

**HOUSE . . . . . No. 214**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Sean Garballey*

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to improving public health, environment and economic development through investment in water and sewer infrastructure.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Frank I. Smizik</i>	<i>15th Norfolk</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>
<i>David M. Rogers</i>	<i>24th Middlesex</i>
<i>Denise Andrews</i>	<i>2nd Franklin</i>
<i>Timothy R. Madden</i>	<i>Barnstable, Dukes and Nantucket</i>

**HOUSE . . . . . No. 214**

By Mr. Garballey of Arlington, a petition (accompanied by bill, House, No. 214) of Sean Garballey and others for legislation to provide for the distribution of lottery funds to invest in water and sewer infrastructure. Consumer Protection and Professional Licensure.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act relative to improving public health, environment and economic development through investment in water and sewer infrastructure.

*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. Section 35 of Chapter 10 of the general laws, as appearing in the 2010  
2 Official Edition, is hereby amended, in subsection (c), by inserting, after the words “the net  
3 balance of the State Lottery and Gaming Fund”, the following new words:- “minus three percent  
4 of any total amount which shall be deposited into the Municipal Water and Sewer Assistance  
5 Trust Fund created under section 2FFFF of chapter 29.”

6 SECTION 2. Section 2Z of Chapter 29 of the general laws, as appearing in the same  
7 edition, is hereby amended by striking the sentence “The division of local services of the  
8 department of revenue, in consultation with the department of environmental protection, shall  
9 develop guidelines to certify an issuer’s eligible indebtedness and shall create a process to  
10 distribute funds equitably to eligible issuers, in order to mitigate extraordinary increases in sewer  
11 costs” and replacing it with the following new sentence:-

12 “The board of the water pollution abatement trust, in consultation with the division of  
13 local services of the department of revenue and the department of environmental protection, shall  
14 develop guidelines to certify an issuer’s eligible indebtedness and shall create a process to  
15 distribute funds equitably to eligible issuers, in order to mitigate extraordinary increases in sewer  
16 costs.”

17 SECTION 3. Chapter 29 of the General Laws, as appearing in the 2010 Official Edition,  
18 is hereby by amended by inserting after Section 2EEEE, the following new section:-

19           “Section 2FFFF. There shall be established and placed within the control of the board of  
20 the water pollution abatement trust a separate fund to be known as the Municipal Water and  
21 Sewer Assistance Trust Fund which shall be used for financing water and sewer-related purposes  
22 throughout the Commonwealth. There shall be credited to the fund any revenues from  
23 appropriations or other monies authorized by the general court and specifically designated to be  
24 credited to the fund by law or otherwise, any gifts, grants, private contributions, investment  
25 income earned on the fund’s assets, and any other monetary asset. Money remaining in the fund  
26 at the end of the year shall not revert to the General Fund. The board of the water pollution  
27 abatement trust may create a reserve fund with assets of this fund.

28           The fund, which shall be under the control of the Board of the water pollution abatement  
29 trust and not subject to appropriation, shall be used as follows:

30           a)     to construct, replace, or rehabilitate a treatment works or a municipal or regional  
31 water or sewer system;

32           b)     to increase water efficiency, reduce the demand for water, or reduce the demand  
33 for treatment works or municipal or regional water system capacity;

34           c)     to manage or control stormwater;

35           d)     to reuse municipal wastewater or stormwater;

36           e)     for the consolidation of 2 or more treatment works or municipal or regional water  
37 or sewer systems;

38           f)     to increase drinking water source protection for surface and groundwater sources;

39           g)     for construction activities involving--

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41           i.     the repair, replacement, or upgrading of a treatment works or sewage collection  
42 system in a municipal or regional that exists on the date of enactment of this Act to address an  
43 adverse environmental condition existing on that date of enactment; and

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45           ii.    implementation measures to control, manage, reduce, treat, infiltrate, or reuse  
46 municipal stormwater, the primary purpose of which is the protection, preservation, or  
47 enhancement of water quality to support public purposes (including decentralized or distributed  
48 stormwater controls, low-impact development technologies and nonstructural approaches, stream  
49 buffers, and wetlands restoration and enhancement, the procurement and use of equipment to  
50 support minimum measures, such as street sweeping and storm drain system cleaning, and

51 acquisition of other land and interests in land to meet the needs of existing development that are  
52 necessary for those activities and measures);

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54 h) to implement a water management program;

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56 i) to develop and implement a conservation and management plan;

57 j) to increase the security of wastewater treatment works or a municipal or regional  
58 water or sewer system (excluding any expenditure for operations or maintenance);

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60 k) to carry out water conservation or efficiency projects, the primary purpose of  
61 which is the protection, preservation, or enhancement of water quality to support public  
62 purposes;

63 l) to implement measures to integrate water resource management planning and  
64 implementation;

65 m) to carry out water, rainwater, and wastewater reuse, reclamation, recycling, and  
66 rainwater harvesting projects, the primary purpose of which is the protection, preservation, or  
67 enhancement of water quality to support public purposes; and

68 n) for capital costs associated with monitoring equipment for combined or sanitary  
69 sewer overflows;

70 o) a non-capital project that is-- (i) associated with a capital project; and (ii) the aim  
71 of which is to promote the use of environmentally sustainable projects, including utility-backed  
72 stormwater and water efficiency retrofit programs; and

73 p) 2 or more projects described above that are combined to receive a single direct  
74 loan or loan guarantee.

75 SECTION 4. Section 1 of Chapter 29C of the general laws, as appearing in the same  
76 edition, shall be amended by inserting the following new definition:-

77 "Municipal Water and Sewer Assistance Trust Fund", the fund created under chapter 29,  
78 section 2FFFF which shall be used for the purposes described therein.

79 SECTION 5. Section 2 of Chapter 29C of the general laws, as appearing in the same  
80 edition, shall be amended by inserting the following new subsection:-

81 (c) The Board shall also administer the Municipal Water and Sewer Assistance Trust  
82 Fund, established pursuant to section 2FFFF of chapter twenty-nine. The trust is hereby  
83 designated as the instrumentality of the commonwealth to establish and administer said fund the  
84 purposes enumerated under section 2FFFF of chapter twenty-nine. The exercise by the trust, and  
85 by the board of trustees thereof, of the powers conferred by this chapter shall be deemed to be  
86 the performance of an essential public function.

87 SECTION 6. Chapter 44 of the general laws, as appearing in the same edition, is hereby  
88 amended by inserting the following new section:-

89 "Section 53F ¾. Notwithstanding the provisions of section fifty-three or any other  
90 provision of law to the contrary, a city or town shall establish a water and sewer infrastructure  
91 enterprise fund. Such account shall be maintained by the treasurer, and all receipts, revenues and  
92 funds from any source derived from all activities of the enterprise shall be deposited in such  
93 separate account. The treasurer may invest the funds in such separate account in the manner  
94 authorized by sections fifty-five and fifty-five A of chapter forty-four. Any interest earned  
95 thereon shall be credited to and become part of such separate account. The books and records of  
96 the enterprise shall be maintained in accordance with generally accepted accounting principles  
97 and in accordance with the requirements of section thirty-eight.

98 No later than one hundred and twenty days prior to the beginning of each fiscal year, an  
99 estimate of the income for the ensuing fiscal year and a proposed line item budget of the  
100 enterprise shall be submitted to the mayor, board of selectmen or other executive authority of the  
101 city or town by the appropriate local entity responsible for operations of the enterprise. Said  
102 board, mayor or other executive authority shall submit its recommendation to the town meeting,  
103 town council or city council, as the case may be, which shall act upon the budget in the same  
104 manner as all other budgets.

105 The water and sewer infrastructure enterprise fund shall be funded, in part, by a surcharge  
106 of five cents per thousand of assessed value for residential property tax and ten cents per  
107 thousand of assessed value on all other real estate.

108 The water and sewer infrastructure enterprise fund shall be utilized exclusively for water  
109 infrastructure projects, including, but not limited to construct, replace, or rehabilitate a treatment  
110 works, sewer system or a municipal or regional water and sewer system; to increase water  
111 efficiency, reduce the demand for water, or reduce the demand for treatment works or municipal  
112 or regional water system capacity; to manage or control stormwater; to reuse municipal  
113 wastewater or stormwater; for the consolidation of 2 or more treatment works or municipal or  
114 regional water or sewer systems; to increase drinking water source protection for surface and  
115 groundwater sources; to implement a water management program; to develop and implement a  
116 conservation and management plan; to increase the security of wastewater treatment works or a  
117 municipal or regional water system (excluding any expenditure for operations or maintenance);

118 to carry out water conservation or efficiency projects, the primary purpose of which is the  
119 protection, preservation, or enhancement of water quality to support public purposes; to  
120 implement measures to integrate water resource management planning and implementation; to  
121 carry out water, rainwater, and wastewater reuse, reclamation, recycling, and rainwater  
122 harvesting projects, the primary purpose of which is the protection, preservation, or enhancement  
123 of water quality to support public purposes; and for capital costs associated with monitoring  
124 equipment for combined or sanitary sewer ; and for the coordination of water infrastructure  
125 projects and other infrastructure projects to minimize expense through coordinated construction  
126 efforts.

127 If a city or town does not establish a water and sewer infrastructure enterprise fund within  
128 five years of the enactment of this Act, it shall not be eligible to receive funds under Municipal  
129 Water and Sewer Assistance Trust Fund created under section 2FFFF of chapter 29. A  
130 municipality may demonstrate that it has an existing water infrastructure enterprise fund to  
131 satisfy the requirements of this section.

132 SECTION 7. Chapter 58 of the general laws, as appearing in the same edition, shall be  
133 amended by inserting, after section 18F, the following new section:-

134 “Section 18G. Commencing with fiscal year two thousand and fourteen and continuing  
135 thereafter, the state treasurer shall, subject to appropriation, annually distribute three percent of  
136 the net the State Lottery and Gaming Fund to the Municipal Water and Sewer Trust Fund created  
137 under section 2FFFF of chapter 29. The distribution shall be made in four equal payments. Said  
138 payments shall be made annually, in each fiscal year, on or before September thirtieth, December  
139 thirty-first, March thirty-first and June thirtieth.”

140 SECTION 8. Section 3A of Chapter 64G of the general laws, as appearing in the same  
141 edition, shall be amended by inserting, after the words “the transfer of occupancy in each such  
142 city or town”, the following new words:- “; provided further, that twenty percent of any total  
143 amount shall be deposited into the Municipal Water and Sewer Assistance Trust Fund created  
144 under section 2FFFF of chapter 29.”

145 SECTION 9. Section 2 of Chapter 64L of the general laws, as appearing in the same  
146 edition, shall be amended by inserting, in subsection (b), after the words “received from the sales  
147 of restaurant meals in that city or town”, the following new words:- “; provided further, that  
148 twenty percent of any total amount shall be deposited into the Municipal Water and Sewer  
149 Assistance Trust Fund created under section 2FFFF of chapter 29.”

150 SECTION 10. Chapter 184 of the general laws, as appearing in the same edition, shall be  
151 amended by inserting the following new section at the end thereof:-

152 “Section 36. Any real estate transaction involving the sale of land or premises shall  
153 include a water and sewer infrastructure surcharge that shall be deposited in the Municipal Water

154 and Sewer Assistance Trust Fund created under section 2FFFF of chapter 29. The surcharge  
155 shall be \$200 for residential sales of property and \$400 for commercial sales of property. Said  
156 surcharge shall be collected at the time of recording or registering of real estate transactions and  
157 forwarded by the respective Registry of Deeds to the comptroller for deposit into the Municipal  
158 Water and Sewer Assistance Trust Fund.”