

HOUSE No. 5427

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, April 14, 1988.

The committee on Natural Resources and Agriculture, to whom was referred the petition (accompanied by bill, House, No. 4062) of Robert A. Durand and other members of the General Court that provision be made for a nonpoint pollution control program, reports recommending that the accompanying bill (House, No. 5427) ought to pass.

[Bond Issue: \$50,000,000.00.]

For the committee,

ROBERT A. DURAND.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT PROVIDING FOR A MASSACHUSETTS NONPOINT SOURCE POLLUTION CONTROL 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 SECTION 1. Chapter 21 of the General Laws is hereby
2 amended by inserting after section 37A the following section: —

3 Section 37B. The division shall administer a program for the
4 prevention, control, and abatement of nonpoint source pollution
5 which causes degradation of the water quality of waters of the
6 commonwealth. The division, taking into account other available
7 water quality data, shall survey the waters of the commonwealth
8 and identify those water resources, including coastal, inland,
9 wetlands, and ground waters, which do not meet current water
10 quality standards or are otherwise being degraded due in
11 significant part to nonpoint source pollution or which in the
12 absence of additional controls on nonpoint source pollution may
13 reasonably be expected to undergo deterioration in water quality.
14 To the extent possible, the survey shall be on a watershed by
15 watershed basis.

16 The division shall provide for the conduct of projects for the
17 abatement and control of nonpoint source pollution. The division
18 may provide financial assistance to public entities other than
19 agencies or authorities of the Commonwealth for such projects,
20 provided, however, that conservation districts established
21 pursuant to Chapter 21 of the General Laws shall be eligible for
22 such assistance. The division may provide financial assistance in
23 an amount not exceeding seventy per cent of the eligible costs,
24 as determined by the division, of any diagnostic or feasibility study
25 or design of such projects; provided, that in the event the federal
26 government includes an allowance for such costs in any financial
27 assistance for such projects, the division shall deduct from its
28 financial assistance such sums as it deems necessary. The division

29 may provide financial assistance in an amount not exceeding
30 seventy-five per cent of the eligible costs, as determined by the
31 division, of any implementation project; provided, that in the
32 event the federal government includes an allowance for such costs
33 in any financial assistance for such projects, the division shall
34 deduct from its financial assistance such sums as it deems
35 necessary. Where the division determines that the project
36 represents an innovative and alternative approach which appears
37 to have a high likelihood of success in abating and controlling
38 nonpoint source pollution, the division may provide financial
39 assistance in an amount not exceeding ninety-five per cent of the
40 eligible costs, as determined by the division, if any implementation
41 project; provided, that in the event the federal government
42 includes an allowance for such costs in any financial assistance
43 for such projects, the division shall deduct from its financial
44 assistance such sums as it deems necessary.

45 In selecting projects to receive financial support, the division
46 shall consider the survey required by this section, and shall
47 prioritize projects on the basis of the severity of degradation of
48 water quality, use or potential use as a potable water supply,
49 recreational use, economic importance, and other relevant factors.
50 The division shall establish regulations relative to cost and project
51 eligibility, levels of financial support, prioritization, and any other
52 matters necessary for the administration of the program
53 established by this section. The division shall provide copies of
54 any such proposed regulations to the Joint Committee on Natural
55 Resources and Agriculture and the Special Commission on Water
56 Supply. No costs of construction shall be eligible for financial
57 support pursuant to this section except where such construction
58 takes place on publicly owned lands or within easements for such
59 work held by public entities or is used for the establishment of
60 an agricultural demonstration project.

61 Nothing in this section shall be construed to limit in any way
62 the authority of the division to regulate or prohibit any discharge
63 of pollutants to waters of the commonwealth pursuant to this
64 section.

1 SECTION 2. Section 4 of chapter 40 of the General Laws is
2 hereby amended by inserting at the end thereof the following new
3 paragraph: —

4 For the purpose of undertaking studies or projects for the
5 prevention, abatement, and control of nonpoint source pollution
6 of ground or surface waters.

1 SECTION 3. Section 7 of chapter 44 of the General Laws is
2 hereby amended by inserting after clause (30) the following
3 clause: —

4 (31) For the purpose of undertaking studies or projects for the
5 abatement and control of nonpoint source pollution of ground
6 or surface waters: twenty years.

1 SECTION 4. The first paragraph of section 12 of chapter 286
2 of the Acts of 1982, as most recently amended by chapter 472 of
3 the Acts of 1984, is hereby further amended by striking out the
4 first sentence and inserting in place thereof the following
5 sentence: — The division of water pollution control is hereby
6 authorized and directed to expend a sum not to exceed four
7 hundred million dollars to carry out the provisions of this section
8 and the provisions of section twenty-six through fifty-three,
9 inclusive, of chapter twenty-one of the General Laws.

1 SECTION 5. Said section 12 of said chapter 286 is hereby
2 further amended by inserting at the end thereof the following new
3 paragraph: —

4 From funds made available pursuant to section twenty-one and
5 twenty-two of this act, said director is authorized to obligate and
6 expend a sum, not to exceed five million dollars per year in each
7 of fiscal years nineteen hundred and eighty-nine through nineteen
8 hundred and ninety-eight, inclusive, for the purpose of providing
9 the assistance authorized by section thirty-seven B of chapter
10 twenty-one of the General Laws; provided that any funds not
11 unexpended in any fiscal year shall be carried over and available
12 for expenditure in the subsequent fiscal year.

13 The director may establish agricultural demonstration projects
14 and to accept applications for grants from municipalities for the
15 purpose of creating said projects.

16 In establishing priorities for the expenditure of these funds, the
17 director shall provide that of the first five implementation projects
18 receiving assistance, in an amount greater than one hundred

19 thousand dollars, at least two shall be for projects affecting Boston
20 Harbor or its tributaries, at least one shall be for a project affecting
21 a potable water supply, and at least one shall be for a project
22 affecting a river adversely affected by the historic discharge of
23 inadequately treated sewage; provided, however, that if no
24 applicant applies for such assistance for an implementation
25 project meeting any requirement established in this sentence
26 before June 30, 1991, such requirement shall be deemed satisfied.
27 A portion of the funds provided in this paragraph, not to exceed
28 six per cent of the total amount of funds authorized for
29 expenditure in each fiscal year, may be used for the costs of the
30 commonwealth associated with the administration of this
31 program, including consultant services and salaries of employees.
32 The department of environmental quality engineering, with the
33 approval of the secretary of environmental affairs, shall annually
34 submit to the secretary of administration and finance and the
35 house and senate committees on ways and means on or before
36 October fifteenth, a plan for the use of any such funds to be
37 expended for administrative costs.

1 SECTION 6. Section 22 of said chapter 286 is hereby further
2 amended by striking out the first paragraph and inserting in place
3 thereof the following paragraph: —

4 To meet the expenditures necessary in carrying out the
5 provisions of this act, the state treasurer, upon the request of the
6 governor, shall issue and sell bonds of the commonwealth to an
7 amount in the aggregate not to exceed four hundred and eighty-
8 three million two hundred fifty thousand dollars, to be specified
9 by the governor from time to time.

