

SENATE No. 2021

Senate, February 27, 2014 – Text of the Senate Bill improving drinking water and wastewater infrastructure (being the text of Senate, No. 2016, printed as amended)

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act improving drinking water and wastewater infrastructure.

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

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

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

5 SECTION 2A.

6 EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

7 *Department of Environmental Protection*

8 2200-0135 For planning or technical assistance grants under section 31 of chapter 21 of
9 the General Laws; provided, that funds may be expended through June 30, 2015; provided

10 further, that the department shall develop a watershed permitting approach to address nitrogen
11 management measures and the department shall report to the joint committee on environment,
12 natural resources and agriculture by July 31, 2015 on any statutory changes it deems necessary to
13 fully implement said watershed permitting approach.....\$3,000,000

14 SECTION 3. Section 26A of chapter 21 of the General Laws, as appearing in the 2012
15 Official Edition, is hereby amended by inserting after the definition of “FWPCA” the following
16 2 definitions:-

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

23 “Green infrastructure projects”, projects which shall include, but shall not be limited to:
24 decentralized wastewater systems that infiltrate treated water; water reuse for other beneficial
25 purposes; low impact development projects, which shall include but not be limited to, bioswales,
26 porous pavements, green roofs, infiltration planters, trees and tree boxes, rainwater harvesting
27 systems, rain gardens and water efficient landscaping; the conservation, enhancement and
28 restoration of natural landscape features that naturally filter and remove silt and pollution from
29 surface waters, maintain or restore natural hydrologic cycles, minimize imperviousness in a
30 watershed through preservation and restoration of natural landscape buffers such as forests,
31 floodplains, wetlands and other natural systems and restoration of natural stream channels;

32 projects that assist a public entity with the removal, curtailment or mitigation of infiltration and
33 inflow issues; energy and water efficiency, renewable energy and land acquisition and
34 restoration projects that protect and filter drinking water supplies and buffer reservoirs; and the
35 mitigation of risks of flooding and erosion using the restoration of saltmarsh, oyster reefs and
36 eelgrass beds from sea-level rise, storm surges and extreme weather events, including the
37 protection and restoration of natural coastal landscapes and features and ensuring road crossings
38 over rivers and streams are of adequate size to allow for increased flows of water; provided, that
39 green infrastructure projects may be stand-alone and shall also be used to complement built
40 water management infrastructure technologies such as pipes, dikes and treatment facilities; and
41 provided, further, that green infrastructure projects may include innovative technologies that
42 further the mandates under the federal Clean Water Act.

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

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

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

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

56 SECTION 6A. Said section 31 of said chapter 21, as so appearing, is hereby further
57 amended by inserting after the first sentence the following sentence:- The division may accept
58 and shall give preference to planning and technical grants applied for jointly by 2 or more public
59 entities.

60 SECTION 6B. Said section 31 of said chapter 21, as so appearing, is hereby further
61 amended by striking out, in line 5, the word "fifteen" and inserting in place thereof the following
62 figure:- 30.

63 SECTION 7. Said section 31 of said chapter 21, as so appearing, is hereby further
64 amended by inserting after the word "Planning", in line 12, the following words:- or technical
65 assistance.

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

68 Section 31A. Subject to appropriation, the department of environmental protection shall
69 administer a matching grant program for communities who desire to join the Massachusetts
70 Water Resources Authority or any other regional system or enter into a contract with any entity
71 for wastewater, drinking water or for both wastewater and drinking water. Each grant shall
72 match, on a 1:1 basis, money committed by a local government unit or a regional local
73 governmental unit, as defined in section 1 of chapter 29C, to pay the entry fee established by the:
74 Massachusetts Water Resources Authority, under section 8 of chapter 372 of the acts of 1984;
75 regional system; or entity. The department shall award grants only to a local governmental unit

76 or regional local governmental unit that satisfies the department that it has committed funds to
77 join said Authority, regional system or entity. Should the local governmental unit or regional
78 local governmental unit fail to join said Authority, regional system or entity after receiving a
79 grant under this section, the local governmental unit or regional local governmental unit shall
80 return money granted under this section to the department.

81 For the purpose of this section, the term “regional system” shall include any system
82 established by mutual agreement of 2 or more municipalities to provide drinking water or
83 wastewater services, or both, through shared facilities, sources or distribution networks.

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

87 SECTION 10. Said chapter 21 is hereby further amended by adding the following
88 section:-

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

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

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

110 SECTION 11. Section 13 of chapter 21A of the General Laws, as appearing in the 2012
111 Official Edition, is hereby amended by inserting after the first paragraph, the following 3
112 paragraphs:-

113 With regard to the enforcement of this section, including requirements related to forms
114 utilized by septic system inspectors or local boards of health, the commissioner shall evaluate
115 practices, which would minimize the paperwork burden for individuals, small businesses,
116 contractors, state and local governments and their agents, and strive to ensure the greatest
117 possible public benefit from and maximize the utility of information collected, created,

118 maintained, used, shared and disseminated by or for the purpose of the code and to reduce the
119 number of copies required for official use.

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

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

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

129 SECTION 12A. Section 11I of chapter 25A of the General Laws, as so appearing, is
130 hereby amended by striking out subsection (j) and inserting in place thereof the following
131 subsection:-

132 (j) Payments under a contract for energy management services may be based in whole or
133 in part on any cost savings attributable to: a reduction in energy and water consumption; any
134 improved system accuracy due to the contractor’s performance; revenues gained as a result of the
135 contractor’s services that are aimed at energy and water cost savings; metering or related
136 equipment; or energy or water conservation-related improvements or equipment.

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

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

143 SECTION 15. Said chapter 29 is hereby further amended by inserting after section
144 2KKKK the following section:-

145 Section 2LLLL. There shall be established and set up on the books of the commonwealth
146 a separate fund to be known as the Regional Water Entity Reimbursement Fund, in this section
147 called the fund. The fund shall be administered by the state treasurer and shall be funded by the
148 commonwealth, by and through the state treasurer and subject to appropriation, to reimburse the
149 Massachusetts Water Resources Authority for its costs: in providing cities and towns, within its
150 sewer service area, financial assistance in the form of interest free grants and loans to rehabilitate
151 collection systems in cities and towns; and to structurally reduce infiltration and inflow into the
152 tributary to the treatment facilities owned by the authority. Such reimbursement shall be in
153 addition to the contract assistance amounts in section 6 of chapter 29C, subject to the limit set
154 forth in said chapter 29C, but shall not be greater than 10 per cent of the maximum amount set
155 forth in said chapter 29C. An equivalent amount of funding shall be appropriated to reimburse
156 non-MWRA communities and districts for their costs incurred to rehabilitate collection systems
157 and reduce inflow and infiltration tributary to their respective wastewater treatment facilities.

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

161 MASSACHUSETTS CLEAN WATER TRUST.

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

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

167 “Committed contract assistance”, in any year, the sum of: (i) the amount of contract
168 assistance that the commonwealth has committed to provide during the year with respect to
169 bonds of the trust issued, subsidy funds established and all other board-approved financial
170 assistance established or committed prior to such year; and (ii) the amount of contract assistance
171 that the board determines will be required to be committed during the year in order to provide
172 subsidies or other financial assistance, including, without limitation, with respect to bonds of the
173 trust expected to be issued in such year.

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

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

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

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

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

192 (b) The board shall apply and disburse monies in the fund and in the Drinking Water
193 Revolving Fund, established under section 18, as applicable, including contract assistance
194 provided in this section, or shall otherwise structure the debt service costs on loans and other
195 forms of financial assistance made by the trust to provide a subsidy or other assistance to local
196 governmental units or other eligible borrowers in the payment of debt service costs on such loans
197 and other forms of financial assistance that shall be the financial equivalent of a loan made at an
198 interest rate equal to 2 per cent. Notwithstanding the foregoing, but subject to the limit on
199 contract assistance provided in this section and the availability thereof after taking into account
200 committed contract assistance, the board may commit such available contract assistance to
201 provide additional financial assistance to local governmental units or other eligible borrowers
202 that shall be the financial equivalent of a loan made at an interest rate less than 2 per cent and
203 which additional subsidy may include principal forgiveness; provided, that principal forgiveness
204 committed under this section in any year shall not exceed 25 per cent of the total costs of all

205 projects on that year's applicable clean water or drinking water intended use plan; and provided
206 further, that a loan or other form of financial assistance that qualifies for an additional subsidy
207 shall receive such additional subsidy in the amount and at a rate as determined by the board,
208 which shall not exceed the financial equivalent of a 75 per cent subsidy as compared to a market
209 rate loan as calculated at the time of board approval of such loan or other form of financial
210 assistance.

211 (c) The department of environmental protection shall promulgate regulations, under
212 section 7 establishing the types of eligible projects and criteria that the department shall use to
213 evaluate applications for additional subsidies equivalent to a loan made at an interest rate of less
214 than 2 per cent. The additional subsidies shall be made available to eligible projects appearing on
215 the department's 2014 intended use plan and subsequent years. The criteria shall be reflective of
216 the board's current priorities and of best management practices. Notwithstanding the foregoing
217 regulations, all permanent loans and other forms of financial assistance made by the trust, which
218 finance the costs of certain water pollution abatement projects on the department's intended use
219 plan for calendar year 2009 to calendar year 2069, inclusive, and meet the criteria listed below,
220 shall provide for an additional subsidy or other assistance in the payment of debt service such
221 that the loans and other forms of financial assistance shall be the financial equivalent of a loan
222 made at a 0 per cent rate of interest; provided, that the costs of water pollution abatement
223 projects on an intended use plan that are eligible for a permanent loan or other financial
224 assistance from the trust at the financial equivalent of a loan made at a 0 per cent rate of interest
225 shall not exceed 35 per cent of the total costs of all water pollution abatement projects on the
226 intended use plan.

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

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

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

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

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

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

247 (e) The department shall promulgate regulations under section 7 establishing the types of
248 eligible projects and criteria that the department shall use to evaluate applications for additional
249 financial assistance, including principal forgiveness and additional financial incentives. The
250 financial assistance and financial incentives provided under these regulations shall be made
251 available to projects appearing in the department's 2014 intended use plan and subsequent years.
252 Such criteria shall include, but not be limited to, the following requirements, any 1 of which shall
253 be sufficient to qualify the project for assistance: (i) the project is pursuant to a regional
254 wastewater management plan that has been adopted by a regional planning agency with
255 regulatory authority; (ii) the project is necessary to connect a local or regional local
256 governmental unit to a facility of the Massachusetts Water Resources Authority, if the local or
257 regional local governmental unit has paid or committed to pay the entry fee of that authority; (iii)
258 the project is a green infrastructure project, as defined in section 26A of chapter 21, with
259 consideration being given to projects that effectively combine green infrastructure with
260 wastewater infrastructure and drinking water infrastructure projects; (iv) the project uses regional
261 water resources to offset, by at least 100 per cent, the impact of water withdrawals on local water
262 resources in the watershed basin of the receiving community; (v) the project is a direct result of a
263 disaster affecting the service area that is the subject of a declaration of emergency by the
264 governor; (vi) the project is intended to provide public water supply to consumers whose
265 groundwater or public or private wells are impacted by contamination; or (vii) the program is an
266 innovative water project utilizing new technology, which improves environmental or treatment
267 quality, reduces cost, increases access and availability of water, conserves water or energy or
268 improves management, in the areas of drinking water, wastewater, stormwater, groundwater or

269 coastal resources; provided, that the project has not been fully implemented, other than as a pilot
270 project, previously in the commonwealth.

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

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

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

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

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

307 SECTION 24. Chapter 40 of the General Laws is hereby amended by inserting after
308 section 39L the following 2 sections:-

309 Section 39M. (a) Notwithstanding any general or special law to the contrary, a city, town,
310 water district, wastewater district, stormwater utility or statutory authority created to operate a
311 water distribution or wastewater collection system or stormwater system, which accepts this
312 section, may, subject to a vote by the city council and approval of the mayor or in a town by a

313 vote of the town meeting or by a vote of the governing body of any water district or wastewater
314 district, as defined in section 1A, for any municipality or districts that accept this section, collect
315 a reasonable fee to be used exclusively for measures to remedy and offset the impacts on the
316 natural environment of new or increased water withdrawals, sewerage, wastewater discharges,
317 including those from onsite disposal systems, stormwater discharges or impairment of recharge
318 of groundwater through depletion of ground or surface waters and to sustain the quantity, quality
319 and ecological health of waters of the commonwealth. Such measures to remedy and offset these
320 impacts include, without limitation: local recharge of stormwater and wastewater; redundant
321 water sources; reductions in loss from drinking water systems; treatment of drinking water or
322 interconnections with other systems for the purposes of optimizing water supply sources for
323 environmental benefit; expansion of stormwater treatment and wastewater treatment systems;
324 reuse of water; removal of sewer infiltration and inflow; water conservation; retrofits of existing
325 buildings and parking lots with low impact development methods; removal of dams;
326 improvements to aquatic habitat; the pumping, repair, maintenance and replacement of onsite
327 subsurface disposal systems installed pursuant to Title V of the state environmental code as well
328 as systems considered to be cesspools; development of an integrated water resource management
329 plan, study or plan to mitigate environmental impacts; and land acquisition for the protection of
330 public water supply sources, siting of decentralized wastewater facilities, stormwater recharge
331 sites or riparian habitat. The fee, which may be based on retaining within the basin or saving at
332 least 1 gallon, but not more than 10 gallons, for every gallon of increased water or sewer demand
333 or net impairment of recharge, shall be assessed in a fair and equitable manner and separate fees
334 may be established for different types of uses, such as residential and commercial uses. Any fees
335 charged to mitigate the impact of onsite disposal systems may be based on the expected cost to

336 pump, maintain and replace such systems as determined by the governmental unit assessing the
337 fee. Any person subject to a fee established by this section who installs, or had installed within
338 the 12 months prior to the effective date of this act, any low flow fixtures or water efficient
339 appliances may receive up to a 25 per cent reduction in said fee, as determined by the applicable
340 city, town, water district, wastewater district, stormwater utility or statutory authority created to
341 operate a water distribution or wastewater collection system or stormwater system.

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

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

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

363 (b) All exemptions and abatements of real property authorized by said chapter 59, or any
364 other law for which a taxpayer qualifies as eligible, shall not be affected by this section. A
365 taxpayer receiving an exemption of real property under a clause of section 5 of said chapter 59
366 specifically listed in section 59 of said chapter 59 shall be exempt from any surcharge on real
367 property established under this section. The surcharge to be paid by a taxpayer receiving any
368 other exemption or abatement of tax on real property authorized by said chapter 59 or any other
369 law shall be reduced in proportion to the amount of such exemption or abatement.

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

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

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

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

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

396 (h) After receipt of the warrant, the tax collector shall collect the surcharge in the amount
397 and according to the computation specified in the warrant and shall pay the amounts so collected,
398 quarterly or semi-annually, according to the schedule for collection of property taxes for the tax
399 on real property, to the city's or town's treasurer. The tax collector shall cause appropriate books

400 and accounts to be kept with respect to the surcharge, which shall be subject to public
401 examination upon reasonable request.

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

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

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

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

416 SECTION 26. Section 12A of chapter 132A of the General Laws, as appearing in the
417 2012 Official Edition, is hereby amended by striking out, in line 1 the words “twelve B to sixteen
418 E, inclusive, and section eighteen” and inserting in place thereof the following words:- 12B to
419 16J, inclusive and section 18.

420 SECTION 27. Section 12B of said chapter 132A, as so appearing, is hereby amended by
421 inserting after the definition of “Adjudicatory hearing” the following definition: -

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

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

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

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

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

438 “Department”, the department of environmental protection.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

481 (1) The new or modified discharge shall be consistent with the intent and purpose of the
482 act. Any discharge shall meet the water quality standards of the receiving water body

483 and the standards of the act to protect the appearance, ecology and marine resources
484 of the waters of the sanctuary.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

533 Section 16J. Upon receipt of an application for a new or modified discharge, the
534 department shall provide public notice, an opportunity for comment and shall hold a public
535 hearing on the application. Individual notice shall be provided to all municipalities bordering the
536 affected sanctuary. Following the public hearing, the department shall prepare a proposed final
537 decision and provide public notice of the proposed final decision, including individual notice to
538 any person commenting on the application and to all municipalities bordering the affected
539 sanctuary. The proposed final decision shall take effect within 30 days of the public notice unless
540 any person aggrieved by the decision requests an adjudicatory hearing prior to the expiration of
541 the 30 days. Following an adjudicatory hearing, the commissioner of environmental protection
542 shall make the final decision and provide notice to all parties. The final decision shall take effect
543 within 30 days, unless an appeal is taken under section 14 of chapter 30A prior to the expiration
544 of the 30 days.

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

548 SECTION 40. Section 18 of said chapter 132A, as appearing in the 2012 Official Edition,
549 is hereby amended by striking out, in lines 6 and 7, the words “sixteen B through sixteen F” and
550 inserting in place thereof the following words:- 16G to 16K.

551 SECTION 41. The first paragraph of said section 18 of said chapter 132A, as so
552 appearing, is hereby further amended by adding the following sentence:- The department shall
553 establish regulations to the extent needed for the proper administration of the act and to preserve
554 and protect the appearance, ecology and marine resources of the waters of the sanctuary and
555 meet the water quality standards and goals of the federal Clean Water Act and Massachusetts
556 Clean Waters Act.

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

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

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

564 SECTION 44A. Section 14 of chapter 33 of the acts of 1998 is hereby amended by
565 striking 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 45. 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 46. Said section 420 of said chapter 194 is hereby further amended by striking
579 out, in line 11, the words “or section 6A”.

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

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

587 SECTION 49. Notwithstanding any general or special law to the contrary, not later than 1
588 year from the effective date of this act, the board of the Massachusetts Clean Water Trust
589 established in chapter 29C of the General Laws, in consultation with the division of local
590 services within the department of revenue, established in section 1 of chapter 14 of the General
591 Laws, and with input from a stakeholder group, including representatives of municipal and

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

601 SECTION 50. Notwithstanding any general or special law to the contrary, nothing in this
602 act is intended to, or shall be construed to, affect in any way the existing commitments of
603 contract assistance or other amounts heretofore provided by the Water Pollution Abatement Trust
604 under general or special law. All agreements and obligations heretofore made under sections 6 or
605 6A, subsection (g) of section 18 or any other provision of chapter 29C of the General Laws,
606 sections 26 and 27 of chapter 203 of the acts of 1992, section 420 of chapter 194 of the acts of
607 1998 or any other general or special law shall remain in full force and effect under their terms.

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

612 SECTION 52. The Massachusetts Water Resources Authority, in consultation with the
613 department of environmental protection, shall file a report regarding the matching grant program

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

622 SECTION 53. The department of environmental protection, in consultation with the
623 Massachusetts Clean Water Trust, shall evaluate the loan and financial application process for
624 towns with not more than 10,000 inhabitants to determine if greater efficiencies and cost
625 reductions can be achieved in the application process without compromising the accountability
626 for the financial assistance offered. The department shall submit its findings, together with any
627 legislative recommendations, to the clerks of the senate and house of representatives and to the
628 joint committee on environment, natural resources and agriculture not later than June 15, 2015.