



The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

STATE HOUSE, BOSTON 02133

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AUDITOR

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Honorable Anne M. Gobi, Senate Chair
Honorable Smitty Pignatelli, House Chair
Honorable Committee Members
Joint Committee on Environment, Natural Resources and Agriculture
24 Beacon Street
Room 513
Boston, MA, 02133

Dear Senator Gobi, Representative Pignatelli and Honorable Committee Members:

I write today in qualified support for H.2777, *An Act to enable the Commonwealth's administration of the Massachusetts Pollutant Discharge Elimination System*. While I support providing the Massachusetts Department of Environmental Protection (DEP) with the responsibility for administration of the National Pollutant Discharge Elimination System (NPDES) program, I believe changes are necessary to the proposed funding levels and mechanisms in order to ensure successful implementation of the program.

In January, my office released a study, entitled "*Costs, Regulation, and Financing of Massachusetts Water Infrastructure: Implications for Municipal Budgets*," which calls for greater collaboration between state and local governments to develop a holistic approach to addressing our state's considerable municipal water infrastructure needs. Our analysis found the Commonwealth's cities and towns anticipate the need to spend at least \$17.88 billion on drinking water, waste water and stormwater infrastructure over the next two decades.

In addition to the monetary needs, our study also demonstrates the benefits of a simplified regulatory framework for cities and towns. This will allow municipal leaders to more effectively work with regulators to develop mutually agreed-upon capital plans that help get the most out of every dollar spent across all types of water infrastructure. That is why we concluded that consolidating NPDES administration into DEP's current portfolio makes sense.

As you have heard from the Massachusetts Municipal Association and a number of individual cities and towns, this change is one supported by local governments. In our survey, we asked if municipalities would rather have federal stormwater regulations managed by DEP or the U.S. Environmental Protection Agency (EPA). Only nine percent of respondents told us they wanted the EPA to continue direct administration of the program.

However, two critical changes are necessary to the bill as written. First, it is important that funding for this change come from a combination of sources, including not only the state's general fund but also:

- a user fee modeled on DEP's current Section 70 drinking water assessment; and
- a fee paid by major point industrial and commercial sources based on impervious area or discharge flow rates.¹

Diversifying these funding sources will provide greater funding consistency, support long-term planning, and insulate this critical function from state budgetary challenges that may arise in the future.

Additionally, as others have also commented, we believe the current annual cost figure provided by DEP to fulfill this function appears low compared to past official estimates provided to the Legislature. Our recommendation is that the legislature consider a funding plan that uses the sources we describe above to generate dedicated revenue streams to augment the state's line-item contribution. It is critical that if the state takes on this additional responsibility, that we allocate adequate resources to do so successfully.

With these important caveats, I believe the transfer of this administrative function from the federal government to the state should proceed. Delegation of NPDES administration from EPA to DEP should be one element in a much broader effort to help cities and towns increase their investment in the water systems, thereby supporting the health, economic development and quality of life in these communities for years to come.

Thank you for the opportunity to comment.

Sincerely,



Suzanne M. Bump
Auditor of the Commonwealth

¹ Commonwealth of Massachusetts, Office of the State Auditor, *Costs, Regulation, and Financing of Massachusetts Water Infrastructure: Implications for Municipal Budgets*, January 17, 2017, page 36