

SENATE, NO. 2379

AN ACT RELATIVE TO WATER PROTECTION

*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. Chapter 83 of the General Laws is hereby amended by adding the following new
2 sections:

3 SECTION 1A. Notwithstanding the provisions of sections 1 and 3 of chapter 83 of the General Laws
4 to the contrary, any municipality or sewer district adopting this section is hereby authorized to lay out,
5 construct, maintain and operate a system or systems of common sewers and main drains in public or
6 private ways for that part of its territory as it adjudges necessary to reduce or eliminate the impacts of
7 nutrient enrichment on surface water bodies or sources of drinking water with such connections and
8 other works as may be required for a system or systems of sewerage and drainage, and sewage
9 treatment and disposal. Adoption of this section is subject to majority vote of the municipality and
10 subject further to said municipality having an approved Comprehensive Water Resources Management
11 Plan (CWMP), as defined by the Department of Environmental Protection (DEP).

12 SECTION 1B. At the commencement of operation of the municipalities' sewer system authorized by
13 section 1A of chapter 83 of the General Laws, the owner of land abutting upon a private or public way

14 in which a common sewer has been laid shall be required by the board or officer having charge of the
15 maintenance and repair of sewers to connect such land with a common sewer only if the land in
16 question is within the area(s) identified in the DEP approved CWMP and has been specifically
17 identified in the plan as requiring wastewater collection and treatment for flows in existence on said
18 properties at the time of adoption of this act in order to protect surface waters or drinking water
19 resources from the effects of nutrient enrichment; or the on-site subsurface sewage disposal system
20 serving said land fails to comply with the provisions of 310 CMR 15.000, et seq. and an on-site
21 subsurface sewage disposal system cannot be constructed on the property in compliance with said
22 regulations and an enhanced treatment system under remedial use cannot be designed and constructed
23 to adequately treat sewage from said property; or to service affordable housing constructed pursuant to
24 chapters 40B or 40R of the general laws. The town shall not allow an abutting property owner utilizing
25 an enhanced treatment system under remedial use to opt out of connecting to the sewer system unless
26 the town implements a monitoring and inspection plan approved by the department of environmental
27 protection for such remedial system or systems. Such plan may include the assessment of a reasonable
28 fee by the board of health to implement the monitoring and inspection plan

29 Notwithstanding any provision of sections 1 and 3 of Chapter 83 to the contrary, owners of land not
30 identified in the CWMP as needing to be connected to the municipal treatment works shall not be
31 permitted to connect to the sewer system. Said plan may be amended from time to time by the board or
32 officer having charge of sewers, after a public hearing conducted to consider such amendment, and
33 upon approval of the department of environmental protection. The board or officer having charge of
34 sewers shall adopt regulations within 120 days after the adoption of this act establishing publication
35 and notification procedures to carry out the purposes of this section.

36 SECTION 1C. After commencement of operations of the sewer system authorized pursuant to section
37 1A of chapter 83 of the General Laws, additional connections shall be permitted within the final area
38 of concern by such board or officer having charge of the maintenance and repair of sewers, subject to
39 available capacity, only upon certification by the board of health that the on-site subsurface sewage
40 disposal system on land abutting upon a private or public way in which a common sewer has been laid
41 cannot comply with the provisions of 310 CMR 15.000, et seq., or in the case of new construction,
42 expansion of an existing structure, a change in use, or increases in flow from said land, such
43 expansion, change in use, or increase in flow does not result in sewage flow in excess of the amount of
44 said regulations flow capacity or actual flow resulting from a legal use of said land, whichever is
45 greater, which existed on the date of adoption of this act as determined by the board of health.
46 Notwithstanding anything to the contrary contained herein, the board or officer having charge of the
47 maintenance and repair of sewers may at any time permit extensions, new connections or increases in
48 flow to the sewer system, subject to capacity, to serve municipal buildings, public restrooms, or other
49 public service uses, including but not limited to affordable housing constructed pursuant to chapters
50 40B and 40R of the general laws, as defined by the municipality.

51 SECTION 1D. Notwithstanding the provisions of chapters 80 and 83 of the General Laws to the
52 contrary, a municipality acting under section 1A of Chapter 83 may make assessments upon owners of
53 land abutting upon a private or public way in which a common sewer has been laid only at the time of
54 actual connection to the common sewer. Nothing herein shall preclude the town from making
55 estimated sewer assessments pursuant to section 15B of said chapter 83. The municipality may make
56 equitable adjustments to the annual charges established pursuant to section 16 of said chapter 83 for
57 the use of common sewers by owners of land who connect under this act for the purpose of insuring an
58 equitable distribution of the total sewer system costs, including assessments and sewer use charges.

59 SECTION 1E. Every decision by the board or officer having charge of sewers permitting or denying a
60 connection to the sewer system pursuant to sections 1A-1D of chapter 83 of the General Laws shall be
61 made in writing. Any person aggrieved by such a decision may appeal said decision within 30 days of
62 issuance pursuant to the provisions of section 14 of chapter 30A.

63 SECTION 1F. In carrying out the provisions of sections 1A-1E of chapter 83 of the General Laws, a
64 municipality shall not discriminate against any person on the grounds of race, color, marital status,
65 physical disability, age, sex, sexual orientation, religion, ancestry or national origin in any manner
66 prohibited by the laws of the United States, the commonwealth.

67 SECTION 1G. Notwithstanding the provisions of any general or special law to the contrary, a
68 municipality with a Comprehensive Water Resources Management Plan under review or approved by
69 the Department of Environmental Protection is hereby authorized to establish and maintain a separate
70 account into which it may collect and deposit and expend funds from property owners for the
71 difference in cost between a conventional subsurface wastewater disposal system as required in 310
72 CMR 15.00, et seq, and the cost of a subsurface wastewater disposal system designed to reduce the
73 nitrogen discharge from said system as long as the property in question is identified in the CWMP as
74 being a priority for the installation of a wastewater collection and treatment system for the purposes of
75 reducing the impacts of excessive nitrogen on marine waters and drinking water supplies. Funds from
76 this account may be used only for the purpose of the construction, maintenance and operation of said
77 wastewater treatment and collection works and shall be applied to toward the costs of connection and
78 or betterment assessed to the property(s) in question.

79 SECTION 1H. Notwithstanding the provisions of Chapter 44, section 7, a municipality or sewer
80 district adopting the provisions of Section 1A is authorized to borrow and assess betterments for a

81 term not to exceed 50 years or the useful life as approved by the Department of Environmental
82 Protection, whichever is shorter, for the construction its wastewater treatment systems and
83 conveyances determined; and provided further that short term borrowing may extend for a period not
84 to exceed 5 years.

85 SECTION 2.

86 Section 6 of chapter 29C of the General Laws, as appearing in the 2004 Official Edition, is hereby
87 amended by inserting after the words “2 per cent”, in line 34, the following words:-

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89 , but all permanent loans and other forms of financial assistance made by the trust to finance the costs
90 of certain water pollution abatement projects on the department’s intended use plan for calendar year
91 2009 and any subsequent calendar year up to and including 2019, that meet the criteria listed below
92 shall provide for a subsidy or other assistance in the payment of debt service such that the loans and
93 other forms of financial assistance shall be the financial equivalent of a loan made at a zero rate of
94 interest, and the costs of water pollution abatement projects on an intended use plan that are eligible
95 for a permanent loan or other financial assistance from the trust at the financial equivalent of a loan
96 made at a zero rate of interest shall not exceed 35 per cent of the total costs of all water pollution
97 abatement projects on the intended use plan. Projects that meet the following criteria, as verified by
98 the Department of Environmental Protection, are eligible for the zero rate of interest loans:

- 99 1. The project is primarily intended to remediate or prevent nutrient enrichment of a surface water
100 body or a source of water supply;
- 101 2. The applicant is not currently subject, due a violation of a nutrient-related Total Maximum
102 Daily Load standard or other nutrient based standard, to a Department of Environmental

103 Protection enforcement order, Administrative Consent Order or Unilateral Administrative
104 Order, enforcement action by the United States Environmental Protection Agency or subject to
105 a state or federal court order relative to the proposed project;

106 3. The applicant has a Comprehensive Wastewater Management Plan approved pursuant to
107 regulations adopted by the Department of Environmental Protection.

108 4. The project has been deemed consistent with the regional water resources management plans if
109 one exists.

110 5. The applicant has adopted land use controls, subject to the review and approval of the
111 Department of Environmental Protection in consultation with the Department of Housing and
112 Economic Development and, where applicable any regional land use regulatory entity,
113 intended to limit wastewater flows to the amount authorized under zoning and wastewater
114 regulations as of the date of the approval of the CWMP.

115 SECTION 3. This act shall take effect upon its passage.