

# SENATE . . . . . No. 2342

---

SENATE, Thursday, July 31, 2014 – Text of the further Senate amendment (Senator Eldridge) to the Senate Bill improving drinking water and wastewater infrastructure (Senate, No. 2021).

---

## The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand Fourteen  
\_\_\_\_\_

1           SECTION 1. To provide for certain unanticipated obligations of the commonwealth and  
2 to meet certain requirements of law for fiscal year 2015 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 areawide nitrogen management  
13 plan developed pursuant to section 208 of the federal Clean Water Act; and provided further, that  
14 the department shall report to the joint committee on environment, natural resources and  
15 agriculture by March 31, 2015 on any statutory changes it deems necessary to fully implement  
16 said watershed permitting approach.....\$3,000,000

17           2200-0136 For a Massachusetts water technology innovation grant program administered  
18 by the Massachusetts clean energy center; provided, that grants shall be awarded to promote the  
19 water technology industry in the commonwealth; and provided further, that programs and  
20 projects eligible for the grant program shall include, but not be limited to: (i) programs that  
21 support the development of pilot and demonstration projects designed to advance the  
22 commercialization of promising water technologies; (ii) projects that support the creation of  
23 testing facilities for the advancement of water technology; (iii) financial supports for the  
24 development and application of water-related technologies, including research and  
25 commercialization activities; and (iv) other programs that foster international partnerships,

26 establish conferences or otherwise encourage water technology innovation in the  
27 commonwealth.....\$1,500,000

28 SECTION 3. Section 26A of chapter 21 of the General Laws, as appearing in the 2012  
29 Official Edition, is hereby amended by inserting after the definition of “FWPCA” the following  
30 2 definitions:-

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

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

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

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

57 SECTION 6. Section 31 of said chapter 21, as so appearing, is hereby amended by  
58 striking out the first sentence and inserting in place thereof the following sentence:- A public  
59 entity, including regional planning agencies, may apply to the division for a planning or a  
60 technical assistance grant by the commonwealth for the following purposes: assisting a public  
61 entity in developing a comprehensive water pollution abatement plan for the public entity;  
62 assisting a public entity in developing an integrated water asset management plan for the public

entity; or assisting a public entity identify and plan for green infrastructure opportunities for the public entity.

SECTION 7. Said section 31 of said chapter 21, as so appearing, is hereby further amended by inserting after the first sentence the following sentence:- The division may accept and shall give preference to planning and technical grants applied for jointly by 2 or more public entities.

SECTION 8. Said section 31 of said chapter 21, as so appearing, is hereby further amended by striking out, in line 5, the word "fifteen" and inserting in place thereof the following figure:- 30.

SECTION 9. Said section 31 of said chapter 21, as so appearing, is hereby further amended by inserting after the word "Planning", in line 12, the following words:- or technical assistance.

SECTION 10. Said chapter 21 is hereby further amended by inserting after section 31 the following section:-

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

For the purpose of this section, the term "regional system" shall include any system established by mutual agreement of 2 or more municipalities or by a county in which all municipalities of said county have an agreement to provide drinking water or wastewater services, or both, through shared facilities, sources or distribution networks.

SECTION 11. Section 38 of said chapter 21, as appearing in the 2012 Official Edition, is hereby amended by inserting after the word "control", in line 4, the following words:- , innovative water technologies, green infrastructure.

SECTION 12. Said chapter 21 is hereby further amended by adding the following section:-

Section 67. (a) For the purposes of this section, "irrigation system" shall mean any assemblage of components, materials or special equipment, which are constructed and installed underground or on the surface, for controlled dispersion of water from any safe and suitable source for the purpose of irrigating landscape vegetation or the control of dust and erosion on landscaped areas and shall include integral pumping systems and required wiring within that system and connections to a public or private water supply system; provided, however, that an irrigation system shall not include plumbing, as defined in section 1 of chapter 142, or a plumbing system.

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

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

SECTION 13. Section 13 of chapter 21A of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the first paragraph, the following 3 paragraphs:-

With regard to the enforcement of this section, including requirements related to forms utilized by septic system inspectors or local boards of health, the commissioner shall evaluate practices, which would minimize the paperwork burden for individuals, small businesses, contractors, state and local governments and their agents, and strive to ensure the greatest possible public benefit from and maximize the utility of information collected, created, maintained, used, shared and disseminated by or for the purpose of the code and to reduce the number of copies required for official use.

For the purposes of this section, the term "burden" shall mean the time, effort or financial resources expended by persons to generate, maintain or provide information to or for a governmental agency, including the resources expended for: reviewing instructions; acquiring, installing and utilizing technology and systems; adjusting the existing ways to comply with any

134 previously applicable instructions and requirements; searching data sources; completing and  
135 reviewing the collection of information; and transmitting or otherwise disclosing the information.

136 SECTION 14. Said chapter 21A is hereby amended by adding the following section:-

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

139 (b) The advisory committee shall consist of: the secretary of energy and environmental  
140 affairs or a designee; the state treasurer or a designee; 2 people to be appointed by the president  
141 of the senate, 1 of whom shall be a member of the senate and 1 of whom shall be a representative  
142 of a planning organization, an environmental consumer organization or other public interest  
143 organization; 2 people to be appointed by the speaker of the house of representatives, 1 of whom  
144 shall be a member of the house of representatives and 1 of whom shall be a representative of a  
145 planning organization, an environmental consumer organization or other public interest  
146 organization; 1 person to be appointed by the minority leader of the senate and 1 person to be  
147 appointed by the minority leader of the house of representatives, each of whom shall be from  
148 different geographic regions of the commonwealth and who shall be representatives of the  
149 business community; and 13 persons to be appointed by the secretary of energy and  
150 environmental affairs who shall not be employees of the executive branch and who shall reside  
151 in different geographic regions of the commonwealth, 1 of whom shall be a representative of the  
152 Massachusetts Water Resources Authority advisory board, 1 of whom shall be a representative of  
153 the American Council of Engineering Companies of Massachusetts, 1 of whom shall be a  
154 representative of the Utility Contractors' Association of New England, Inc., 1 of whom shall be a  
155 representative of the Massachusetts Waterworks Association, Inc., 1 of whom shall be a  
156 representative of the Massachusetts Municipal Association, Inc., 1 of whom shall be a  
157 representative of Clean Water Action, 1 of whom shall be a representative of Associated  
158 Industries of Massachusetts, Inc., 1 of whom shall be a representative of the Environmental  
159 League of Massachusetts, Inc., 1 of whom shall be a representative of the Massachusetts Rivers  
160 Alliance, Inc., 1 of whom shall be a representative of the Massachusetts Water Pollution Control  
161 Association, Inc., 1 of whom shall be a representative of the Massachusetts Coalition for Water  
162 Resources Stewardship, Inc., 1 of whom shall be a representative of the Boston Society of Civil  
163 Engineers Section and 1 of whom shall be a representative of the Massachusetts AFL-CIO

164 (c) The advisory committee may file a report on the activities of the committee as  
165 deemed necessary with the clerks of the house and the senate who shall forward the same to the  
166 chairs of the joint committee on environment, natural resources and agriculture .

167 SECTION 15. Section 2L of chapter 29 of the General Laws, as appearing in the 2012  
168 Official Edition, is hereby amended by striking out, in line 5, the words “water pollution  
169 abatement trust” and inserting in place thereof the following words:- Massachusetts Clean Water  
170 Trust.

171 SECTION 16. Section 2QQ of said chapter 29, as so appearing, is hereby amended by  
172 striking out, in line 5, the words “water pollution abatement trust” and inserting in place thereof  
173 the following words:- Massachusetts Clean Water Trust.

174 SECTION 17. Said chapter 29 is hereby further amended by inserting after section  
175 2MMMM the following section:-

176 Section 2NNNN. There shall be established and set up on the books of the  
177 commonwealth a separate fund to be known as the Regional Water Entity Reimbursement Fund,  
178 in this section called the fund. The fund shall be administered by the state treasurer and shall be  
179 funded by the commonwealth, by and through the state treasurer and subject to appropriation, to  
180 reimburse the Massachusetts Water Resources Authority for its costs: in providing cities and  
181 towns, within its sewer service area, financial assistance in the form of interest free grants and  
182 loans to rehabilitate collection systems in cities and towns; and to structurally reduce infiltration  
183 and inflow into the tributary to the treatment facilities owned by the authority. Such  
184 reimbursement shall be in addition to the contract assistance amounts in section 6 of chapter  
185 29C, subject to the limit set forth in said chapter 29C, but shall not be greater than 10 per cent of  
186 the maximum amount set forth in said chapter 29C.

187 SECTION 18. Said chapter 29C, as appearing in the 2012 Official Edition, is hereby  
188 amended by striking out the title and inserting in place thereof the following title:  
189 MASSACHUSETTS CLEAN WATER TRUST.

190 SECTION 19. Section 1 of said chapter 29C, as so appearing, is hereby amended by  
191 striking out, in line 3, the words “water pollution abatement trust” and inserting in place thereof  
192 the following words:- Massachusetts Clean Water Trust.

193 SECTION 20. Said section 1 of said chapter 29C, as so appearing, is hereby further  
194 amended by inserting after the definition of “Bonds” the following definition:-

195 “Committed contract assistance”, in any year, the sum of: (i) the amount of contract  
196 assistance that the commonwealth has committed to provide during the year with respect to  
197 bonds of the trust issued, subsidy funds established and all other board-approved financial  
198 assistance established or committed prior to such year; and (ii) the amount of contract assistance  
199 that the board determines will be required to be committed during the year in order to provide  
200 subsidies or other financial assistance, including, without limitation, with respect to bonds of the  
201 trust expected to be issued in such year.

202 SECTION 21. Said section 1 of said chapter 29C, as so appearing, is hereby further  
203 amended by striking out the definition of “Trust” and inserting in place thereof the following  
204 definition:-

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

207 SECTION 22. Section 2 of said chapter 29C, as so appearing, is hereby amended by  
208 striking out, in lines 5 and 6, the words “water pollution abatement trust” and inserting in place  
209 thereof the following words:- Massachusetts Clean Water Trust.

210 SECTION 23. Said chapter 29C is hereby further amended by striking out section 6, as so  
211 appearing, and inserting in place thereof the following section:-

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

220 (b) The board shall apply and disburse monies in the fund and in the Drinking Water  
221 Revolving Fund, established under section 18, as applicable, including contract assistance  
222 provided in this section, or shall otherwise structure the debt service costs on loans and other  
223 forms of financial assistance made by the trust to provide a subsidy or other assistance to local  
224 governmental units or other eligible borrowers in the payment of debt service costs on such loans  
225 and other forms of financial assistance that shall be the financial equivalent of a loan made at an  
226 interest rate equal to 2 per cent. Notwithstanding the foregoing, but subject to the limit on  
227 contract assistance provided in this section and the availability thereof after taking into account  
228 committed contract assistance, the board may commit such available contract assistance to  
229 provide additional financial assistance to local governmental units or other eligible borrowers  
230 that shall be the financial equivalent of a loan made at an interest rate less than 2 per cent and  
231 which additional subsidy may include principal forgiveness; provided, that principal forgiveness  
232 committed under this section in any year shall not exceed 25 per cent of the total costs of all  
233 projects on that year’s applicable clean water or drinking water intended use plan; and provided  
234 further, that a loan or other form of financial assistance that qualifies for an additional subsidy  
235 shall receive such additional subsidy in the amount and at a rate as determined by the board,  
236 which shall not exceed the financial equivalent of a 75 per cent subsidy as compared to a market  
237 rate loan as calculated at the time of board approval of such loan or other form of financial  
238 assistance.

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

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

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

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

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

(3) the applicant has a Comprehensive Wastewater Management Plan approved by the department of environmental protection or the department of environmental protection determines that the project is consistent with an areawide waste management plan approved under section 208 of the federal Clean Water Act;

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

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



(e) The department shall promulgate regulations under section 7 establishing the types of eligible projects and criteria that the department shall use to evaluate applications for additional financial assistance, including principal forgiveness and additional financial incentives, consistent with the sustainability criteria as determined by the United States Environmental Protection Agency as required by the Water Resources Reform and Development Act of 2014. The financial assistance and financial incentives provided under these regulations shall be made available to projects appearing in the department's intended use plan the year following the release of regulations by the department and subsequent years. Such criteria may include, the following requirements, any 1 of which shall be sufficient to qualify the project for assistance: (i) the project is pursuant to a regional wastewater management plan that has been adopted by a regional planning agency with regulatory authority; (ii) the project is necessary to connect a local or regional local governmental unit to a facility of the Massachusetts Water Resources Authority, if the local or regional local governmental unit has paid or committed to pay the entry fee of that authority; (iii) the project is a green infrastructure project, as defined in section 26A of chapter 21, with consideration being given to projects that effectively combine green infrastructure with wastewater infrastructure and drinking water infrastructure projects; (iv) the project uses regional water resources to offset, by at least 100 per cent, the impact of water withdrawals on local water resources in the watershed basin of the receiving community; (v) the project is a direct result of a disaster affecting the service area that is the subject of a declaration of emergency by the governor; (vi) the project is intended to provide public water supply to consumers whose groundwater or public or private wells are impacted by contamination; or (vii) the program is an innovative water project utilizing new technology, which improves environmental or treatment quality, reduces cost, increases access and availability of water, conserves water or energy or improves management, in the areas of drinking water, wastewater, stormwater, groundwater or coastal resources; provided, that the project has not been fully implemented, other than as a pilot project, previously in the commonwealth.

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

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

(h) With respect to projects appearing on the department's intended use plan for calendar year 2016 and subsequent years: (i) the board shall not commit contract assistance to provide for the additional subsidy or other form of financial assistance referred to in subsections (c), (d) or (e) to any local governmental unit unless it has established a sewer enterprise fund or water enterprise fund, as applicable, under section 53F1/2 of chapter 44, or in lieu of the applicable enterprise fund has established a separate restricted account that is the equivalent of such fund; and (ii) any local government unit that transfers or otherwise uses money from its enterprise fund or restricted account for its local governmental operating budget, other than to pay or reimburse, valid expenses or obligations related to such fund or restricted account, will not be eligible to seek new commitments of contract assistance to provide for the additional subsidy or other form of financial assistance referred to in subsections (c), (d) or (e) for a period of 5 years following the date of such transfer or other use; provided however, this clause shall only apply if the disqualifying event occurred after January 1, 2015.

SECTION 24. Section 6A of said chapter 29C is hereby repealed.

SECTION 25. Section 18 of said chapter 29C, as appearing in the 2012 Official Edition, is hereby amended by striking out subsection (g).

SECTION 26. Chapter 40 of the General Laws is hereby amended by inserting after section 39L the following section:-

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

(b) All exemptions and abatements of real property authorized by said chapter 59, or any other law for which a taxpayer qualifies as eligible, shall not be affected by this section. A taxpayer receiving an exemption of real property under a clause of section 5 of said chapter 59 specifically listed in section 59 of said chapter 59 shall be exempt from any surcharge on real property established under this section. The surcharge to be paid by a taxpayer receiving any

other exemption or abatement of tax on real property authorized by said chapter 59 or any other law shall be reduced in proportion to the amount of such exemption or abatement.

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

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

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

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

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

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

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

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

SECTION 27. Chapter 44 of the General Laws is hereby amended by adding the following section:-

Section 73. Notwithstanding any general or special law to the contrary, any design and construction services included in a public-private partnership development agreement seeking assistance under chapter 29C may request technical assistance from the public-private partnership infrastructure oversight commission, established by section 73 of chapter 6C, on all requests for proposals for design-build-finance-operate-maintain or design-build-operate-maintain services.

SECTION 28. Section 12A of chapter 132A of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in line 1 the words “twelve B to sixteen E, inclusive, and section eighteen” and inserting in place thereof the following words:- 12B to 16J, inclusive and section 18.

SECTION 29. Section 12B of said chapter 132A, as so appearing, is hereby amended by inserting after the definition of “Adjudicatory hearing” the following definition: -

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

SECTION 30. Said section 12B of said chapter 132A, as so appearing, is hereby further amended by striking out, in line 7, the words “alternative forms” and inserting in place thereof the following words:- any form.

SECTION 31. Said section 12B of said chapter 132A, as so appearing, is hereby further amended by striking out, in line 8, the word “variance” and inserting in place thereof the following words:- new or modified discharge.

SECTION 32. Said section 12B of said chapter 132A, as so appearing, is hereby further amended by inserting after the definition of “Coastal embayment” the following 2 definitions:-

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

424 “Department”, the department of environmental protection.

425 SECTION 33. Said section 12B of said chapter 132A, as so appearing, is hereby further  
426 amended by inserting after the definition of “Facilities plan” the following 2 definitions:-

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

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

432 SECTION 34. Said section 12B of said chapter 132A, as so appearing, is hereby further  
433 amended by striking out the definitions of “Proposed discharge” and “Publicly owned treatment  
434 plant” and inserting in place thereof the following 2 definitions:-

435 “Publicly owned treatment works” or “POTW”, a sewage or septage treatment plant  
436 owned by a public entity.

437 “Total maximum daily load” or “TMDL”, the sum of a receiving water’s individual waste  
438 load allocations and load allocations and natural background, which, together with a margin of  
439 safety that takes into account any lack of knowledge concerning the relationship between  
440 effluent limitations and water quality, represents the maximum amount of a pollutant that a  
441 waterbody can receive and still meet water quality standards in all seasons.

442 SECTION 35. Section 12C of said chapter 132A, as so appearing, is hereby amended by  
443 striking out, in line 1, the word “The” and inserting in place thereof the words:- Unless otherwise  
444 specified in this chapter, the.

445 SECTION 36. Said section 12C of said chapter 132A, as so appearing, is hereby further  
446 amended by inserting after the word “programs”, in line 4, the following words:- and agencies  
447 responsible.

448 SECTION 37. Section 15 of said chapter 132A, as so appearing, is hereby amended by  
449 inserting after the word “wastes”, in line 28, the following words:- provided, however, that the  
450 department may approve a new or modified discharge of municipal wastewater from a POTW in  
451 accordance with section 16G;.

452 SECTION 38. Section 16 of said chapter 132A, as so appearing, is hereby amended by  
453 striking out, in lines 21 and 22, 23 and 24 and 27, the words “twelve B to sixteen F, inclusive,  
454 and said section eighteen” each time they appear and inserting in place thereof, in each instance,  
455 the following words:- 12B to 16K, inclusive and section 18.

456 SECTION 39. The second paragraph of said section 16 of said chapter 132A, as so  
457 appearing, is hereby amended by striking out the first sentence and inserting in place thereof the

following sentence:- Notwithstanding any general or special law to the contrary, municipal wastewater treatment facilities may discharge into the ocean sanctuary if the discharge is approved under section 16G and approved and licensed by the appropriate federal and state agencies.

SECTION 40. Sections 16A to 16F, inclusive, of said chapter 132A are hereby repealed.

SECTION 41. Said chapter 132A is hereby amended by inserting after section 16 the following 5 sections:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Section 16J. Upon receipt of an application for a new or modified discharge, the department shall provide public notice, an opportunity for comment and shall hold a public hearing on the application. Individual notice shall be provided to all municipalities bordering the affected sanctuary. Following the public hearing, the department shall prepare a proposed final decision and provide public notice of the proposed final decision, including individual notice to any person commenting on the application and to all municipalities bordering the affected sanctuary. The proposed final decision shall take effect within 30 days of the public notice unless any person aggrieved by the decision requests an adjudicatory hearing prior to the expiration of the 30 days. Following an adjudicatory hearing, the commissioner of environmental protection

shall make the final decision and provide notice to all parties. The final decision shall take effect within 30 days, unless an appeal is taken under section 14 of chapter 30A prior to the expiration of the 30 days.

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

SECTION 42. Section 18 of said chapter 132A, as appearing in the 2012 Official Edition, is hereby amended by striking out, in lines 6 and 7, the words “sixteen B through sixteen F” and inserting in place thereof the following words:- 16G to 16K.

SECTION 43. The first paragraph of said section 18 of said chapter 132A, as so appearing, is hereby further amended by adding the following sentence:- The department shall establish regulations to the extent needed for the proper administration of the act and to preserve and protect the appearance, ecology and marine resources of the waters of the sanctuary and meet the water quality standards and goals of the federal Clean Water Act and Massachusetts Clean Waters Act.

SECTION 44. Said section 18 of said chapter 132A, as so appearing, is hereby further amended by inserting after the word “permit”, in line 14, the following words:- , approval, certificate.

SECTION 45. Said section 18 of said chapter 132A, as so appearing, is hereby further amended by inserting after the word “licenses”, in line 20, the following words:- or on department permits or approvals of new or modified discharges of wastewater from POTWs.

SECTION 46. Subsection (b) of section 13 of chapter 716 of the acts of 1989 is hereby amended by adding the following 2 clauses:- ; provided, however, that for any plan or project proposed by a public or quasi-public entity for managing wastewater, watersheds, water resources or water quality, the commission may conduct the public hearing under subsection (a) and issue the decision under subsection (e) jointly, prior to or concurrent with the issuance of a certificate by the secretary of energy and environmental affairs or a successor agency, certifying compliance with said sections 61 to 62 H, inclusive, of chapter 30 of the General Laws; and provided further, that notwithstanding subsection (e), the commission may specify in its decision the period for which the development of regional impact is valid and effective and municipal development permits may be issued pursuant thereto, which period may be different than 7 years.

SECTION 47. Said section 13 of said chapter 716 is hereby further amended by adding the following subsection:- (l) The commission and any public agency may enter into agreements to expedite permitting for nutrient remediation and other water quality improvement plans and projects. Notwithstanding section 12 and 13, the commission shall review developments of regional impact for managing wastewater, watersheds, water resources or water quality for



consistency with any approved areawide water quality management plan created at the direction of the governor pursuant to the federal Clean Water Act.

SECTION 48. Sections 26 and 27 of chapter 203 of the acts of 1992 are hereby repealed.

SECTION 49. Section 14 of chapter 33 of the acts of 1998 is hereby amended by striking out section 14 and inserting in place thereof the following section:-

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

SECTION 50. Section 420 of chapter 194 of the acts of 1998 is hereby amended by striking out, in line 2, the words “water pollution abatement trust” and inserting in place thereof the following words:- Massachusetts Clean Water Trust.

SECTION 51. Said section 420 of said chapter 194 is hereby further amended by inserting after the word “projects”, in line 3, the following words:- “or drinking water projects”.

SECTION 52. Said section 420 of said chapter 194 is hereby further amended by striking out, in line 11, the words “or section 6A”.

SECTION 53. Said section 420 of said chapter 194 is hereby further amended by striking out, in lines 13 to 16, inclusive, the words “or said section 6A; provided, however, that the total amount of contract assistance paid by the commonwealth over the life of such loan shall not exceed the amount of contract assistance that would have been paid if such loan had been made for a 20-year period”.

SECTION 54. Section 32 of chapter 312 of the acts of 2008 is hereby amended by striking out, in line 7, the words “or section 6A”.

SECTION 55. Notwithstanding any general or special law to the contrary, in order to assist communities in complying with applicable federal regulations, within 1 year after the release of sustainability criteria as determined by the United States Environmental Protection Agency, as required by the 2014 reauthorization of the Clean Water Resources Reform and Development Act , the board of the Massachusetts Clean Water Trust established in chapter 29C of the General Laws, in consultation with the division of local services within the department of revenue, established in section 1 of chapter 14 of the General Laws, and with input from a

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

SECTION 56. Notwithstanding any general or special law to the contrary, nothing in this act is intended to, or shall be construed to, affect in any way the existing commitments of contract assistance or other amounts heretofore provided by the Water Pollution Abatement Trust under general or special law. All agreements and obligations heretofore made under sections 6 or 6A, subsection (g) of section 18 or any other provision of chapter 29C of the General Laws, sections 26 and 27 of chapter 203 of the acts of 1992, section 420 of chapter 194 of the acts of 1998 or any other general or special law shall remain in full force and effect under their terms.

SECTION 57. The department of environmental protection shall promulgate regulations in accordance with this act within 1 year after the release of sustainability criteria as determined by the United States Environmental Protection Agency as required by the Water Reform and Development Act of 2014,

SECTION 58. The Massachusetts Water Resources Authority, in consultation with the department of environmental protection, shall file a report regarding the matching grant program established under section 31A of chapter 21 of the General Laws with the state treasurer, the department of environmental protection, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on the environment, natural resources and agriculture, not later than 2 years after the effective date of this act. The report shall include, but shall not be limited to: (1) the number of towns that have applied for a matching grant under said section 31A of said chapter 21; (2) the total grant funding awarded by the department under said section 31A of said chapter 21; and (3) the change in rates paid by members of the Massachusetts Water Resources Authority, if any.

SECTION 59. The department of environmental protection, in consultation with the Massachusetts Clean Water Trust, shall evaluate the loan and financial application process for towns with not more than 10,000 inhabitants to determine if greater efficiencies and cost reductions can be achieved in the application process without compromising the accountability for the financial assistance offered. The department shall submit its findings, together with any legislative recommendations, to the clerks of the senate and house of representatives and to the joint committee on environment, natural resources and agriculture not later than June 15, 2015.

SECTION 60. Notwithstanding any general or special laws to the contrary, subsequent to September 30, 2016, an assisted living facility shall not be considered a nursing home or housing for the elderly for purposes of regulations relative to system sewage flow design criteria promulgated by the department of environmental protection pursuant to section 13 of chapter 21A of the General Laws, codified as 310 CMR 15.203. The department of environmental protection shall promulgate revised regulations based on an evaluation of flows for assisted living facilities in the commonwealth for the purpose of establishing a flow limit for assisted living facilities to be incorporated into 310 CMR 15.203, not later than September 30, 2016. Operators of assisted living facilities may apply to the department for a determination of design flow using actual meter readings of established flows from existing or similar installations without the need for a variance pursuant to 310 CMR 15.410.

SECTION 61. There is hereby established a special commission to investigate and study ways to improve coordination among utility providers and municipalities to reduce unnecessary or duplicative roadway construction related to underground utilities. The commission shall consist of the chair of the department of public utilities, or a designee, who shall serve as chair; 2 persons to be appointed by the president of the senate, 1 of whom shall be a representative of a metropolitan planning organization, and 1 of whom shall be a representative of the Utility Contractors' Association of New England; 2 persons to be appointed by the speaker of the house of representatives, 1 of whom shall be a member of an energy utility, and 1 of whom shall be a representative of the American Council of Engineering Companies of Massachusetts; and 6 persons to be appointed by the governor who shall not be employees of the executive branch and who shall reside in different geographic regions of the commonwealth, 1 of whom shall be a representative of the Massachusetts Department of Transportation, 1 of whom shall be a representative of the department of environmental protection, 1 of whom shall be a representative of the Boston Water and Sewer Commission, 1 of whom shall be a representative of the Massachusetts Water Works Association, 1 of whom shall be a representative of the Massachusetts Municipal Association, and 1 of whom shall be employed by a gas utility, with expertise in the planning of gas and electrical construction projects.

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

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

SECTION 62. Members of the water infrastructure advisory committee established by section 24 of chapter 21A of the General Laws shall be appointed on or before December 1, 2014.