department based on a company's infrastructure  
36 assessment report, as approved by the department and upon semiannual filings by the company

37 which reflects plant additions consistent with such report. The department shall conduct the  
38 proceeding in accordance with the provisions of section 94 of chapter 164.

39 (c) The department shall promulgate rules and regulations to establish guidelines for  
40 infrastructure assessment reports and annual reconciliation reports and the criteria for  
41 determining priority of eligible projects. Criteria may include but not be limited to, the  
42 following:

43 age, material or condition of the facilities;

44 extent and frequency of main breaks or interruption of service;

45 adequacy of pressure;

46 head loss;

47 availability of fire flows; and

48 the potential of such projects to improve system integrity and reliability.

49 (d) The company shall file their individual infrastructure assessment report with the  
50 department and such report shall identify the water system infrastructure needs and a company's  
51 criteria for determining priority for eligible projects related to infrastructure.

52 (e) The department may approve a company's individual infrastructure assessment report  
53 upon determining that the company has demonstrated through generally accepted engineering  
54 practices that:

55 the infrastructure projects considered for renewal or replacement are eligible projects;

56 such projects will benefit customers by improving water quality, system integrity or  
57 service reliability;

58 they adhere to the criteria established for determining priority for infrastructure projects;  
59 and

60 there is a sufficient level of investment in infrastructure.

61 (f) Upon department approval of a company's individual infrastructure assessment report,  
62 the company may charge the water infrastructure and conservation adjustment for eligible  
63 projects in addition to such company's existing rate schedule pursuant to subsection (g) of this  
64 section and the procedures and customer notification requirements in subsections (h) and (i) of  
65 this section.

66 (g) The water infrastructure and conservation adjustment shall be calculated as a  
67 percentage, based on the original cost of completed eligible projects multiplied by the applicable  
68 rate of return, plus associated depreciation and property tax expenses related to eligible projects  
69 and any reconciliation adjustment calculated pursuant to subsection (k) of this section as a  
70 percentage of the retail water revenues approved in its most recent rate filing for the regulated  
71 activities of said company.

72 (h) A company may impose the water infrastructure and conservation adjustment for  
73 eligible projects as a charge or credit on customers' bills at intervals of not less than 6 months,  
74 commencing on January 1, April 1, July 1 or October 1 in any year. No proposed water  
75 infrastructure and conservation adjustment charge or credit shall become effective until the  
76 department has approved such charges or credits.

77 (i) Companies shall notify customers through a bill insert or other direct communications  
78 when the adjustment is first applied and the water infrastructure and conservation adjustment  
79 charge or credit shall appear as a separate item on customers' bills.

80 (j) The amount of the water infrastructure and conservation adjustment applied between  
81 general rate case filings shall not exceed 7½ per cent of the company's annual retail water  
82 revenues approved in its most recent rate filing, and shall not exceed 5 per cent of such revenues  
83 for any 12-month period. The amount of the adjustment shall be reset to zero as of the effective  
84 date of new base rates approved pursuant to section 94 of chapter 164 and shall be reset to zero if  
85 the company exceeds the allowable rate of return by more than 100 basis points for any calendar  
86 year.

87 (k) On or before February 28 of each year, a company shall submit to the department an  
88 annual reconciliation report for any water infrastructure and conservation adjustment charges  
89 applied to customers' rates through December 31 of the previous calendar year. Such  
90 reconciliation report shall identify those projects that have been completed, demonstrate that the  
91 water infrastructure and conservation adjustment charges are limited to eligible projects that are  
92 in service and used and useful as of the end of the calendar year, and include any other  
93 information required as a result of the generic docket conducted pursuant to subsection (b) of this  
94 section. The company shall indicate in its report any significant changes in the extent of  
95 infrastructure spending, the priorities for determining eligible projects or the criteria established  
96 in the infrastructure assessment report.

97 In addition, the reconciliation report shall compare the water infrastructure and  
98 conservation adjustment revenues actually collected to the allowed amount of the adjustment. If

99 upon completion of the review of the annual reconciliation report the department determines that  
100 a company over collected or under collected the water infrastructure and conservation  
101 adjustment, the difference between the revenue and costs for eligible projects will be recovered  
102 or refunded, as appropriate, as a reconciliation adjustment over a 1-year period commencing on  
103 April 1. The company shall refund the customers with interest for any over collection but shall  
104 not be eligible for interest for any under collection.