

HOUSE No. 769

By Mr. Hill of Ipswich, petition of Bradford Hill for legislation to establish a water resources conservation and efficiency program. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT ESTABLISHING A WATER RESOURCES CONSERVATION ACT AND EFFICIENCY PROGRAM.

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

1 Chapter 21 of the General Laws, as appearing in the 2002 Official
2 Edition, is hereby amended by inserting after Section 17F the
3 following sections:—

4 Section 17G. The Department of Environmental Management,
5 with assistance and support from the Department of Environmental
6 Protection, is authorized and directed to establish a water conserva-
7 tion and water resources protection program. Said program shall be
8 implemented to increase the efficiency of water use, mitigate the
9 environmental impacts of water withdrawals, assess the effective-
10 ness of various water conservation and water resource protection
11 measures in increasing efficiency of water use, and to identify effec-
12 tive measures to protect and conserve water resources and biological
13 resources throughout the Commonwealth. Said program shall
14 include, but not be limited to:—

15 (1) the establishment and implementation of a program for the
16 installation of water conserving plumbing fixtures in residential,
17 municipal, and state-owned buildings; for conducting water audits of
18 residential, commercial and municipal buildings; for the installation
19 of new, highly accurate water meters in commercial, municipal, and
20 state-owned buildings, and for the development and implementation
21 of landscape practices that eliminate or significantly reduce outdoor
22 water use;

23 (2) technical assistance to municipalities, water districts and water
24 authorities for comprehensive system wide water audits, water use

25 accounting and reporting and intensive leak detection and repair pro-
26 grams;

27 (3) the preparation of model municipal bylaws/ordinances for site
28 development, stormwater management, including stormwater infil-
29 tration and recharge, landscape and recreational facility design and
30 irrigation and water conservation;

31 (4) the development of model water conserving rate structures
32 and billing procedures that fully incorporate the cost of producing
33 water and protecting water resources;

34 (5) the development of public education programs, school cur-
35 ricula, and supporting materials relating to water conservation and
36 water resource protection;

37 (6) development of a methodology for estimating long-term water
38 needs that considers the impact of community build-out projections
39 and provides technical assistance to municipalities, water districts,
40 and water authorities in developing water needs estimates; and,

41 (7) directing technical assistance to municipalities, water districts
42 and water authorities in the efficient management, use and protection
43 of water resources consistent with the purpose of this Act.

44 Model bylaws/ordinances, educational materials, technical assis-
45 tance guidance documents, and other resources generated from said
46 program shall be made available for the benefit of all municipalities
47 of the Commonwealth, water districts, and water authorities. Partici-
48 pation of municipalities, water districts, and water authorities in any
49 or all elements of the program shall be voluntary.

50 All elements of the water conservation and water resource protec-
51 tion program implemented by municipalities and water districts and
52 water authorities shall be assessed as to their effectiveness by the
53 Massachusetts Water Resources Commission, with the assistance of
54 participating municipalities, water districts, water authorities and the
55 Department of Environmental Management, the Department of
56 Environmental Protection, and nongovernmental organizations con-
57 cerned with water resources. Within five years of the passage of this
58 Act the Water Resources Commission shall file a report with the
59 clerk of the House and Senate identifying the success or failure of all
60 measures developed and implemented under said program. Said
61 report shall include recommendations for implementation of water
62 conservation and water resource protection measures throughout the

63 Commonwealth and an estimate of the funding necessary to imple-
64 ment such measures.

65 Section 17H. A sum of \$150,000 is hereby provided to the Water
66 Resources Research Center of the University of Massachusetts to
67 conduct a study and prepare a report on the laws, regulations, and
68 policies of the Commonwealth dealing with water conservation,
69 water resource protection, drought preparedness, and instream flow.
70 Said report shall identify any inconsistencies or potential inconsis-
71 tencies of these laws, regulations and policies with the Federal Clean
72 Water Act. Said report shall include recommendations for legisla-
73 tive, regulatory, and policy changes necessary to ensure the preser-
74 vation of adequate instream flows to protect the native biological
75 communities of the rivers and streams of the Commonwealth and to
76 ensure an adequate supply of water to meet the health, safety and
77 economic needs of the public. Said report shall include recommen-
78 dations regarding additional water conservation measures needed to
79 improve the efficiency of residential, commercial, industrial, institu-
80 tional and agricultural water use in the Commonwealth, including,
81 but not limited to, more aggressive leak detection and repair pro-
82 grams, and programs and/or policies to reduce unaccounted for
83 water, including water meter responsibility for water meters, and the
84 need for tax credits or other financial incentives to encourage water
85 conservation.

86 Section 17I. The position of Massachusetts Water Conservation
87 Coordinator is hereby established within the Executive Office of
88 Environmental Affairs. The Commonwealth's Water Conservation
89 Coordinator shall be responsible for assisting municipalities, water
90 districts, and water authorities of the Commonwealth as established
91 by the Water Resources Commission. The state water conservation
92 coordinator shall also be responsible for administering the water
93 conservation and water resources protection program established
94 under Section 17G of this Act. A sum of \$500,000, to be provided in
95 annual increments of \$100,000 per year for five years, beginning in
96 the year immediately following the passage of this Act, is provided
97 for funding of the Water Conservation Coordinator and work of said
98 office, and for the development and administration of the water con-
99 servation and water resources protection program established in
100 Section 17G of this Act, including technical assistance to municipal-
101 ities and water districts and authorities, development of educational

102 programs, curricula, and materials, development of model bylaws,
103 ordinances and regulations, and to conduct required studies and pre-
104 pare reports.

105 Section 17J. The Water Resources Research Center of the Univer-
106 sity of Massachusetts, in consultation with the Department of Envi-
107 ronmental Protection, the Department of Environmental
108 Management, the Massachusetts Department of Fisheries, Wildlife
109 and Environmental Law Enforcement, the United States Fish and
110 Wildlife Service, and the United States Geological Survey, is autho-
111 rized and directed to develop a methodology or methodologies for
112 determining the level of instream flow sufficient to protect aquatic
113 life in Massachusetts rivers and streams and other surface waters.
114 Said methodology or methodologies shall account for natural annual
115 variations in hydrology, including flow, depth, velocity, groundwater
116 interaction and other relevant factors. Upon completion, said
117 methodology or methodologies shall be submitted to the Department
118 of Environmental Protection, the Department of Environmental
119 Management, and the Water Resources Commission as a recommen-
120 dation for establishing instream flow needs under the Water Man-
121 agement Act (MGL Chapter 21G) and Interbasin Transfer Act (MGL
122 Chapter 21:8D).

123 No later than two years following the passage of this Act, a
124 methodology or methodologies shall be completed and adopted by
125 the water resources commission, pursuant to the administrative pro-
126 cedures act, and a report describing the methodology or methodolo-
127 gies shall be filed with the clerks of the Senate and House of
128 Representatives. A sum of \$250,000 is hereby authorized for the
129 development of said methodology or methodologies. Until said
130 methodology or methodologies are completed, all future instream
131 flow decisions pertaining to new or increased water withdrawals or
132 interbasin transfers pursuant to the Water Management Act and its
133 implementing regulations and the Interbasin Transfer Act and its
134 implementing regulations shall consider site specific information,
135 including but not limited to, stream flows and their variability,
136 groundwater levels and interaction with surface water, water
137 velocity, depth, temperature, water chemistry, native biota and
138 habitat suitability. Insofar as site-specific information sufficient to
139 make permitting decisions is unavailable and unobtainable during
140 the permitting period, the stream flow guidelines of the United

141 States Fish and Wildlife Service Interim Regional Policy for New
142 England Stream Flow Recommendations shall be used.

143 Section 17K. Notwithstanding the provisions of any general or
144 special law to the contrary, the water pollution abatement trust estab-
145 lished under the provisions of Chapter 29C of the General Laws is
146 hereby authorized and directed, subject to the appropriation provided
147 herein, to provide grant, loan and financial assistance to eligible bor-
148 rowers to finance the costs of water conservation projects, or por-
149 tions thereof, which have been approved by the department of
150 environmental protection. As used in this section, the term “eligible
151 borrower” shall mean municipalities, water districts, and water
152 authorities. As used in this section, the term “water conservation
153 project” shall mean a project of a type or category which the depart-
154 ment has determined shall promote water conservation and increased
155 efficiency of water usage, including, but not limited to, the imple-
156 mentation of programs for the replacement of plumbing fixtures not
157 meeting the 1998 federal water efficiency standards as established
158 by the Federal Energy Act of 1992; the conducting of water audits
159 by municipalities, water districts, and water authorities to identify
160 opportunities to reduce water use; the installation of new, highly
161 accurate water meters in commercial, municipal, and state-owned
162 buildings; enhanced municipal ownership and maintenance responsi-
163 bility for water meters; and the planning and design of other eligible
164 water projects that increase water conservation and the efficiency of
165 water usage. The trust shall provide grant, loan and financial assis-
166 tance to eligible borrowers for each water conservation project or
167 portion thereof authorized by this section in such manner and under
168 such terms and conditions as shall be determined by the board of
169 trustees of a trust up to a maximum amount of \$2,000,000 per fiscal
170 year of the Commonwealth and up to \$10,000,000 in the aggregate.