

By Ms. Swift, a petition (accompanied by bill, Senate, No. 945) of Jane M. Swift for legislation relative to the administration of the federal safe drinking water act. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Two.

AN ACT RELATIVE TO THE SAFE DRINKING WATER ACT.

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 21A of the General Laws is hereby amended by adding
2 the following new section: —

3 Section 18A. (a) As used in the following words shall, unless
4 the context otherwise requires, have the following meanings:

5 “Advisory committee”, the advisory committee on administra-
6 tion of the federal safe drinking water assessment.

7 “Act”, the federal safe drinking water act, as amended from time
8 to time, including regulations promulgated under the act.

9 “Assessment”, the federal safe drinking water act assessment
10 established by this section.

11 “Commissioner”, the commissioner of the department of
12 environmental protection.

13 “End suppliers”, suppliers of water who provide water directly
14 to users.

15 “Receipts”, monies received by the department which are
16 proceeds from the assessment.

17 “Suppliers of water”, suppliers of water as defined in the act.

18 “Users”, all consumers of water, whether public or private or
19 taxed or tax-exempt, provided by end suppliers.

20 “Withdrawal”, the withdrawal, purchase or pumping of water
21 by an end supplier.

22 (b) Notwithstanding any general or special law to the contrary,
23 the department is authorized and directed to establish a federal
24 safe drinking water act assessment to assist the department in

25 providing technical compliance assistance to and otherwise to
26 regulate all suppliers of water pursuant to the act in the manner
27 set forth in this section. Matters relating to the rate, collection,
28 costs, enforcement and application and other administrative
29 features of the assessment shall be in accordance with regulations
30 of the Department adopted pursuant to section two of Chap-
31 ter 30A of the General Laws but no later than one hundred eighty
32 days after the effective date of this section, after consultation with
33 the advisory committee. Such regulations, in addition to such
34 further matters reasonably incidental to the administration of the
35 assessment as may be determined by the department, shall:

36 (i) provide that the assessment shall be remitted to the
37 department by the end supplier;

38 (ii) set, and provide for periodic revision of, the rate of
39 assessment at a uniform level per 1000 gallons of withdrawal, such
40 that receipts in the aggregate are reasonably related to defraying
41 the department's direct and indirect costs for monitoring,
42 inspection, technical assistance, reporting and enforcement
43 activities necessary to ensure compliance with the act and any
44 regulations of the department adopted to implement the act;

45 (iii) establish the timing of assessments, collection and
46 remittances;

47 (iv) establish the manner in which end suppliers engaged in the
48 distribution of water shall apportion and collect amounts
49 necessary to defray the assessment, and their administrative costs
50 relating thereto up to but no more than five percent of the
51 outstanding assessment for all users for the applicable assessment
52 period in the aggregate, from users without further action of the
53 department of public utilities, provided that each end supplier
54 shall have the option of determining how its invoice to users shall
55 show such defraying amounts.

56 (v) establish reasonable mechanisms for collection and
57 enforcement including but not limited to:

58 (A) the imposition of penalties not to exceed \$5,000 per day
59 for failure of end suppliers to remit proper receipts to the
60 department,

61 (B) the setting of a reasonable rate of interest, which shall not
62 be exclusive of applicable penalties, if any, to be borne by the end
63 supplier on overdue remittances,

64 (C) the establishment of reasonable audit and reporting
65 procedures; and

66 (vi) establish a program providing for payments in lieu of
67 assessments for any end supplier which cannot meter its
68 withdrawal to the satisfaction of the department.

69 It is the intent of this section that amounts payable as
70 assessments, administrative costs and payments in lieu of
71 assessments shall be recovered to the maximum practical extent
72 from charges to users. Nothing in this section shall limit the
73 authority of the department of public utilities to rule on the
74 propriety of any rates charged by any end suppliers subject to its
75 jurisdiction; provided that in making such a ruling the department
76 of public utilities shall consider the amount of the assessment and,
77 provided further, that such ruling shall not impose any condition
78 inconsistent with the provisions or intent of this section or any
79 regulations adopted hereunder. Compliance with any requirement
80 imposed by the department of public utilities shall not exempt any
81 end supplier from the requirements of this section or regulations
82 adopted hereunder.

83 (c) All receipts shall be deposited in the Environmental
84 Permitting and Compliance Assurance Fund established pursuant
85 to section two M of Chapter 29, and used solely for the purposes
86 set forth therein; provided, however, that receipts shall be
87 separately accounted for and shall be used solely for administering
88 the act and furthering its purposes.

89 (d) In the event that the requirements of this section conflict
90 with applicable federal requirements pertaining to the establish-
91 ment and collection of the assessment by the department, such
92 federal requirements shall take precedence over any conflicting
93 requirements of this section and the department shall have the
94 authority to establish by regulation and to collect such assessment
95 in accordance with applicable federal requirements.

96 (e) The department shall establish an advisory committee on
97 administration of the federal safe drinking water assessment. The
98 commissioner shall appoint such persons to the advisory
99 committee as the commissioner deems desirable in accordance
100 with this section, which members shall serve until successors shall
101 be appointed and qualified by the commissioner. No state
102 employee shall be appointed by the advisory committee and no

103 person appointed to the advisory committee shall be deemed to
104 be a state employee for purposes of any other general or special
105 law. Members of the advisory committee shall serve without
106 compensation except for reimbursement of their direct expenses
107 of travel from their place of abode to the regular meetings of the
108 advisory committee. The commissioner's appointees shall include
109 two representatives from each of the following categories of
110 organizations, two of which such designated representatives shall
111 also serve, under the same terms and conditions as members of
112 the committee established pursuant to Section 18, Chapter 21A
113 of the General Laws: one stateside water works non-profit
114 association, one regional water works non-profit association, two
115 non-profit associations representing rural water systems, one non-profit
116 association representing rural water systems, one non-profit
117 association representing investor-owned water companies and
118 such other persons as the commissioner deems desirable. In
119 addition to consulting with the advisory committee prior to
120 adoption of regulations implementing this section, the department
121 shall review with the advisory committee the operation of the
122 assessment program authorized by this section at least once a year.