

**SENATE . . . . . No. 786**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act to assist public water suppliers and to safeguard adequate water supplies..

*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. Section 16 of Chapter 21 of the General Laws, as appearing in the 2006  
2 official edition, is hereby amended by striking the phrase following the words "appropriate local  
3 authority" in its entirety and replacing with the following phrase:- in any city, town or water  
4 district from requiring any person engaged in the digging or drilling of private wells, or any  
5 person operating such wells, to obtain a site permit and abide by other restrictions on the  
6 operation of such wells in accordance with terms and conditions which ensure health, safety and  
7 protection of the public water supply, wetlands, waterways and aquatic life, and said city or town  
8 may charge said person a reasonable fee for said site permit as determined by the city or town.

9 SECTION 2. Section 39J of Chapter 40 of the General Laws, as appearing in 2006  
10 official edition, is hereby amended by inserting after the words "all related costs of police and  
11 fire protection," in line 15, the following words:- "all costs or measures to ensure the long-term  
12 sustainability of the water supply,".

13 SECTION 3. Chapter 40 of the General Laws, as appearing in the 2006 official edition,  
14 is hereby amended by inserting after section 39L the following new section: Section 39M

15           Section 39M. Establishment of Sustainable Water Resource Fund.

16           Notwithstanding any general or special law to the contrary, a city, town, board of water  
17 commissioners, officers performing like duties, or water district having a water supply or water  
18 distribution system may collect a reasonable fee to be used exclusively to remedy and offset the  
19 impacts of water withdrawals and other activities that deplete streamflow or impair recharge to  
20 ground waters, and to sustain the quantity, quality and ecological integrity of waters of the  
21 commonwealth. Such measures for water return or preventing water loss include without  
22 limitation, local recharge of stormwater and wastewater, reuse of water, removal of infiltration  
23 and inflow, and water savings achieved by retrofitting existing development with low impact  
24 development methods or water-saving devices. The fee, which may be based on retaining within  
25 the basin or saving at least two gallons for every gallon of new water demand, shall be assessed  
26 in a fair and equitable manner, and separate uniform fees may be established for residential and  
27 commercial uses. All such fees shall be deposited in a separate account classified as a  
28 "Sustainable Water Resource Fund." This Fund shall not be used for any purpose not provided in  
29 this section.

30           SECTION 4. Section 39K of Chapter 40 of the General Laws, as appearing in the 2006  
31 official edition, is hereby amended by striking subsection (a) in its entirety and replacing it with  
32 the following:

33           Section 39K. (a) Any city or town which accepts the provisions of this section either by a  
34 majority vote of the city or town council, or by majority vote at an annual town meeting, may  
35 establish a drinking water protection district to include all or part of said city or town, or in  
36 conjunction with at least one other city or town sharing a common drinking water resource,

37 including but not limited to an aquifer, a recharge area or a watershed. Said drinking water  
38 protection district shall be for the purposes of water conservation, resource management and  
39 protection, and resource planning of drinking water supplies in said district including, but not  
40 limited to, public wells, private wells, and reservoirs, watersheds and aquifers which may be  
41 located in more than one such city or town.

42 The drinking water protection commission shall be composed of two members from each  
43 municipality in said drinking water protection district to be appointed by the mayor of a city or  
44 the board of selectmen of a town for a term of three years.

45 Each city or town in said drinking water protection district shall adopt a pricing system  
46 which charges all users of public or private water supplies within said city, town or water supply  
47 district for protection of water resources. Said pricing system shall not impose a charge in excess  
48 of ten percent of the annual cost of water as charged by metered service or fixed rate. If service is  
49 without meters or if the water supply is private, a flat fee may be charged; provided, however,  
50 that such flat fee shall not exceed ten percent of the average annualized residential or commercial  
51 metered use whichever is applicable in such city or town; and provided, further, that in a city or  
52 town without a public water system a flat fee to be established by a majority vote of an annual  
53 town meeting, town council or city council, whichever is applicable shall be charged.

54 Such charges or fees collected under the provisions of this section shall be forwarded to  
55 the drinking water protection commission which shall deposit the same in the Drinking Water  
56 Protection Fund established under subsection (b).

57 SECTION 5. Section 39K of said Chapter 40 of the General Laws, as appearing in the  
58 2006 official edition, is further amended by adding, in subsection (c) following line 178, the

59 following:- (9) restrict the siting, establishment and/or operation of private wells located within  
60 the drinking water protection district where any such well may adversely affect any public water  
61 supplier's ability to provide sufficient water supply to meet the essential potable or fire  
62 protection needs of its service population.