

SENATE No. 2016

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Fourteen
—————

SENATE, Tuesday, February 25, 2014

The committee on Ways and Means, to whom was referred the Senate Bill improving drinking water and wastewater infrastructure (Senate, No. 1947); reports, recommending that the same ought to pass with an amendment substituting a new draft of the same title (Senate, No. 2016).

For the committee,
Stephen M. Brewer

SENATE No. 2016

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act improving drinking water and wastewater infrastructure.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for improvements in drinking water and wastewater infrastructure, and is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. 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,
10 2015.....\$1,500,000

11 SECTION 3. Section 26A of chapter 21 of the General Laws, as appearing in the 2012
12 Official Edition, is hereby amended by inserting after the definition of “FWPCA” the following
13 2 definitions:-

14 “Green infrastructure”, practices involving the management of water, stormwater and
15 wastewater to achieve water quality mandates set forth in the federal Clean Water Act; practices
16 designed using natural or engineered techniques to capture, remove or prevent nutrient, nitrogen
17 and phosphorous, loading to any part of a water system including groundwater deposits and
18 discharges to surface waters from septic systems, wastewater treatment facilities and stormwater
19 runoff.

20 “Green infrastructure projects”, projects which shall include, but shall not be limited to:
21 decentralized wastewater systems that infiltrate treated water; water reuse for other beneficial
22 purposes; low impact development projects, which shall include but not be limited to, bioswales,
23 porous pavements, green roofs, infiltration planters, trees and tree boxes, rainwater harvesting
24 systems, rain gardens and water efficient landscaping; the conservation, enhancement and
25 restoration of natural landscape features that naturally filter and remove silt and pollution from
26 surface waters, maintain or restore natural hydrologic cycles, minimize imperviousness in a
27 watershed through preservation and restoration of natural landscape buffers such as forests,
28 floodplains, wetlands and other natural systems and restoration of natural stream channels; and
29 land acquisition and restoration projects that protect and filters drinking water supplies and
30 buffer reservoirs and the mitigation of risks of flooding and erosion using the restoration of
31 saltmarsh, oyster reefs and eelgrass beds from sea-level rise, storm surges and extreme weather
32 events, including the protection and restoration of natural coastal landscapes and features and
33 ensuring road crossings over rivers and streams are of adequate size to allow for increased flows

34 of water; provided, that green infrastructure projects may be stand-alone and shall also be used to
35 complement built water management infrastructure technologies such as pipes, dikes and
36 treatment facilities; and provided, further, that green infrastructure projects may include
37 innovative technologies that further the mandates under the federal Clean Water Act.

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

41 SECTION 5. Said section 27A of said chapter 21, as so appearing, is hereby further
42 amended by striking out, in lines 10 and 12, the words “or section 6A” each time they appear.

43 SECTION 6. Section 31 of said chapter 21, as so appearing, is hereby amended by
44 striking out the first sentence and inserting in place thereof the following sentence:- A public
45 entity may apply to the division for a planning or a technical assistance grant by the
46 commonwealth for the following purposes: assisting a public entity in developing a
47 comprehensive water pollution abatement plan for the public entity; assisting a public entity in
48 developing an integrated water asset management plan for the public entity; or assisting a public
49 entity identify and plan for green infrastructure opportunities, as defined in section 26A, for the
50 public entity.

51 SECTION 7. Said section 31 of said chapter 21, as so appearing, is hereby further
52 amended by inserting after the word “Planning”, in line 12, the following words:- or technical
53 assistance.

54 SECTION 8. Said chapter 21 is hereby further amended by inserting after section 31 the
55 following section:-

56 Section 31A. Subject to appropriation, the department of environmental protection shall
57 administer a matching grant program for communities who desire to join the Massachusetts
58 Water Resources Authority or any other regional system for wastewater, drinking water or for
59 both wastewater and drinking water. Each grant shall match, on a 1:1 basis, money committed by
60 a local government unit or a regional local governmental unit, as defined in section 1 of chapter
61 29C, to pay the entry fee established by the Massachusetts Water Resources Authority under
62 section 8 of chapter 372 of the acts of 1984. The department shall award grants only to a local
63 governmental unit or regional local governmental unit that satisfies the department that it has
64 committed funds to join said Authority. Should the local governmental unit or regional local
65 governmental unit fail to join said Authority after receiving a grant under this section, the local
66 governmental unit or regional local governmental unit shall return money granted under this
67 section to the department.

68 SECTION 9. Section 38 of said chapter 21, as appearing in the 2012 Official Edition, is
69 hereby amended by inserting after the word “control”, in line 4, the following words:- ,
70 innovative water technologies, green infrastructure.

71 SECTION 10. Said chapter 21, as so appearing, is hereby further amended by adding the
72 following section:-

73 Section 67. (a) For the purposes of this section, "irrigation system" shall mean any
74 assemblage of components, materials or special equipment, which are constructed and installed
75 underground or on the surface, for controlled dispersion of water from any safe and suitable
76 source for the purpose of irrigating landscape vegetation or the control of dust and erosion on
77 landscaped areas and shall include integral pumping systems and required wiring within that

78 system and connections to a public or private water supply system; provided, however, that an
79 irrigation system shall not include plumbing, as defined in section 1 of chapter 142, or a
80 plumbing system.

81 (b) The department of environmental protection shall promulgate regulations that require
82 system interruption devices for newly installed or renovated irrigation systems to override and
83 suspend the programmed operation of the irrigation system during periods of sufficient moisture.
84 The department shall specify the criteria for the system interruption devices. The regulations
85 shall: (i) be in accordance with generally accepted standards of irrigation practice; (ii) include a
86 requirement that system interruption devices be inspected at least every 3 years by an irrigation
87 contractor certified and in good standing with a nationally recognized association; and (iii)
88 require each irrigation contractor to complete and submit documentation, along with a reasonable
89 fee, which shall reflect the costs of accepting and processing such documentation, to the
90 municipality for each newly installed or renovated irrigation system within the municipality. The
91 department may impose reasonable fines on an irrigation contractor for a violation of the
92 regulations promulgated under this section.

93 (c) This section shall not apply to systems operating on agricultural lands.

94 SECTION 11. Section 13 of chapter 21A of the General Laws, as so appearing, is hereby
95 amended by inserting after the first paragraph, the following 3 paragraphs:-

96 With regard to the enforcement of this section, including requirements related to forms
97 utilized by septic system inspectors or local boards of health, the commissioner shall evaluate
98 practices, which would minimize the paperwork burden for individuals, small businesses,
99 contractors, state and local governments and their agents, and strive to ensure the greatest

100 possible public benefit from and maximize the utility of information collected, created,
101 maintained, used, shared and disseminated by or for the purpose of the code and to reduce the
102 number of copies required for official use.

103 For the purposes of this section, the term “burden” shall mean the time, effort or financial
104 resources expended by persons to generate, maintain or provide information to or for a
105 governmental agency, including the resources expended for: reviewing instructions; acquiring,
106 installing and utilizing technology and systems; adjusting the existing ways to comply with any
107 previously applicable instructions and requirements; searching data sources; completing and
108 reviewing the collection of information; and transmitting or otherwise disclosing the information.

109 SECTION 12. Section 10 of chapter 23L of the General Laws, as so appearing, is hereby
110 amended by adding the following subsection:-

111 (c) This chapter shall not apply to section 39M of chapter 40.

112 SECTION 13. Section 2L of chapter 29 of the General Laws, as so appearing, is hereby
113 amended by striking out, in line 5, the words “water pollution abatement trust” and inserting in
114 place thereof the following words:- Massachusetts Clean Water Trust.

115 SECTION 14. Section 2QQ of said chapter 29, as so appearing, is hereby amended by
116 striking out, in line 5, the words “water pollution abatement trust” and inserting in place thereof
117 the following words:- Massachusetts Clean Water Trust.

118 SECTION 15. Said chapter 29 is hereby further amended by inserting after section
119 2KKKK the following section:-

120 Section 2LLLL. There shall be established and set up on the books of the commonwealth
121 a separate fund to be known as the Regional Water Entity Reimbursement Fund, in this section
122 called the fund. The fund shall be administered by the state treasurer and shall be funded by the
123 commonwealth, by and through the state treasurer and subject to appropriation, to reimburse the
124 Massachusetts Water Resources Authority for its costs: in providing cities and towns, within its
125 sewer service area, financial assistance in the form of interest free grants and loans to rehabilitate
126 collection systems in cities and towns; and to structurally reduce infiltration and inflow into the
127 tributary to the treatment facilities owned by the authority and located on Deer Island and Nut
128 Island. Such reimbursement shall be in addition to the contract assistance amounts in section 6 of
129 chapter 29C, subject to the limit set forth in said chapter 29C, but shall not be greater than 10 per
130 cent of the maximum amount set forth in said chapter 29C.

131 SECTION 16. Chapter 29C of the General Laws, as appearing in the 2012 Official
132 Edition, is hereby amended by striking out the title and inserting in place thereof the following
133 title:-

134 **MASSACHUSETTS CLEAN WATER TRUST.**

135 SECTION 17. Section 1 of said chapter 29C, as so appearing, is hereby amended by
136 striking out, in line 3, the words “water pollution abatement trust”, and inserting in place thereof
137 the following words:- Massachusetts Clean Water Trust.

138 SECTION 18. Said section 1 of said chapter 29C, as so appearing, is hereby further
139 amended by inserting after the definition of “Bonds” the following definition:-

140 “Committed contract assistance”, in any year, the sum of: (i) the amount of contract
141 assistance that the commonwealth has committed to provide during the year with respect to

142 bonds of the trust issued, subsidy funds established and all other board-approved financial
143 assistance established or committed prior to such year; and (ii) the amount of contract assistance
144 that the board determines will be required to be committed during the year in order to provide
145 subsidies or other financial assistance, including, without limitation, with respect to bonds of the
146 trust expected to be issued in such year.

147 SECTION 19. Said section 1 of said chapter 29C, as so appearing, is hereby further
148 amended by striking out the definition of “Trust” and inserting in place thereof the following
149 definition:-

150 “Trust”, the Massachusetts Clean Water Trust; provided, however, that the Massachusetts
151 Clean Water Trust shall be the successor to the water pollution abatement trust.

152 SECTION 20. Section 2 of said chapter 29C, as so appearing, is hereby amended by
153 striking out, in lines 5 and 6, the words “water pollution abatement trust” and inserting in place
154 thereof the following words:- Massachusetts Clean Water Trust.

155 SECTION 21. Said chapter 29C is hereby further amended by striking out section 6, as so
156 appearing, and inserting in place thereof the following section:-

157 Section 6. (a) Subject to limitations in other laws respecting the use of particular monies
158 in the fund and any trust agreement for bonds of the trust, the board may also apply and disburse
159 monies and revenues in the fund or segregated accounts therein: (i) after taking account of any
160 grant made by the department under section 33E of chapter 21, to provide, and enter into binding
161 commitments to provide, a subsidy for, or to otherwise assist local governmental units in the
162 payment of, debt service costs on loans and other forms of financial assistance made by the trust;

163 and (ii) to provide reserves for, or to otherwise secure, amounts payable by local governmental
164 units on loans and other forms of financial assistance made by the trust under this chapter.

165 (b) The board shall apply and disburse monies in the fund and in the Drinking Water
166 Revolving Fund, established under section 18, as applicable, including contract assistance
167 provided in this section, or shall otherwise structure the debt service costs on loans and other
168 forms of financial assistance made by the trust to provide a subsidy or other assistance to local
169 governmental units or other eligible borrowers in the payment of debt service costs on such loans
170 and other forms of financial assistance that shall be the financial equivalent of a loan made at an
171 interest rate equal to 2 per cent. Notwithstanding the foregoing, but subject to the limit on
172 contract assistance provided in this section and the availability thereof after taking into account
173 committed contract assistance, the board may commit such available contract assistance to
174 provide additional financial assistance to local governmental units or other eligible borrowers
175 that shall be the financial equivalent of a loan made at an interest rate less than 2 per cent and
176 which additional subsidy may include principal forgiveness; provided, that principal forgiveness
177 committed under this section in any year shall not exceed 25 per cent of the total costs of all
178 projects on that year's applicable clean water or drinking water intended use plan; and provided
179 further, that a loan or other form of financial assistance that qualifies for an additional subsidy
180 shall receive such additional subsidy in the amount and at a rate as determined by the board,
181 which shall not exceed the financial equivalent of a 75 per cent subsidy as compared to a market
182 rate loan as calculated at the time of board approval of such loan or other form of financial
183 assistance.

184 (c) The department of environmental protection shall promulgate regulations, under
185 section 7 establishing the types of eligible projects and criteria that the department shall use to

186 evaluate applications for additional subsidies equivalent to a loan made at an interest rate of less
187 than 2 per cent. The additional subsidies shall be made available to eligible projects appearing on
188 the department's 2014 intended use plan and subsequent years. The criteria shall be reflective of
189 the board's current priorities and of best management practices. Notwithstanding the foregoing
190 regulations, all permanent loans and other forms of financial assistance made by the trust, which
191 finance the costs of certain water pollution abatement projects on the department's intended use
192 plan for calendar year 2009 to calendar year 2069, inclusive, and meet the criteria listed below,
193 shall provide for an additional subsidy or other assistance in the payment of debt service such
194 that the loans and other forms of financial assistance shall be the financial equivalent of a loan
195 made at a 0 per cent rate of interest; provided, that the costs of water pollution abatement
196 projects on an intended use plan that are eligible for a permanent loan or other financial
197 assistance from the trust at the financial equivalent of a loan made at a 0 per cent rate of interest
198 shall not exceed 35 per cent of the total costs of all water pollution abatement projects on the
199 intended use plan.

200 (d) Projects shall be eligible for 0 percent rate of interest loans if the department verifies
201 that:

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

204 (2) the applicant is not currently, due to a violation of a nutrient-related total
205 maximum daily load standard or other nutrient based standard, subject to a department
206 enforcement order, administrative consent order or unilateral administrative order, enforcement

207 action by the United States Environmental Protection Agency or subject to a state or federal
208 court order relative to the proposed project;

209 (3) the applicant has a Comprehensive Wastewater Management Plan (“CWMP”)
210 approved under regulations adopted by the department;

211 (4) the project has been deemed consistent with the regional water resources
212 management plans, including, but not limited to, a current area-wide water resources
213 management plan adopted under section 208 of the federal Clean Water Act, if such a plan
214 exists; and

215 (5) the applicant has adopted land use controls, subject to the review and approval
216 of the department in consultation with the executive office of housing and economic
217 development and, where applicable, any regional land use regulatory entity, intended to limit
218 wastewater flows to the amount authorized under zoning and wastewater regulations as of the
219 date of the approval of the CWMP.

220 (e) The department shall promulgate regulations under section 7 establishing the types of
221 eligible projects and criteria that the department shall use to evaluate applications for additional
222 financial assistance, including principal forgiveness. The financial assistance provided under
223 these regulations shall be made available to projects appearing in the department’s 2014 intended
224 use plan and subsequent years. Such criteria shall include, but not be limited to, the following
225 requirements, any 1 of which shall be sufficient to qualify the project for assistance: (i) the
226 project is pursuant to a regional wastewater management plan that has been adopted by a
227 regional planning agency with regulatory authority; (ii) the project is necessary to connect a local
228 or regional local governmental unit to a facility of the Massachusetts Water Resources Authority,

229 if the local or regional local governmental unit has paid or committed to pay the entry fee of that
230 authority; (iii) the project is a green infrastructure project, as defined in section 26A of chapter
231 21, or a combination project that includes green infrastructure and waste water infrastructure and
232 is more cost effective or less expensive than traditional infrastructure in providing an equivalent
233 amount of wastewater or drinking water capacity; (iv) the project uses regional water resources
234 to offset, by at least 100 per cent, the impact of water withdrawals on local water resources in the
235 watershed basin of the receiving community; (v) the project is a direct result of a disaster
236 affecting the service area that is the subject of a declaration of emergency by the governor; (vi)
237 the project is intended to provide public water supply to consumers whose private wells are
238 impacted by methyl tertiary-butyl ether (MTBE) contamination; or (vii) the program is an
239 innovative water project utilizing new technology, which improves environmental or treatment
240 quality, reduces cost, increases access and availability of water, conserves water or energy or
241 improves management, in the areas of drinking water, waste water, storm water, ground water or
242 coastal resources; provided, that the project has not been fully implemented, other than as a pilot
243 project, previously in the commonwealth.

244 (f) To provide the subsidy or assistance the state treasurer, acting on behalf of the
245 commonwealth, shall enter into an agreement with the trust. Under the agreement, the
246 commonwealth shall provide contract assistance for debt service obligations on loans and other
247 forms of financial assistance made by the trust, up to a maximum amount of \$138,000,000 per
248 fiscal year. The agreement shall provide for payments by the commonwealth to the trust at such
249 times during each fiscal year and upon such terms and under such conditions as the trust may
250 stipulate. The trust may pledge such agreement and the rights of the trust to receive amounts
251 thereunder as security for the payment of debt obligations issued to the trust. Such agreement

252 shall constitute a general obligation of the commonwealth, for which the faith and credit of the
253 commonwealth shall be pledged for the benefit of the trust and of the holders of any debt
254 obligations of the trust which may be secured by the pledge of such agreement or of amounts to
255 be received by the trust under such agreement.

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

264 (h) With respect to projects appearing on the department's intended use plan for calendar
265 year 2016 and subsequent years: (i) the board shall not commit contract assistance to provide for
266 the additional subsidy or other form of financial assistance referred to in subsections (c), (d) or
267 (e) to any local governmental unit unless it has established a sewer enterprise fund or water
268 enterprise fund, as applicable, under section 53F1/2 of chapter 44, or in lieu of the applicable
269 enterprise fund has established a separate restricted account that is the equivalent of such fund;
270 and (ii) any local government unit that transfers or otherwise uses money from its enterprise fund
271 or restricted account for its local governmental operating budget, other than to pay or reimburse,
272 valid expenses or obligations related to such fund or restricted account, will not be eligible to
273 seek new commitments of contract assistance to provide for the additional subsidy or other form
274 of financial assistance referred to in subsections (c), (d) or (e) for a period of 5 years following

275 the date of such transfer or other use; provided however, this clause shall only apply if the
276 disqualifying event occurred after January 1, 2015.

277 SECTION 22. Section 6A of said chapter 29C is hereby repealed.

278 SECTION 23. Section 18 of said chapter 29C, as appearing in the 2012 Official Edition,
279 is hereby amended by striking out subsection (g).

280 SECTION 24. Chapter 40 of the General Laws is hereby amended by inserting after
281 section 39L the following section:- Section 39M. (a) Notwithstanding any general or special
282 law to the contrary, a city, town, water district, wastewater district, stormwater utility or statutory
283 authority created to operate a water distribution or wastewater collection system or stormwater
284 system, which accepts this section, may collect a reasonable fee to be used exclusively for
285 measures to remedy and offset the impacts on the natural environment of new or increased water
286 withdrawals, sewerage, wastewater discharges, including those from onsite disposal systems,
287 stormwater discharges or impairment of recharge of groundwater through depletion of ground or
288 surface waters and to sustain the quantity, quality and ecological health of waters of the
289 commonwealth. Such measures to remedy and offset these impacts include, without limitation:
290 local recharge of stormwater and wastewater; redundant water sources; reductions in loss from
291 drinking water systems; treatment of drinking water or interconnections with other systems for
292 the purposes of optimizing water supply sources for environmental benefit; expansion of
293 stormwater treatment and wastewater treatment systems; reuse of water; removal of sewer
294 infiltration and inflow; water conservation; retrofits of existing buildings and parking lots with
295 low impact development methods; removal of dams; improvements to aquatic habitat; the
296 pumping, repair, maintenance and replacement of onsite subsurface disposal systems installed

297 pursuant to Title V of the state environmental code as well as systems considered to be
298 cesspools; development of an integrated water resource management plan, study or plan to
299 mitigate environmental impacts; and land acquisition for the protection of public water supply
300 sources, siting of decentralized wastewater facilities, stormwater recharge sites or riparian
301 habitat. The fee, which may be based on retaining within the basin or saving at least 1 gallon, but
302 not more than 10 gallons, for every gallon of increased water or sewer demand or net impairment
303 of recharge, shall be assessed in a fair and equitable manner and separate fees may be established
304 for different types of uses, such as residential and commercial uses. Any fees charged to mitigate
305 the impact of onsite disposal systems may be based on the expected cost to pump, maintain and
306 replace such systems as determined by the governmental unit assessing the fee.

307 (b) When adopting this section, the city, town, district or statutory authority shall
308 designate the board, commission or official responsible for assessing, collecting and expending
309 the fee. Fees assessed under this section shall be deposited by the designated board, commission
310 or official in separate accounts, established under section 53F1/2 of chapter 44, and classified as
311 "Sustainable Water Resource Funds" for drinking water, wastewater or stormwater. The principal
312 and interest thereon shall be expended at the direction of the designated board, commission or
313 official without further appropriation. These funds shall not be used for any purpose not provided
314 in this section. These funds may also receive monies: from public and private sources as gifts,
315 grants and donations to further water conservation, water return or water loss prevention; from
316 the federal government as reimbursements, grants-in-aid or other receipts on account of water
317 infrastructure improvements; or from fines, penalties or supplemental environmental projects.
318 Any interest earned from whatever source shall be credited to and become part of the fund.

319 (c) A city, town, district or authority that has accepted this section may in the same
320 manner revoke its acceptance; provided, however, that monies remaining in the fund shall be
321 expended in a manner consistent with this section.

322 SECTION 25. Chapter 44 of the General Laws is hereby amended by adding the
323 following section:-

324 Section 73. Any design and construction services included in a public-private partnership
325 development agreement seeking assistance under chapter 29C shall receive input from the
326 public-private partnership infrastructure oversight commission, established by section 73 of
327 chapter 6C, on all requests for proposals for design-build-finance-operate-maintain or design-
328 build-operate-maintain services.

329 SECTION 26. Section 12A of said chapter 132A, as so appearing, is hereby amended by
330 striking out, in line 1 the words “twelve B to sixteen E, inclusive, and section eighteen” and
331 inserting in place thereof the following words:- 12B to 16J, inclusive and section 18.

332 SECTION 27. Section 12B of chapter 132A of the General Laws, as appearing in the
333 2012 Official Edition, is hereby amended by inserting after the definition of “Adjudicatory
334 hearing” the following definition: -

335 “Advanced treatment”, enhanced physical, chemical or biological treatments that are used
336 in part to remove nutrients including nitrogen or phosphorus.

337 SECTION 28. Said section 12B of said chapter 132A, as so appearing, is hereby further
338 amended by striking out, in line 7, the words “alternative forms” and inserting in place thereof
339 the following words:- any form.

340 SECTION 29. Said section 12B of said chapter 132A, as so appearing, is hereby further
341 amended by striking out, in line 8, the word “variance” and inserting in place thereof the
342 following words:- new or modified discharge.

343 SECTION 30. Said section 12B of said chapter 132A, as so appearing, is hereby further
344 amended by inserting after the definition of “Coastal embayment” the following 2 definitions:-

345 “Comprehensive Wastewater Management Plan” or “CWMP”, a municipal or regional
346 study, conducted in accordance with appropriate department of environmental protection
347 guidance, regulations and policies, which evaluates alternatives and recommends an appropriate
348 implementation strategy to properly manage wastewater in order to provide protection for the
349 public health and safety and the environment, including, water quality standards and TMDLs, if
350 any TMDLs exist.

351 “Department”, the department of environmental protection.

352 SECTION 31. Said section 12B of said chapter 132A, as so appearing, is hereby further
353 amended by inserting after the definition of “Facilities plan” the following 2 definitions:-

354 “Modified discharge”, an increase in volume or change in location of an existing
355 discharge from a publicly owned treatment works or combined sewer system.

356 “New discharge”, a discharge from a publicly owned treatment works not approved under
357 the act prior to February 1, 2014 nor authorized by the appropriate federal and state agencies
358 prior to February 1, 2014.

359 SECTION 32. Said section 12B of said chapter 132A, as so appearing, is hereby further
360 amended by striking out the definitions of "Proposed discharge" and "Publicly owned treatment
361 plant" and inserting in place thereof the following 2 definitions:-

362 "Publicly owned treatment works" or "POTW", a sewage or septage treatment plant
363 owned by a public entity.

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

369 SECTION 33. Section 12C of said chapter 132A, as so appearing, is hereby amended by
370 striking out, in line 1, the word "The" and inserting in place thereof the words:- Unless otherwise
371 specified in this chapter, the.

372 SECTION 34. Said section 12C of said chapter 132A, as so appearing, is hereby further
373 amended by inserting after the word "programs", in line 4, the following words:- and agencies
374 responsible.

375 SECTION 35. Section 15 of said chapter 132A, as so appearing, is hereby amended by
376 inserting after the word "wastes", in line 28, the following words:- provided, however, that the
377 department may approve a new or modified discharge of municipal wastewater from a POTW in
378 accordance with section 16G;.

379 SECTION 36. Section 16 of said chapter 132A, as so appearing, is hereby amended by
380 striking out, in lines 21 and 22, 23 and 24 and 27, the words “twelve B to sixteen F, inclusive,
381 and said section eighteen” each time they appear and inserting in place thereof, in each instance,
382 the following words:- 12B to 16K, inclusive and section 18.

383 SECTION 37. The second paragraph of section 16 of said chapter 132A, as so appearing,
384 is hereby amended by striking out the first sentence and inserting in place thereof the following
385 sentence:- Notwithstanding any general or special law to the contrary, municipal wastewater
386 treatment facilities may discharge into the ocean sanctuary if the discharge is approved under
387 section 16G and approved and licensed by the appropriate federal and state agencies.

388 SECTION 38. Sections 16A to 16F, inclusive, of said chapter 132A are hereby repealed.

389 SECTION 39. Said chapter 132A is hereby amended by inserting after section 16 the
390 following 5 sections:-

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

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

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

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

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

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

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

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

411 (8) New discharges in the Cape and Islands Ocean Sanctuary, the Cape Cod
412 Ocean Sanctuary and the Cape Cod Bay Ocean Sanctuary shall receive advanced treatment,
413 disinfection and such other treatment to remove nutrients, pathogens or other pollutants to avoid
414 degradation of the ecology, appearance and marine resources of the designated sanctuary and to
415 meet water quality standards and any applicable TMDLs. Chlorinated disinfection shall not
416 occur unless it is followed by dechlorination prior to discharge.

417 (9) The new or modified discharge is consistent with the policies and plans of the
418 Massachusetts coastal zone management program.

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

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

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

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

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

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

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

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

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

441 Section 16J. Upon receipt of an application for a new or modified discharge, the
442 department shall provide public notice, an opportunity for comment and shall hold a public
443 hearing on the application. Individual notice shall be provided to all municipalities bordering the
444 affected sanctuary. Following the public hearing, the department shall prepare a proposed final
445 decision and provide public notice of the proposed final decision, including individual notice to
446 any person commenting on the application and to all municipalities bordering the affected
447 sanctuary. The proposed final decision shall take effect within 30 days of the public notice unless
448 any person aggrieved by the decision requests an adjudicatory hearing prior to the expiration of
449 the 30 days. Following an adjudicatory hearing, the commissioner of environmental protection
450 shall make the final decision and provide notice to all parties. The final decision shall take effect
451 within 30 days, unless an appeal is taken under section 14 of chapter 30A prior to the expiration
452 of the 30 days.

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

456 SECTION 40. Section 18 of said chapter 132A, as so appearing, is hereby amended by
457 striking out, in lines 6 and 7, the words “sixteen B through sixteen F” and inserting in place
458 thereof the following words:- 16G to 16K

459 SECTION 41. The first paragraph of section 18 of said chapter 132A, as appearing in the
460 2012 Official Edition, is hereby amended by adding the following sentence:- The department

461 shall establish regulations to the extent needed for the proper administration of the act and to
462 preserve and protect the appearance, ecology and marine resources of the waters of the sanctuary
463 and meet the water quality standards and goals of the federal Clean Water Act and Massachusetts
464 Clean Waters Act.

465 SECTION 42. Said section 18 of said chapter 132A, as so appearing, is hereby further
466 amended by inserting after the word “permit”, in line 14, the following words:- , approval,
467 certificate.

468 SECTION 43. Said section 18 of said chapter 132A, as so appearing, is hereby further
469 amended by inserting after the word “licenses”, in line 20, the following words:- or on
470 department permits or approvals of new or modified discharges of wastewater from POTWs.

471 SECTION 44. Sections 26 and 27 of chapter 203 of the acts of 1992 are hereby repealed.

472 SECTION 45. Section 420 of chapter 194 of the acts of 1998 is hereby amended by
473 striking out, in line 2, the words “water pollution abatement trust” and inserting in place thereof
474 the following words:- Massachusetts Clean Water Trust.

475 SECTION 46. Said section 420 of said chapter 194 is hereby further amended by striking
476 out, in line 11, the words “or section 6A”.

477 SECTION 47. Said section 420 of said chapter 194 is hereby further amended by striking
478 out, in lines 13 to 16, inclusive, the words “or said section 6A; provided, however, that the total
479 amount of contract assistance paid by the commonwealth over the life of such loan shall not
480 exceed the amount of contract assistance that would have been paid if such loan had been made
481 for a 20-year period”.

482 SECTION 48. Section 32 of chapter 312 of the acts of 2008 is hereby amended by
483 striking out, in line 7, the words “or section 6A”.

484 SECTION 49. Notwithstanding any general or special law to the contrary, not later than 1
485 year from the effective date of this act, the board of the Massachusetts Clean Water Trust
486 established in chapter 29C, in consultation with the division of local services within the
487 department of revenue, established in section 1 of chapter 14 of the General Laws, shall establish
488 and publish guidelines for best management practices in water management. These guidelines
489 shall include, but not be limited to, the practice of full cost pricing, including which direct and
490 indirect costs shall be included in full cost pricing, sound financial management, the use and
491 protection of enterprise funds, the coordination of intra-municipal and inter-municipal projects
492 involving inter-related infrastructure to reduce project costs, the adoption of an asset
493 management plan and a plan for leak mitigation. The demonstration of adoption of these best
494 management practices shall be considered favorably in decisions about wastewater and drinking
495 water project funding made under that chapter.

496 SECTION 50. Notwithstanding any general or special law to the contrary, nothing in this
497 act is intended to, or shall be construed to, affect in any way the existing commitments of
498 contract assistance or other amounts heretofore provided by the Water Pollution Abatement Trust
499 under general or special law. All agreements and obligations heretofore made under sections 6 or
500 6A, subsection (g) of section 18 or any other provision of chapter 29C of the General Laws,
501 sections 26 and 27 of chapter 203 of the acts of 1992, section 420 of chapter 194 of the acts of
502 1998 or any other general or special law shall remain in full force and effect under their terms.

503 SECTION 51. The department of environmental protection shall promulgate regulations
504 not later than July 1, 2016 and shall evaluate applications using the statutory criteria until
505 regulations are promulgated under subsections (c) and (e) of section 6 of chapter 29C of the
506 General Laws.