

HOUSE No. 4280

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 6, 2018.

The committee on Environment, Natural Resources and Agriculture to whom were referred the petition (accompanied by bill, Senate, No. 2163) of Julian Cyr, Sarah K. Peake, Dylan Fernandes and Randy Hunt for legislation to establish the Cape Cod Water Protection Trust and the petition (accompanied by bill, House, No. 3902) of Sarah K. Peake, Julian Cyr and Dylan Fernandes for legislation to establish a regional fund for the costs associated with water quality restoration projects in the counties of Barnstable, Dukes, and Nantucket, reports recommending that the accompanying bill (House, No. 4280) ought to pass.

For the committee,

SMITTY PIGNATELLI.

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**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act establishing the cape cod water protection trust.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. For the purposes of section 2 and section 3 of this act, "208 plan" shall
2 mean an area wide water quality management plan, or a suitable equivalent as established by the
3 department of environmental protection, in Barnstable, Dukes and Nantucket counties that is
4 certified, on or after June 1 2015, by the governor or the governor's designee and approved by
5 EPA pursuant to the Clean Water Act.

6 SECTION 2. There shall be established and set up on the books of the Massachusetts
7 Clean Water Trust, referred to in this section as the trust, a separate fund to be known as the
8 Cape Cod and Islands Water Protection Fund, referred to in this section as the fund. Except as
9 otherwise specifically provided in this section, the provisions of chapter 29C of the General
10 Laws shall be applicable to the fund, and terms defined in said chapter 29C are used in this
11 section as so defined. There shall be credited to the fund revenue from appropriations or other
12 moneys authorized by the general court and specifically designated to be credited to the fund,
13 including but not limited to any investment income earned on the fund's assets and all other
14 sources, each source being tracked separately for accounting purposes as of June 30 of each year.

15 The trust shall hold the fund in an account or accounts separate from other funds of the trust. The
16 trust shall apply and disburse amounts credited to the fund, without further appropriation, to
17 provide additional subsidies and other assistance, which may include principal forgiveness, to
18 local governmental units and other eligible borrowers in the payment of debt service costs on
19 loans and other forms of financial assistance made by the trust for water pollution abatement
20 projects in Barnstable, Dukes and Nantucket counties upon approval of a 208 plan as defined in
21 section 1 above, respectively, for each county. Any such projects shall be consistent with an
22 approved 208 plan, as defined in section 1 above, as determined pursuant to paragraph (d) of
23 section 6 of said chapter 29C. In the case of projects in the towns of Nantucket, Edgartown,
24 Tisbury and Oak Bluffs subject to the approval of a 208 plan or suitable equivalent as defined in
25 Section 1 of this Act and the Towns of Barnstable, Falmouth, Chatham and Provincetown, the
26 trust shall also provide subsidies and assistance as aforesaid with respect to debt incurred by such
27 towns apart from the trust prior to the enactment of this act. Amounts credited to the fund shall
28 be expended or applied, in a manner determined by, and only with the approval of the Cape Cod
29 and Islands Water Protection Fund Advisory Board established under section 3 of this act, in
30 addition to any approvals required under said chapter 29C. From amounts deposited in the fund,
31 the trust shall transfer to the Environmental Protection Fund established by section 18 of Chapter
32 716 of the acts of 1989 an amount not to exceed the lesser of two million dollars or ten percent of
33 the annual revenue deposited into the fund, for the purposes of evaluating and reporting on the
34 efficacy of adaptive management measures to reduce nitrogen pollution of coastal waterways
35 undertaken pursuant to the 208 plan, as defined in section 1 above, to monitor the water quality
36 of areas subject to said study and to support further assessment and water quality modeling to
37 further refine said study. Any amounts remaining in the fund at the end of a fiscal year shall be

38 carried forward into the following fiscal year and shall remain available for application and
39 disbursement without further appropriation. Municipalities included in the trust may opt to
40 withdraw from the trust not before January 1, 2020 by two thirds vote of its legislative body,
41 provided however, that a municipality may not withdraw from the trust during the term of any
42 financial assistance award from the trust to said municipality. Any municipality that has
43 withdrawn from the trust and votes, by majority vote of its legislative body, to return to the trust
44 shall not receive money from the fund until at least two years from the date of its vote to do so.

45 SECTION 3. There is hereby established a Cape Cod and Islands Water Protection Fund
46 Advisory Board, referred to in this section as the advisory board, consisting of 1 person to be
47 appointed by each board of selectmen or town council in each of the municipalities within the
48 area covered by a 208 plan, as defined in section 1 above; provided, however, that the appointees
49 by the boards of selectmen or town councils shall be either members of their respective
50 appointing authority, its town manager or administrator, or other municipally employed
51 professional staff. Each municipality within Barnstable County shall have representation on the
52 advisory board and the executive director of the Cape Cod Commission shall serve as an ex-
53 officio member. Each municipality in Dukes County shall have a representative and the
54 executive director of the Martha's Vineyard Commission shall serve as an ex-officio member
55 and the Town Manager of Nantucket shall be a member and the Chair of the Nantucket County
56 Commissioners shall serve as an ex-officio member on the advisory board upon approval of a
57 208 plan, as defined in section 1 above. Each member of the advisory board shall serve for a
58 term of 3 years and until a successor is appointed and qualified, and each member of the board
59 shall be eligible for reappointment. Each member of the advisory board appointed to fill a
60 vacancy on the board shall be appointed for the unexpired term of the vacant position. The

61 members of the advisory board shall select a member as to serve as chairperson and vice-
62 chairperson for a term established by vote of the board. The Cape Cod Commission shall provide
63 administrative and technical support to said advisory board and may be compensated for its
64 associated costs by vote of the advisory board.