

# AGENDA

Wednesday

August 6<sup>th</sup> 2014

**TOWN OF EASTHAM  
AGENDA  
BOARD OF SELECTMEN  
Wednesday, August 6, 2014  
2:30 p.m.**

**REVISED**

*Location: Earle Mountain Room*

**WORK SESSION**

1. Municipal Water Program Update – Environmental Partners  
Update Board on:
  - Design details to date
  - Permitting
  - CCNS issues and
  - General engineering
  - Water infrastructure
2. ~~Stairs at Salt Works Road – Neil Andres~~ This is being moved to October 8, 2014
3. Approval of Minutes:
  - June 11, 2013 – Executive Session (*passed out at August 4, 2014 meeting*)
  - June 17, 2013 – Regular Meeting
  - August 29, 2013 – Joint Meeting with Town of Orleans Board of Selectmen
  - July 7, 2014 – Executive Session (*passed out at July 21, 2014 meeting*)
  - July 21, 2014 – Regular Session
  - July 21, 2014 – Executive Session (*passed out at August 4, 2014 meeting*)

**Upcoming Meetings:**

<i>August 18, 2014</i>	<i>5:00 p.m.</i>	<i>Regular Meeting</i>
<i>September 2, 2014</i>	<i>5:00 p.m.</i>	<i>Regular Meeting</i>
<i>September 3, 2014</i>	<i>2:30 p.m.</i>	<i>Work Session</i>

*\*Per the Attorney General's Office: The Board of Selectmen may hold an open session for topics not reasonably anticipated by the Chair 48 hours in advance of the meeting.  
If you are deaf or hard of hearing or are a person with a disability who requires an accommodation, contact Laurie Gillespie-Lee, 5900 x207*

## Sheila Vanderhoef

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**From:** Paul Gabriel <pfg@envpartners.com>  
**Sent:** Tuesday, July 22, 2014 11:25 AM  
**To:** Mark White; sheila Vanderhoef; Sheila Vanderhoef  
**Subject:** update on bond bill

## Water infrastructure bond bills would boost funding

*July 14, 2014*

Both the House and the Senate have passed legislation that would increase the amount of low-interest loans available to communities for water infrastructure projects from \$88 million per year to \$138 million.

The bills contain language that would create a sliding-scale interest rate of between zero and 2 percent on the loans, with additional subsidies that may include principal forgiveness based on certain criteria.

The Senate bill (S. 2021) would authorize cities and towns to collect reasonable fees to help offset environmental impacts caused by developments requiring new or increased water and sewer system needs, a program known as "water banking." The bill would allow for separate fees for residential and commercial usage. The water banking provision was not included in the House bill (H. 4212).

Both bills include language, modeled after the Community Preservation Act, which would allow communities, at local option, to establish a local-option water surcharge of up to 3 percent that would be deposited into a water infrastructure fund to repair aging infrastructure.

Both bills also contain a provision calling for the state to reimburse the Massachusetts Water Resources Authority for grants and loans they provide to communities to reduce "infiltration and inflow" of stormwater by repairing or replacing aging pipes connected to MWRA treatment facilities. The Senate bill would also allow non-MWRA communities to also be eligible for state reimburse for similar repairs, though the House did not include such language.

The House bill would re-establish the Water Infrastructure Finance Commission to continue to review the state's progress in improving water infrastructure. In 2012, the original commission found the overall financial need for water infrastructure projects across the state to be \$20.4 billion over the next 20 years.

House and Senate members are currently in discussion to work out the differences between the two bills, and the Legislature is expected to finalize the legislation before the end of the formal legislative session on July 31.

**Lisa Valcich**

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## Water Infrastructure Bill

Legislative Update: Yesterday was the last day of the formal session for the Massachusetts legislature. Here are some updates on the bills Massachusetts Water Works Association was working on and that are important to the water supply community:

Water Infrastructure Bill-MWWA has been co-coordinating a Water Infrastructure Alliance with ACEC MA to advocate for increased funding for water, wastewater and stormwater infrastructure improvements. Legislation was filed by Senator Jamie Eldridge and Representative Carolyn Dykema to take some of the recommendations made by the Water Infrastructure Finance Commission and turn them into law. The legislation is a good first step in addressing the Commission's recommendations, but doesn't have nearly enough funds to begin closing the \$40 billion gap between available and needed funding for water, wastewater and stormwater infrastructure. We will continue to advocate for more funding in the future.

There were some differences between the legislation that originally passed the Senate and the House, namely, the Senate had included one of MWWA's priorities which was authorization in statute for municipalities/water systems to create "water banks" or a fee charged to new users to be used for environmental mitigation. The legislature chose not to appoint a conference committee and to work out the differences between the bills "behind the scenes". Unfortunately, water banking did not survive because of the strong opposition by the development community. This is a disappointment to MWWA because it was a real opportunity to create a funding mechanism to assist with the new requirements that are anticipated under the Water Management Act regulations and it would have provided statutory protection to communities who are already charging fees which help them create additional capacity for new users into their water/wastewater systems.

The modified bill passed the legislature early this morning (around 1 AM!). The bill now goes to the Governor for final action. Some highlights of the legislation:

- \* Additional state capitalization of the SRF program in the amount of \$50 million, raising the cap from \$88 million to \$138 million; with a requirement for the Trust to distribute 80% of that or report to the legislature
- \* Access to less than 2% loans, 0% or even principal forgiveness if a project meets certain criteria (DEP will need to develop regulations to specify the criteria and the additional subsidies won't be available to eligible projects until the year following the release of the regulations)
- \* At local adoption, the ability to assess up to a 3% property tax surcharge for water infrastructure
- \* 1:1 match for the entry fee to MWRA or another regional water or wastewater system (subject to appropriation)
- \* Reimbursement to MWRA for the inflow/infiltration program for their member communities (subject to appropriation)
- \* Requirement that new or renovated irrigation systems have system interruption devices and that those devices be inspected every three years by an irrigation contractor

- \* Creation of a Water Infrastructure Advisory Committee to monitor the progress of closing the gap in funding (MWWA will have a seat)
- \* Creation of an Underground Utility Coordination Commission to improve coordination among utility providers to reduce unnecessary or duplicative roadway construction (MWWA will have a seat)
- \* The Water Pollution Abatement Trust will now be called the Clean Water Trust
- \* Items related to the Cape Cod nutrient issues and wastewater planning
- \* Change to laws regulating discharges to ocean sanctuaries

Related to the infrastructure discussion, Mass Municipal Association devoted an entire issue of their Municipal Advocate magazine to water topics. I worked with members of our Water Infrastructure Alliance to author an article related to making the case for water infrastructure funding. See the complete list of articles here<[http://www.mma.org/resources-mainmenu-182/cat\\_view/148-public-works-energy-and-utilities/214-water-wastewater-and-stormwater](http://www.mma.org/resources-mainmenu-182/cat_view/148-public-works-energy-and-utilities/214-water-wastewater-and-stormwater)>.

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)

**In the Year Two Thousand Fourteen**

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

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

SECTION 2A.

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS

Department of Environmental Protection

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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.

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

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

(b) The board shall apply and disburse monies in the fund and in the Drinking Water Revolving Fund, established under section 18, as applicable, including contract assistance provided in this section, or shall otherwise structure the debt service costs on loans and other forms of financial assistance made by the trust to provide a subsidy or other assistance to local governmental units or other eligible borrowers in the payment of debt service costs on such loans and other forms of financial assistance that shall be the financial equivalent of a loan made at an interest rate equal to 2 per cent. Notwithstanding the foregoing, but subject to the limit on contract assistance provided in this section and the availability thereof after taking into account committed contract assistance, the board may commit such available contract assistance to provide additional financial assistance to local governmental units or other eligible borrowers that shall be the financial equivalent of a loan made at an interest rate less than 2 per cent and which additional subsidy may include principal forgiveness; provided, that principal forgiveness 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.



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

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

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

(3) the applicant has a Comprehensive Wastewater Management Plan ("CWMP") approved under regulations adopted by the department;

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

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

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

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

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

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

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

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

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

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

Section 39M. (a) Notwithstanding any general or special law to the contrary, a city, town, water district, wastewater district, stormwater utility or statutory authority created to operate a water distribution or wastewater collection system or stormwater system, which accepts this 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.

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

“Department”, the department of environmental protection.

SECTION 31. Said section 12B of said chapter 132A, as so appearing, is hereby further 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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 44A. Section 14 of chapter 33 of the acts of 1998 is hereby amended by striking out section 14 and inserting in place thereof the following section:-

Section 14. All contracts made by the board of sewer commissioners shall be made in the name of the district and shall be signed by the board of sewer commissioners. The board of sewer commissioners may acquire, merge, consolidate, partner, combine, organize, reorganize, associate or otherwise join together or act in concert with any municipality, district,



governmental unit or any other form of governmental body, company or other entity under any form of agreement, contract, compact, consent or accord, including, without limitation, an intermunicipal agreement under section 4A of chapter 40 of the General Laws, for any and all purposes which would further the interest of the inhabitants of the district, as those interests may be determined by the board of sewer commissioners.

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

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

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

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

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

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

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

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