

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

130 For the purposes of this section, the term "burden" shall mean the time, effort or financial
131 resources expended by persons to generate, maintain or provide information to or for a
132 governmental agency, including the resources expended for: reviewing instructions; acquiring,
133 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

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

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

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

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

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

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

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

278 (e) The department shall promulgate regulations under section 7 establishing the types of
279 eligible projects and criteria that the department shall use to evaluate applications for additional
280 financial assistance, including principal forgiveness and additional financial incentives,
281 consistent with the sustainability criteria as determined by the United States Environmental
282 Protection Agency as required by the Water Resources Reform and Development Act of
283 2014. The financial assistance and financial incentives provided under these regulations shall be
284 made available to projects appearing in the department's intended use plan the year following the
285 release of regulations by the department and subsequent years. Such criteria may include, the
286 following requirements, any 1 of which shall be sufficient to qualify the project for assistance: (i)
287 the project is pursuant to a regional wastewater management plan that has been adopted by a
288 regional planning agency with regulatory authority; (ii) the project is necessary to connect a local
289 or regional local governmental unit to a facility of the Massachusetts Water Resources Authority,
290 if the local or regional local governmental unit has paid or committed to pay the entry fee of that
291 authority; (iii) the project is a green infrastructure project, as defined in section 26A of chapter
292 21, with consideration being given to projects that effectively combine green infrastructure with
293 wastewater infrastructure and drinking water infrastructure projects; (iv) the project uses regional
294 water resources to offset, by at least 100 per cent, the impact of water withdrawals on local water
295 resources in the watershed basin of the receiving community; (v) the project is a direct result of a
296 disaster affecting the service area that is the subject of a declaration of emergency by the
297 governor; (vi) the project is intended to provide public water supply to consumers whose
298 groundwater or public or private wells are impacted by contamination; or (vii) the program is an
299 innovative water project utilizing new technology, which improves environmental or treatment
300 quality, reduces cost, increases access and availability of water, conserves water or energy or
301 improves management, in the areas of drinking water, wastewater, stormwater, groundwater or
302 coastal resources; provided, that the project has not been fully implemented, other than as a pilot
303 project, previously in the commonwealth.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

402 SECTION 28. Section 12A of chapter 132A of the General Laws, as appearing in the
403 2012 Official Edition, is hereby amended by striking out, in line 1 the words “twelve B to sixteen
404 E, inclusive, and section eighteen” and inserting in place thereof the following words:- 12B to
405 16J, inclusive and section 18.

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

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

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

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

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

418 “Comprehensive Wastewater Management Plan” or “CWMP”, a municipal or regional
419 study, conducted in accordance with appropriate department of environmental protection
420 guidance, regulations and policies, which evaluates alternatives and recommends an appropriate
421 implementation strategy to properly manage wastewater in order to provide protection for the
422 public health and safety and the environment, including, water quality standards and TMDLs, if
423 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

606 SECTION 56. Notwithstanding any general or special law to the contrary, nothing in this
607 act is intended to, or shall be construed to, affect in any way the existing commitments of
608 contract assistance or other amounts heretofore provided by the Water Pollution Abatement Trust
609 under general or special law. All agreements and obligations heretofore made under sections 6 or
610 6A, subsection (g) of section 18 or any other provision of chapter 29C of the General Laws,
611 sections 26 and 27 of chapter 203 of the acts of 1992, section 420 of chapter 194 of the acts of
612 1998 or any other general or special law shall remain in full force and effect under their terms.

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

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

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

634 SECTION 60. Notwithstanding any general or special laws to the contrary, subsequent to
635 September 30, 2016, an assisted living facility shall not be considered a nursing home or housing
636 for the elderly for purposes of regulations relative to system sewage flow design criteria
637 promulgated by the department of environmental protection pursuant to section 13 of chapter
638 21A of the General Laws, codified as 310 CMR 15.203. The department of environmental
639 protection shall promulgate revised regulations based on an evaluation of flows for assisted
640 living facilities in the commonwealth for the purpose of establishing a flow limit for assisted
641 living facilities to be incorporated into 310 CMR 15.203, not later than September 30, 2016.
642 Operators of assisted living facilities may apply to the department for a determination of design
643 flow using actual meter readings of established flows from existing or similar installations
644 without the need for a variance pursuant to 310 CMR 15.410.

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

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

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

668 SECTION 62. Members of the water infrastructure advisory committee established by
669 section 24 of chapter 21A of the General Laws shall be appointed on or before December 1,
670 2014.