

**HOUSE . . . . . No. 4229**

Text of the House amendment of the Senate Bill improving drinking water and wastewater infrastructure (Senate, No. 2021, amended) [being the text of House document numbered 4212, as amended by the House]. June 25, 2014.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Fourteen**

*By striking out all after the enacting clause and inserting in place thereof the following:*

1           “SECTION 1. To provide for certain unanticipated obligations of the commonwealth and  
2 to meet certain requirements of law for fiscal year 2014 the sum set forth in section 2A is hereby  
3 appropriated from the General Fund, for the several purposes and subject to the conditions  
4 specified in said section 2A, subject to laws regulating the disbursement of public funds.

5           SECTION 2A.

6           EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

7           Department of Environmental Protection

8           2200-0135 For planning or technical assistance grants under section 31 of Chapter 21 of  
9 the General Laws: provided, that funds may be expended through June 30, 2015; provided  
10 further, that the department shall develop a watershed permitting approach, to address and  
11 optimize nitrogen management measures intended to restore water quality to meet applicable  
12 water quality standards, in watersheds included in an approved area wide nitrogen management  
13 plan developed pursuant to section 208 of the federal Clean Water Act; and shall report to the  
14 joint committee on environment, natural resources and agriculture by March 1, 2015 on any  
15 statutory changes it deems necessary to fully implement said watershed permitting  
16 approach.....\$3,000,0002200-0136 For a Massachusetts water technology innovation grant  
17 program administered by the Massachusetts clean energy center; provided, that grants shall be  
18 awarded to promote the water technology industry in the commonwealth; and provided further,  
19 programs and projects eligible for the grant program shall include, but not be limited to: 1)  
20 programs that support the development of pilot and demonstration projects designed to advance  
21 the commercialization of promising water technologies; 2) projects that support the creation of  
22 testing facilities for the advancement of water technology; 3) financial supports for the  
23 development and application of water-related technologies, including research and

24 commercialization activities; and 4) other programs that foster international partnerships,  
25 establish conferences, or otherwise encourage water technology innovation in the  
26 commonwealth.....\$1,500,000

27 SECTION 3. Section 26A of chapter 21 of the General Laws, as appearing in the 2012  
28 Official Edition, is hereby amended by inserting after the definition of ‘FWPCA’ the following 2  
29 definitions:-

30 ‘Green infrastructure’, practices involving the management of water, stormwater and  
31 wastewater to achieve water quality mandates set forth in the federal Clean Water Act; practices  
32 designed using natural or engineered techniques to capture, remove or prevent nutrient, nitrogen  
33 and phosphorous loading to any part of a water system including groundwater deposits and  
34 discharges to surface waters from septic systems, wastewater treatment facilities and stormwater  
35 runoff.

36 ‘Green infrastructure projects’, projects which include, but shall not be limited to:  
37 decentralized wastewater systems that infiltrate treated water; water reuse for other beneficial  
38 purposes; low impact development projects; the conservation, enhancement and restoration of  
39 natural landscape features that naturally filter and remove silt and pollution from surface waters,  
40 maintain or restore natural hydrologic cycles, minimize imperviousness in a watershed through  
41 preservation and restoration of natural landscape buffers such as forests, floodplains, wetlands  
42 and other natural systems and restoration of natural stream channels; land acquisition and  
43 restoration projects that protect and filter drinking water supplies and buffer reservoirs; and the  
44 mitigation of risks of flooding and erosion using the restoration of saltmarsh, oyster reefs and  
45 eelgrass beds from sea-level rise, storm surges and extreme weather events, including the  
46 protection and restoration of natural coastal landscapes and features; provided, that green  
47 infrastructure projects may be stand-alone and shall also be used to complement built water  
48 management infrastructure technologies such as pipes, dikes and treatment facilities; and  
49 provided further, that green infrastructure projects may include innovative technologies that  
50 further the mandates under the federal Clean Water Act.

51 SECTION 4. Section 27A of said chapter 21, as so appearing, is hereby amended by  
52 striking out, in lines 2 and 3, the words ‘water pollution abatement trust’ and inserting in place  
53 thereof the following words:- Massachusetts Clean Water Trust.

54 SECTION 5. Said section 27A of said chapter 21 is hereby further amended by striking  
55 out, in lines 10 and 12, the words ‘or section 6A’ each time they appear.

56 SECTION 6. Section 31 of said chapter 21, as so appearing, is hereby amended by  
57 striking out the first sentence and inserting in place thereof the following sentence:-

58 A public entity, including regional planning agencies, may apply to the division for a  
59 planning or a technical assistance grant by the commonwealth for the following purposes:

60 assisting a public entity in developing a comprehensive water pollution abatement plan for the  
61 public entity; assisting a public entity in developing an integrated water asset management plan  
62 for the public entity; or assisting a public entity identify and plan for green infrastructure  
63 opportunities for the public entity.

64 SECTION 7. Said section 31 of said chapter 21 is hereby further amended by striking  
65 out, in line 5, the word 'fifteen' and inserting in place thereof the following figure:- 30.

66 SECTION 8. Said section 31 of said chapter 21 is hereby further amended by inserting  
67 after the word 'Planning', in line 12, the following words:- or technical assistance.

68 SECTION 9. Said chapter 21 is hereby further amended by inserting after section 31 the  
69 following section:-

70 Section 31A. Subject to appropriation, the department of environmental protection shall  
71 administer a matching grant program for communities who desire to join the Massachusetts  
72 Water Resources Authority or any other regional system for wastewater, drinking water or for  
73 both wastewater and drinking water. Each grant shall match, on a 1:1 basis, money committed by  
74 a local government unit or a regional local governmental unit, as defined in section 1 of chapter  
75 29C, to pay the entry fee established by the Massachusetts Water Resources Authority under  
76 section 8 of chapter 372 of the acts of 1984, or other fees required to join a regional system. The  
77 department shall award grants only to a local governmental unit or regional local governmental  
78 unit that satisfies the department that it has committed funds to join said Authority or regional  
79 system. Should the local governmental unit or regional local governmental unit fail to join said  
80 Authority or regional system after receiving a grant under this section, the local governmental  
81 unit or regional local governmental unit shall return money granted under this section to the  
82 department.

83 For the purpose of this section, the term 'regional system' shall include any system  
84 established by mutual agreement of 3 or more municipalities or by a county where all  
85 municipalities of said county have an agreement to provide drinking water or wastewater  
86 services, or both, through shared facilities, sources or distribution networks.

87 SECTION 10. Section 38 of said chapter 21, as so appearing, is hereby amended by  
88 inserting after the word 'control', in line 4, the following words:- , innovative water  
89 technologies, green infrastructure.

90 SECTION 11. Section 2L of chapter 29 of the General Laws, as so appearing, is hereby  
91 amended by striking out, in line 5, the words 'water pollution abatement trust' and inserting in  
92 place thereof the following words:- Massachusetts Clean Water Trust.

93 SECTION 12. Section 2QQ of said chapter 29, as so appearing, is hereby amended by  
94 striking out, in line 5, the words ‘water pollution abatement trust’ and inserting in place thereof  
95 the following words:- Massachusetts Clean Water Trust.

96 SECTION 13. Said chapter 29 is hereby further amended by inserting after section  
97 2KKKK the following section:-

98 Section 2LLLL. There shall be established and set up on the books of the commonwealth  
99 a separate fund to be known as the Regional Water Entity Reimbursement Fund, in this section  
100 called the fund. The fund shall be administered by the state treasurer and shall be funded by the  
101 commonwealth, by and through the state treasurer and subject to appropriation, to reimburse the  
102 Massachusetts Water Resources Authority for its costs: in providing cities and towns, within its  
103 sewer service area, financial assistance in the form of interest free grants and loans to rehabilitate  
104 collection systems in cities and towns; and to structurally reduce infiltration and inflow into the  
105 tributary to the treatment facilities owned by the authority. Such reimbursement shall be in  
106 addition to the contract assistance amounts in section 6 of chapter 29C, subject to the limit set  
107 forth in said chapter 29C, but shall not be greater than 10 per cent of the maximum amount set  
108 forth in said chapter 29C.

109 SECTION 14. Chapter 29C of the General Laws, as appearing in the 2012 Official  
110 Edition, is hereby amended by striking out the title and inserting in place thereof the following  
111 title:- MASSACHUSETTS CLEAN WATER TRUST.

112 SECTION 15. Section 1 of said chapter 29C, as so appearing, is hereby amended by  
113 striking out, in line 3, the words ‘water pollution abatement trust’ and inserting in place thereof  
114 the following words:- Massachusetts Clean Water Trust.

115 SECTION 16. Said section 1 of said chapter 29C, as so appearing, is hereby further  
116 amended by inserting after the definition of ‘Bonds’ the following definition:-

117 ‘Committed contract assistance’, in any year, the sum of: (i) the amount of contract  
118 assistance that the commonwealth has committed to provide during the year with respect to  
119 bonds of the trust issued, subsidy funds established and all other board-approved financial  
120 assistance established or committed prior to such year; and (ii) the amount of contract assistance  
121 that the board determines will be required to be committed during the year in order to provide  
122 subsidies or other financial assistance, including, without limitation, with respect to bonds of the  
123 trust expected to be issued in such year.

124 SECTION 17. Said section 1 of said chapter 29C, as so appearing, is hereby further  
125 amended by striking out the definition of ‘Trust’ and inserting in place thereof the following  
126 definition:-

127 'Trust', the Massachusetts Clean Water Trust; provided, however, that the Massachusetts  
128 Clean Water Trust shall be the successor to the water pollution abatement trust.

129 SECTION 18. Section 2 of said chapter 29C, as so appearing, is hereby amended by  
130 striking out, in lines 5 and 6, the words 'water pollution abatement trust' and inserting in place  
131 thereof the following words:- Massachusetts Clean Water Trust.

132 SECTION 19. Said chapter 29C is hereby further amended by striking out section 6, as so  
133 appearing, and inserting in place thereof the following section:-

134 Section 6. (a) Subject to limitations in other laws respecting the use of particular monies  
135 in the fund and any trust agreement for bonds of the trust, the board may also apply and disburse  
136 monies and revenues in the fund or segregated accounts therein: (i) after taking account of any  
137 grant made by the department under section 33E of chapter 21 to provide, and enter into binding  
138 commitments to provide, a subsidy for, or to otherwise assist local governmental units in the  
139 payment of, debt service costs on loans and other forms of financial assistance made by the trust;  
140 and (ii) to provide reserves for, or to otherwise secure, amounts payable by local governmental  
141 units on loans and other forms of financial assistance made by the trust under this chapter.

142 (b) The board shall apply and disburse monies in the fund and in the Drinking Water  
143 Revolving Fund, established under section 18, as applicable, including contract assistance  
144 provided in this section, or shall otherwise structure the debt service costs on loans and other  
145 forms of financial assistance made by the trust to provide a subsidy or other assistance to local  
146 governmental units or other eligible borrowers in the payment of debt service costs on such loans  
147 and other forms of financial assistance that shall be the financial equivalent of a loan made at an  
148 interest rate equal to 2 per cent. Notwithstanding the foregoing, but subject to the limit on  
149 contract assistance provided in this section and the availability thereof after taking into account  
150 committed contract assistance, the board may commit such available contract assistance to  
151 provide additional financial assistance to local governmental units or other eligible borrowers  
152 that shall be the financial equivalent of a loan made at an interest rate less than 2 per cent and  
153 which additional subsidy may include principal forgiveness; provided, that principal forgiveness  
154 committed under this section in any year shall not exceed 25 per cent of the total costs of all  
155 projects on that year's applicable clean water or drinking water intended use plan; and provided  
156 further, that a loan or other form of financial assistance that qualifies for an additional subsidy  
157 shall receive such additional subsidy in the amount and at a rate as determined by the board,  
158 which shall not exceed the financial equivalent of a 75 per cent subsidy as compared to a market  
159 rate loan as calculated at the time of board approval of such loan or other form of financial  
160 assistance.

161 (c) The department of environmental protection shall promulgate regulations, under  
162 section 7 establishing the types of eligible projects and criteria that the department shall use to  
163 evaluate applications for additional subsidies equivalent to a loan made at an interest rate of less

164 than 2 per cent. The additional subsidies shall be made available to eligible projects appearing on  
165 the department's intended use plan the year following the release of regulations by the  
166 department and subsequent years. The criteria shall be reflective of the board's current priorities  
167 and of best management practices and sustainability criteria as determined by the Environmental  
168 Protection Agency as required by the Water Resources Reform and Development Act of 2014.  
169 Notwithstanding the foregoing regulations, all permanent loans and other forms of financial  
170 assistance made by the trust, which finance the costs of certain water pollution abatement  
171 projects on the department's intended use plan for calendar year 2009 to calendar year 2069,  
172 inclusive, and meet the criteria listed below, shall provide for an additional subsidy or other  
173 assistance in the payment of debt service such that the loans and other forms of financial  
174 assistance shall be the financial equivalent of a loan made at a 0 per cent rate of interest;  
175 provided, that the costs of water pollution abatement projects on an intended use plan that are  
176 eligible for a permanent loan or other financial assistance from the trust at the financial  
177 equivalent of a loan made at a 0 per cent rate of interest shall not exceed 35 per cent of the total  
178 costs of all water pollution abatement projects on the intended use plan.

179 (d) Projects shall be eligible for 0 per cent rate of interest loans if the department verifies  
180 that:

181 (1) the project is primarily intended to remediate or prevent nutrient enrichment of a  
182 surface water body or a source of water supply;

183 (2) the applicant is not currently, due to a violation of a nutrient-related total maximum  
184 daily load standard or other nutrient based standard, subject to a department enforcement order,  
185 administrative consent order or unilateral administrative order, enforcement action by the United  
186 States Environmental Protection Agency or subject to a state or federal court order relative to the  
187 proposed project;

188 (3) the applicant has a Comprehensive Wastewater Management Plan approved by the  
189 Department of Environmental Protection or the Department of Environmental Protection  
190 determines that the project is consistent with an areawide waste management plan approved  
191 under section 208 of the Federal Clean Water Act; (4) the project has been deemed consistent  
192 with the regional water resources management plans if one exists; and

193 (5) the applicant has adopted land use controls, subject to the review and approval of the  
194 department in consultation with the executive office of housing and economic development and,  
195 where applicable, any regional land use regulatory entity, intended to limit wastewater flows to  
196 the amount authorized under zoning and wastewater regulations as of the date of the approval of  
197 the CWMP; or

198 (6) Currently is a party in an interbasin water transfer program and is a net recipient of  
199 water.

200 (e) The department shall promulgate regulations under section 7 establishing the types of  
201 eligible projects and criteria that the department shall use to evaluate applications for additional  
202 financial assistance, including principal forgiveness and additional financial incentives,  
203 consistent with the sustainability criteria as determined by the Environmental Protection Agency  
204 as required by the Water Resources Reform and Development Act of 2014. The financial  
205 assistance and financial incentives provided under these regulations shall be made available to  
206 projects appearing in the department's intended use plan the year following the release of the  
207 regulations and subsequent years. Projects shall qualify by incorporating any 1 of the criteria  
208 developed by the department.

209 (f) To provide the subsidy or assistance the state treasurer, acting on behalf of the  
210 commonwealth, shall enter into an agreement with the trust. Under the agreement, the  
211 commonwealth shall provide contract assistance for debt service obligations on loans and other  
212 forms of financial assistance made by the trust, up to a maximum amount of \$138,000,000 per  
213 fiscal year. The agreement shall provide for payments by the commonwealth to the trust at such  
214 times during each fiscal year and upon such terms and under such conditions as the trust may  
215 stipulate. The trust may pledge such agreement and the rights of the trust to receive amounts  
216 thereunder as security for the payment of debt obligations issued to the trust. Such agreement  
217 shall constitute a general obligation of the commonwealth, for which the faith and credit of the  
218 commonwealth shall be pledged for the benefit of the trust and of the holders of any debt  
219 obligations of the trust which may be secured by the pledge of such agreement or of amounts to  
220 be received by the trust under such agreement.

221 (g) Each year, the trust shall commit contract assistance for debt service obligations on  
222 loans and other forms of financial assistance made by the trust in an amount that is at least 80 per  
223 cent of the limit set forth in subsection (f). If, in any year, the trust is unable to satisfy the 80 per  
224 cent threshold, the trust shall file a written report with the office of the state treasurer, the  
225 department, the chairs of the house and senate committees on ways and means and the house and  
226 senate chairs of the joint committee on the environment, natural resources and agriculture, not  
227 later than January 1 of that fiscal year, explaining the reasons why the 80 per cent threshold will  
228 not be satisfied in that year.

229 (h) With respect to projects appearing on the department's intended use plan for calendar  
230 year 2016 and subsequent years: (i) the board shall not commit contract assistance to provide for  
231 the additional subsidy or other form of financial assistance referred to in subsections (c), (d) or  
232 (e) to any local governmental unit unless it has established a sewer enterprise fund or water  
233 enterprise fund, as applicable, under section 53F1/2 of chapter 44, or in lieu of the applicable  
234 enterprise fund has established a separate restricted account that is the equivalent of such fund;  
235 and (ii) any local government unit that transfers or otherwise uses money from its enterprise fund  
236 or restricted account for its local governmental operating budget, other than to pay or reimburse,  
237 valid expenses or obligations related to such fund or restricted account, will not be eligible to  
238 seek new commitments of contract assistance to provide for the additional subsidy or other form

239 of financial assistance referred to in subsections (c), (d) or (e) for a period of 5 years following  
240 the date of such transfer or other use; provided however, this clause shall only apply if the  
241 disqualifying event occurred after January 1, 2015. The Mattapoisett River Valley Water  
242 District, as established pursuant to Chapter 367 of the Acts of 2004, shall be an eligible public  
243 entity for financial assistance as provided pursuant to this section and section 6 of this bill;  
244 provided further, that nothing in this bill shall be deemed to limit the present statutory powers  
245 and authority provided to said District.

246 SECTION 20. Section 6A of said chapter 29C is hereby repealed.

247 SECTION 21. Section 18 of said chapter 29C, as appearing in the 2012 Official Edition,  
248 is hereby amended by striking out subsection (g).

249 SECTION 22. Chapter 40 of the General Laws is hereby amended by inserting after  
250 section 39L the following section:-

251 Section 39M. (a) Notwithstanding chapter 59 or any other general or special law to the  
252 contrary, any city or town, which accepts this section in accordance with subsection (f), may  
253 impose a water infrastructure surcharge on real property at a rate up to, but not exceeding, 3 per  
254 cent of the real estate tax levy against real property, as determined annually by the board of  
255 assessors. The amount of the surcharge shall not be included in a calculation of total taxes  
256 assessed for purposes of section 21C of said chapter 59.

257 (b) All exemptions and abatement of real property authorized by said chapter 59, or any  
258 other law for which a taxpayer qualifies as eligible, shall not be affected by this section. A  
259 taxpayer receiving an exemption of real property under a clause of section 5 of said chapter 59  
260 specifically listed in section 59 of said chapter 59 shall be exempt from any surcharge on real  
261 property established under this section. The surcharge to be paid by a taxpayer receiving any  
262 other exemption or abatement of tax on real property authorized by said chapter 59 or any other  
263 law shall be reduced in proportion to the amount of such exemption or abatement.

264 (c) Any amount of the surcharge not paid by the due date shall bear interest at the rate per  
265 annum provided in section 57 of said chapter 59.

266 (d) A person claiming an exemption from a surcharge under subsection (b) may apply to  
267 the board of assessors, in writing, on a form approved by the commissioner of revenue, on or  
268 before December 15 of the year to which the tax relates, or 3 months after the date the bill or  
269 notice was sent, whichever is later. Any person aggrieved by a decision of the assessors or by  
270 their failure to act upon such application may appeal, as provided in sections 64 to 65B,  
271 inclusive, of said chapter 59. Applications for exemption under this section shall be open for  
272 inspection only as provided in section 60 of said chapter 59.



273 (e) Notwithstanding section 53 of chapter 44 or any other general or special law to the  
274 contrary, a city or town that accepts this section shall establish a separate account to be known as  
275 the Municipal Water Infrastructure Investment Fund. All monies collected from the surcharge,  
276 under this section, shall be deposited into said fund. The municipal treasurer shall be the  
277 custodian of the fund. The treasurer may invest the monies of the fund in separate accounts in the  
278 manner authorized by sections 55 and 55A of said chapter 44. Any interest earned thereon shall  
279 be credited to and become part of such separate account. The authority to approve expenditures  
280 from the fund shall be limited to the local legislative body and the municipal treasurer shall pay  
281 such expenses in accordance with chapter 41. The expenditures of revenues from the fund shall  
282 be exclusively used for maintenance, improvements and investments to municipal drinking,  
283 wastewater and stormwater infrastructure assets.

284 (f) This section shall only take effect in a city or town upon the approval of the legislative  
285 body and the acceptance of the voters of a city or town on a ballot question at the next regular  
286 municipal or state election; provided, however, that this section shall take effect on July 1 of the  
287 fiscal year after such acceptance or a later fiscal year as the city or town may designate.

288 (g) Upon acceptance of this section and upon the assessors' warrant to the tax collector,  
289 the accepted surcharge shall be imposed.

290 (h) After receipt of the warrant, the tax collector shall collect the surcharge in the amount  
291 and according to the computation specified in the warrant and shall pay the amounts so collected,  
292 quarterly or semi-annually, according to the schedule for collection of property taxes for the tax  
293 on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books  
294 and accounts to be kept with respect to the surcharge, which shall be subject to public  
295 examination upon reasonable request.

296 (i) The remedies provided by chapter 60 for the collection of taxes upon real estate shall  
297 apply to the surcharge on real property pursuant to this section.

298 (j) A city or town that has accepted this section may revoke its acceptance, or amend the  
299 amount of the surcharge, in the manner outlined in subsection (f); provided, however, that it may  
300 not amend the applicable surcharge rate more often than once in any 12 month period. Any  
301 monies remaining in the fund upon revocation shall be expended in a manner consistent with this  
302 section.

303 SECTION 23. Section 12A of chapter 132A of the General Laws, as appearing in the  
304 2012 Official Edition, is hereby amended by striking out, in line 1 the words 'twelve B to sixteen  
305 E, inclusive, and section eighteen' and inserting in place thereof the following words:- 12B to  
306 16J, inclusive and section 18.

307 SECTION 24. Section 12B of said chapter 132A, as so appearing, is hereby amended by  
308 inserting after the definition of 'Adjudicatory hearing' the following definition: -

309 'Advanced treatment', enhanced physical, chemical or biological treatments that are used  
310 in part to remove nutrients including nitrogen or phosphorus.

311 SECTION 25. Said section 12B of said chapter 132A, as so appearing, is hereby further  
312 amended by striking out, in line 7, the words 'alternative forms' and inserting in place thereof the  
313 following words:- any form.

314 SECTION 26. Said section 12B of said chapter 132A, as so appearing, is hereby further  
315 amended by striking out, in line 8, the word 'variance' and inserting in place thereof the  
316 following words:- new or modified discharge.

317 SECTION 27. Said section 12B of said chapter 132A, as so appearing, is hereby further  
318 amended by inserting after the definition of 'Coastal embayment' the following 2 definitions:-

319 'Comprehensive Wastewater Management Plan' or 'CWMP', a municipal or regional  
320 study, conducted in accordance with appropriate department of environmental protection  
321 guidance, regulations and policies, which evaluates alternatives and recommends an appropriate  
322 implementation strategy to properly manage wastewater in order to provide protection for the  
323 public health and safety and the environment, including, water quality standards and TMDLs, if  
324 any TMDLs exist.

325 'Department', the department of environmental protection.

326 SECTION 28. Said section 12B of said chapter 132A, as so appearing, is hereby further  
327 amended by inserting after the definition of 'Facilities plan' the following 2 definitions:-

328 'Modified discharge', an increase in volume or change in location of an existing  
329 discharge from a publicly owned treatment works or combined sewer system.

330 'New discharge', a discharge from a publicly owned treatment works not approved under  
331 the act prior to February 1, 2014 nor authorized by the appropriate federal and state agencies  
332 prior to February 1, 2014.

333 SECTION 29. Said section 12B of said chapter 132A, as so appearing, is hereby further  
334 amended by striking out the definitions of 'Proposed discharge' and 'Publicly owned treatment  
335 plant' and inserting in place thereof the following 2 definitions:-

336 'Publicly owned treatment works' or 'POTW', a sewage or septage treatment plant  
337 owned by a public entity.

338 'Total maximum daily load' or 'TMDL', the sum of a receiving water's individual waste  
339 load allocations and load allocations and natural background, which, together with a margin of  
340 safety that takes into account any lack of knowledge concerning the relationship between  
341 effluent limitations and water quality, represents the maximum amount of a pollutant that a  
342 waterbody can receive and still meet water quality standards in all seasons.

343 SECTION 30. Section 12C of said chapter 132A, as so appearing, is hereby amended by  
344 striking out, in line 1, the word ‘The’ and inserting in place thereof the words:- Unless otherwise  
345 specified in this chapter, the.

346 SECTION 31. Said section 12C of said chapter 132A, as so appearing, is hereby further  
347 amended by inserting after the word ‘programs’, in line 4, the following words:- and agencies  
348 responsible.

349 SECTION 32. Section 15 of said chapter 132A, as so appearing, is hereby amended by  
350 inserting after the word ‘wastes’, in line 28, the following words:- provided, however, that the  
351 department may approve a new or modified discharge of municipal wastewater from a POTW in  
352 accordance with section 16G;.

353 SECTION 33. Section 16 of said chapter 132A, as so appearing, is hereby amended by  
354 striking out, in lines 21 and 22, 23 and 24 and 27, the words ‘twelve B to sixteen F, inclusive,  
355 and said section eighteen’ each time they appear and inserting in place thereof, in each instance,  
356 the following words:- 12B to 16K, inclusive and section 18.

357 SECTION 34. The second paragraph of said section 16 of said chapter 132A, as so  
358 appearing, is hereby amended by striking out the first sentence and inserting in place thereof the  
359 following sentence:- Notwithstanding any general or special law to the contrary, municipal  
360 wastewater treatment facilities may discharge into the ocean sanctuary if the discharge is  
361 approved under section 16G and approved and licensed by the appropriate federal and state  
362 agencies.

363 SECTION 35. Sections 16A to 16F, inclusive, of said chapter 132A are hereby repealed.

364 SECTION 36. Said chapter 132A is hereby amended by inserting after section 16 the  
365 following 5 sections:-

366 Section 16G. The department may approve a new or modified discharge of wastewater  
367 from a POTW to an ocean sanctuary only when clauses 1 through 10, inclusive, are met.

368 (1) The new or modified discharge shall be consistent with the intent and purpose of the  
369 act. Any discharge shall meet the water quality standards of the receiving water body and the  
370 standards of the act to protect the appearance, ecology and marine resources of the waters of the  
371 sanctuary.

372 (2) The new or modified discharge shall meet the United States Environmental Protection  
373 Agency’s approved TMDL, if any, on the receiving water body.

374 (3) The applicant shall have adopted and implemented a plan approved by the department  
375 requiring the pretreatment of all commercial and industrial wastes discharged to the POTW.

376 (4) The applicant shall have adopted and implemented a program for water conservation  
377 according to the guidelines established by the water resources commission.

378 (5) The applicant shall have adopted and implemented a plan, approved by the  
379 department, to control and minimize inflow and infiltration.

380 (6) The applicant shall have adopted and implemented a plan, approved by the  
381 department, to control any combined sewer overflows.

382 (7) The new or modified discharge shall not significantly affect the quality or quantity of  
383 existing or proposed water supplies by reducing ground or surface water replenishment.

384 (8) The new or modified discharge is consistent with the policies and plans of the  
385 Massachusetts coastal zone management program.

386 (9) The new or modified discharge and treatment plans are consistent with all applicable  
387 federal, state and local laws, ordinances, by-laws, rules and regulations protecting the  
388 environment, including but not limited to, the requirements of chapters 21, 91, 130 and 131.

389 (10) The proposed discharge and outfall structure will not adversely impact marine  
390 fisheries or interfere with fishing grounds or the normal operation of fishing vessels.

391 In addition to meeting the requirements in clauses 1 through 10, inclusive, new  
392 discharges in the Cape and Islands Ocean Sanctuary, the Cape Cod Ocean Sanctuary and the  
393 Cape Cod Bay Ocean Sanctuary shall receive advanced treatment, disinfection and such other  
394 treatment to remove nutrients, pathogens or other pollutants to avoid degradation of the ecology,  
395 appearance and marine resources of the designated sanctuary and to meet water quality standards  
396 and any applicable TMDLs. Chlorinated disinfection shall not occur unless it is followed by  
397 dechlorination prior to discharge.

398 Section 16H. Discharges may occur within estuaries or coastal embayments from  
399 facilities designed to abate existing discharges exclusively from combined sewer overflows,  
400 where such facilities have been approved by the division of water pollution control and where  
401 such existing discharges from combined sewer overflows degrade or threaten to degrade the  
402 designated ocean sanctuary. Nothing in this chapter is intended to alter the effect of the previous  
403 exemptions granted under chapter 120 of the acts of 1981 and chapter 369 of the acts of 1984.

404 The seaward boundary of the Plymouth-Kingston Duxbury coastal embayment shall be a  
405 line between Gurnet Point and Rocky Point; provided, however, that no discharge may be  
406 authorized in a depth of water which at mean low tide is less than 30 feet.

407 Section 16I. An application for a new or modified discharge shall, at a minimum, include:

408 (1) a final CWMP approved by the department and a final environmental impact report  
409 and certificate;

410 (2) an evaluation of the receiving water body, including a benthic survey and fish habitat  
411 evaluation;

412 (3) a minimum of 24 months of baseline nutrient related water quality monitoring;

413 (4) development of a site specific hydrodynamic model illustrating tides, bathymetry,  
414 mixing zones and seasonal variations; and

415 (5) a hydrologic evaluation of the aquifer, including evaluation of the effects of the new  
416 or modified discharge on the recharge of the affected aquifer.

417 Section 16J. Upon receipt of an application for a new or modified discharge, the  
418 department shall provide public notice, an opportunity for comment and shall hold a public  
419 hearing on the application. Individual notice shall be provided to all municipalities bordering the  
420 affected sanctuary. Following the public hearing, the department shall prepare a proposed final  
421 decision and provide public notice of the proposed final decision, including individual notice to  
422 any person commenting on the application and to all municipalities bordering the affected  
423 sanctuary. The proposed final decision shall take effect within 30 days of the public notice unless  
424 any person aggrieved by the decision requests an adjudicatory hearing prior to the expiration of  
425 the 30 days. Following an adjudicatory hearing, the commissioner of environmental protection  
426 shall make the final decision and provide notice to all parties. The final decision shall take effect  
427 within 30 days, unless an appeal is taken under section 14 of chapter 30A prior to the expiration  
428 of the 30 days.

429 Section 16K. Any condition adopted by the department in approving a new or modified  
430 discharge shall become a condition of the discharge permit issued by the division of water  
431 pollution control under chapter 21.

432 SECTION 37. Section 18 of said chapter 132A, as appearing in the 2012 Official Edition,  
433 is hereby amended by striking out, in lines 6 and 7, the words ‘sixteen B through sixteen F’ and  
434 inserting in place thereof the following words:- 16G to 16K.

435 SECTION 38. The first paragraph of said section 18 of said chapter 132A, as so  
436 appearing, is hereby further amended by adding the following sentence:- The department shall  
437 establish regulations to the extent needed for the proper administration of the act and to preserve  
438 and protect the appearance, ecology and marine resources of the waters of the sanctuary and  
439 meet the water quality standards and goals of the federal Clean Water Act and Massachusetts  
440 Clean Waters Act.

441 SECTION 39. Said section 18 of said chapter 132A, as so appearing, is hereby further  
442 amended by inserting after the word ‘permit’, in line 14, the following words:- , approval,  
443 certificate.

444 SECTION 40. Said section 18 of said chapter 132A, as so appearing, is hereby further  
445 amended by inserting after the word ‘licenses’, in line 20, the following words:- or on  
446 department permits or approvals of new or modified discharges of wastewater from POTWs.

447 SECTION 41. Sections 26 and 27 of chapter 203 of the acts of 1992 are hereby repealed.

448 SECTION 42. Section 14 of chapter 33 of the acts of 1998 is hereby amended by striking  
449 out section 14 and inserting in place thereof the following section:-

450 Section 14. All contracts made by the board of sewer commissioners shall be made in the  
451 name of the district and shall be signed by the board of sewer commissioners. The board of  
452 sewer commissioners may acquire, merge, consolidate, partner, combine, organize, reorganize,  
453 associate or otherwise join together or act in concert with any municipality, district,  
454 governmental unit or any other form of governmental body, company or other entity under any  
455 form of agreement, contract, compact, consent or accord, including, without limitation, an  
456 intermunicipal agreement under section 4A of chapter 40 of the General Laws, for any and all  
457 purposes which would further the interest of the inhabitants of the district, as those interests may  
458 be determined by the board of sewer commissioners.

459 SECTION 43. Section 420 of chapter 194 of the acts of 1998 is hereby amended by  
460 striking out, in line 2, the words ‘water pollution abatement trust’ and inserting in place thereof  
461 the following words:- Massachusetts Clean Water Trust.

462 SECTION 44. Said section 420 of said chapter 194 is hereby further amended by  
463 inserting in line 3, after the word ‘projects’, the words ‘or drinking water projects’.

464 SECTION 45. Said section 420 of said chapter 194 is hereby further amended by striking  
465 out, in line 11, the words ‘or section 6A’.

466 SECTION 46. Said section 420 of said chapter 194 is hereby further amended by striking  
467 out, in lines 13 to 16, inclusive, the words ‘or said section 6A; provided, however, that the total  
468 amount of contract assistance paid by the commonwealth over the life of such loan shall not  
469 exceed the amount of contract assistance that would have been paid if such loan had been made  
470 for a 20-year period’.

471 SECTION 47. Section 32 of chapter 312 of the acts of 2008 is hereby amended by  
472 striking out, in line 7, the words ‘or section 6A’.

473 SECTION 48. Notwithstanding any general or special law to the contrary, in order to  
474 assist communities in complying with applicable federal regulations, within 1 year after the  
475 release of sustainability criteria as determined by the Environmental Protection Agency as  
476 required by the 2014 reauthorization of the Clean Water Act, the board of the Massachusetts  
477 Clean Water Trust established in chapter 29C of the General Laws, in consultation with the  
478 division of local services within the department of revenue, established in section 1 of chapter 14

479 of the General Laws, and with input from a stakeholder group, including representatives of  
480 municipal and district drinking water, wastewater and stormwater systems, financial managers of  
481 such systems and environmental organizations, shall establish and publish guidelines for best  
482 management practices in water management. These guidelines shall include, but not be limited  
483 to, the practice of full cost pricing, including which direct and indirect costs shall be included in  
484 full cost pricing, sound financial management, the use and protection of enterprise funds, the  
485 coordination of intra-municipal and intermunicipal projects involving inter-related infrastructure  
486 to reduce project costs, the adoption of an asset management plan and a plan for leak mitigation.  
487 The demonstration of adoption of these best management practices shall be considered favorably  
488 in decisions about wastewater and drinking water project funding made under that chapter.

489 SECTION 49. Notwithstanding any general or special law to the contrary, nothing in this  
490 act is intended to, or shall be construed to, affect in any way the existing commitments of  
491 contract assistance or other amounts heretofore provided by the Water Pollution Abatement Trust  
492 under general or special law. All agreements and obligations heretofore made under sections 6 or  
493 6A, subsection (g) of section 18 or any other provision of chapter 29C of the General Laws,  
494 sections 26 and 27 of chapter 203 of the acts of 1992, section 420 of chapter 194 of the acts of  
495 1998 or any other general or special law shall remain in full force and effect under their terms.

496 SECTION 50. The department of environmental protection shall promulgate regulations  
497 in accordance with this act within 1 year after the release of sustainability criteria as determined  
498 by the Environmental Protection Agency as required by the Water Reform and Development Act  
499 of 2014.

500 SECTION 51. Chapter 716 of the Acts of 1989 is hereby amended by adding to the end  
501 of the last sentence of subsection 13(b) the following:

502 ‘provided, however, that for any plan or project proposed by a public or quasi-public  
503 entity for managing wastewater, watersheds, water resources, or water quality, the commission  
504 may conduct the public hearing referred to in subsection (a) and issue the decision referred to in  
505 subsection (e) jointly and/or prior to or concurrent with the issuance of a certificate by the  
506 secretary of energy and environmental affairs or a successor agency certifying compliance with  
507 said sections sixty-one to sixty-two H, inclusive, of chapter thirty of the General Laws, and  
508 provided further that, notwithstanding subsection (e), the commission may specify in its decision  
509 the period for which the development of regional impact is valid and effective and municipal  
510 development permits may be issued pursuant thereto, which period may be different than seven  
511 years.’ ; and by adding a new section 13(l): 13(I) The commission and any public agency may  
512 enter into agreements to expedite permitting for nutrient remediation and other water quality  
513 improvement plans and projects. Notwithstanding the provisions of 12 and 13 of this act, the  
514 commission shall review developments of regional impact for managing wastewater, watersheds,  
515 water resources, or water quality for consistency with any approved area wide water quality

516 management plan created at the direction of the governor of the commonwealth of Massachusetts  
517 pursuant to the U.S. Clean Water Act.

518 SECTION 52. Notwithstanding any general or special law to the contrary, an assisted  
519 living facility shall not be considered a nursing home or housing for the elderly for purposes of  
520 regulations relative to system sewage flow design criteria promulgated by the department of  
521 environmental protection pursuant to section 13 of chapter 21A of the General Laws, codified as  
522 310 CMR 15.203; provided, however, operators of assisted living facilities may apply to the  
523 department for a determination of design flow using actual meter readings of established flows  
524 from existing or similar installations without the need for a variance pursuant to 310 CMR  
525 15.410 or 15.416.

526 SECTION 53. There is hereby established a special commission to investigate and study  
527 ways to improve coordination among utility providers and municipalities to reduce unnecessary  
528 or duplicative roadway construction related to underground utilities. The commission shall  
529 consist of the chair of the department of public utilities, or a designee, who shall serve as chair; 2  
530 persons to be appointed by the president of the senate, 1 of whom shall be a representative of a  
531 metropolitan planning organization, and 1 of whom shall be a representative of the Utility  
532 Contractors' Association of New England; 2 persons to be appointed by the speaker of the house  
533 of representatives, 1 of whom shall be a member of an energy utility, and 1 of whom shall be a  
534 representative of the American Council of Engineering Companies of Massachusetts; and 6  
535 persons to be appointed by the governor who shall not be employees of the executive branch and  
536 who shall reside in different geographic regions of the commonwealth, 1 of whom shall be a  
537 representative of MassDOT, 1 of whom shall be a representative of the Department of  
538 Environmental Protection, 1 of whom shall be a representative of the Boston Water and Sewer  
539 Commission, 1 of whom shall be a representative of the Massachusetts Water Works  
540 Association, 1 of whom shall be a representative of the Massachusetts Municipal Association,  
541 and 1 of whom shall be employed by a gas utility, with expertise in the planning of gas and  
542 electrical construction projects.

543 The members of the commission shall be appointed not later 60 days after the effective  
544 date of this act and shall serve until the completion of the investigation and study.

545 The commission shall report to the general court the results of its investigation and study  
546 and its recommendations, if any, together with drafts of legislation necessary to carry its  
547 recommendations into effect, by filing the same with the clerk of the senate and the clerk of the  
548 house of representatives on or before March 1, 2015.

549 SECTION 54. Chapter 21A of the General Laws is hereby amended by adding the  
550 following section:-

551 Section 24. (a) There shall be a water infrastructure advisory committee to monitor the  
552 progress of closing the gap in funding for water, wastewater and storm water infrastructure.



553 (b) The advisory committee shall consist of: the secretary of energy and environmental  
554 affairs or a designee; the state treasurer or a designee; 2 people to be appointed by the president  
555 of the senate, 1 of whom shall be a member of the senate and 1 of whom shall be a representative  
556 of a planning organization, environmental consumer organization or other public interest  
557 organization; 3 people to be appointed by the speaker of the house of representatives, 1 of whom  
558 shall be a member of the house of representatives, 1 of whom shall be a representative of a  
559 planning organization, environmental consumer organization or other public interest organization  
560 and 1 of whom shall be a representative of a regional economic development organization  
561 awarded a contract pursuant to section 3K of chapter 23A; 1 person to be appointed by the  
562 minority leader of the senate and 1 person to be appointed by the minority leader of the house of  
563 representatives, each of whom shall be from different geographic regions of the commonwealth  
564 and who shall be representatives of the business community; and 13 persons to be appointed by  
565 the secretary who shall not be employees of the executive branch and who shall reside in  
566 different geographic regions of the commonwealth, 1 of whom shall be a representative of the  
567 Massachusetts Water Resources Authority Advisory Board, 1 of whom shall be a representative  
568 of the American Council of Engineering Companies of Massachusetts, 1 of whom shall be a  
569 representative of the Utility Contractors' Association of New England, Inc., 1 of whom shall be  
570 a representative of the Massachusetts Water Works Association, 1 of whom shall be a  
571 representative of the Massachusetts Municipal Association, Inc., 1 of whom shall be a  
572 representative of Clean Water Action, 1 of whom shall be a representative of Associated  
573 Industries of Massachusetts, Inc., 1 of whom shall be a representative of the Environmental  
574 League of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Rivers  
575 Alliance, Inc., 1 of whom shall be a representative of the Massachusetts Water Pollution Control  
576 Association, Inc., 1 of whom shall be a representative of the Massachusetts Coalition for Water  
577 Resources Stewardship, Inc., 1 of whom shall be a representative of the Boston Society of Civil  
578 Engineers Section and 1 of whom shall be a representative of the Massachusetts AFL-CIO. Each  
579 of those organizations shall provide a list of at least 3 but not more than 5 candidates for  
580 consideration by the secretary. Each of the members shall be an expert or shall have experience  
581 in the field of law or public policy, water, wastewater or storm water planning, design and  
582 construction of water, wastewater or storm water projects, utility management, management  
583 consulting or organizational finance; provided, however, that at least 1 member shall have  
584 expertise in organizational finance. The secretary shall designate a member to serve as the  
585 chairperson of the commission but the chairperson shall not be the secretary, the state treasurer  
586 or their designees. The members of the committee shall serve for 4 years terms.

587 (c) The advisory committee shall hold an annual meeting to present a report reviewing  
588 the progress and recommendations of the special water infrastructure finance commission  
589 established by section 145 of chapter 27 of the acts of 2009, including, but not limited to: (1) the  
590 status of enterprise funds for water and wastewater; (2) the status of storm water utilities; (3) the  
591 status of the number of capital infrastructure programs for water infrastructure; (4) progress on

592 closing the gap in funding for meeting the needs of this infrastructure; and (5) the status of best  
593 management practices and new technologies being implemented by local systems.

594 (d) The advisory committee shall file an annual report with the clerks of the House and  
595 the Senate and the chairs of the Joint Committee on the Environment on or before January 15.

596 SECTION 55. Members of the water infrastructure advisory committee established by  
597 section 24 of chapter 21A of the General Laws, inserted by section 54, shall be appointed on or  
598 before November 31, 2014.”.