

HOUSE No. 4102

The Commonwealth of Massachusetts

PRESENTED BY:

Dylan A. Fernandes and Julian Cyr

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 adoption of the accompanying bill:

An Act establishing the Blue Communities Program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Dylan A. Fernandes</i>	<i>Barnstable, Dukes and Nantucket</i>	<i>7/27/2021</i>

HOUSE No. 4102

By Representative Fernandes of Falmouth and Senator Cyr, a joint petition (subject to Joint Rule 12) of Dylan A. Fernandes for legislation to establish a blue communities program to incentivize local action to reduce nutrient pollution and ocean acidification. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

An Act establishing the Blue Communities 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. Section 6 of chapter 64H of the General Laws, as appearing in the 2018
2 Official Edition, is hereby amended by striking out subsection (p) and inserting in place thereof
3 the following subsection:-

4 (p) (1) Sales of livestock and poultry of a kind which ordinarily constitute food for
5 human consumption; (2) sales of feed, including the bags in which the feed is customarily
6 contained, for livestock and poultry of a kind which ordinarily constitute food for human
7 consumption or are to be sold in the regular course of business or for animals produced for
8 research, testing, or other purposes relating to the promotion or maintenance of the health, safety
9 or well being of human beings or animals or for fur-bearing animals, the pelts of which are sold
10 in the regular course of business; and (3) sales of plants, including parts of plants, suitable for
11 planting to produce food for human consumption or when such plants, including parts thereof or

12 the produce thereof, are to be sold in the regular course of business, including such items as seed
13 potatoes, onion sets, asparagus roots, berry plants or bushes, and fruit trees.

14 SECTION 2. (a) Section 1 of chapter 21N of the General Laws, as appearing in the 2018
15 Official Edition, is hereby amended by inserting after the definition of “Carbon dioxide
16 equivalent” the following definition:-

17 “Coastal waters”, any waters and associated submerged lands of the ocean, including the
18 seabed and subsoil, lying between the coast and the seaward boundary of the commonwealth, as
19 defined in 43 U.S.C. § 1312

20 (b) Said section 1 of chapter 21N of the General Laws, as so appearing, is hereby further
21 amended by inserting after the definition of “Entity” the following definition:-

22 “Eutrophication”, a condition of coastal or freshwaters of having elevated nutrient
23 concentrations

24 (c) Said section 1 of chapter 21N of the General Laws, as so appearing, is hereby further
25 amended by inserting after the definition of “Nature-based solutions” the following three
26 definitions:-

27 “Nutrient dense”, the label which the executive office shall give to fertilizers and liquids
28 that have levels of Nitrogen and Phosphorous the executive office deems too great to be
29 advisable

30 “Nutrient pollution”, excess amounts of nutrients which can lead to eutrophication

31 “Ocean acidification”, the decrease of pH levels in the ocean driven by an increase in
32 carbon dioxide dissolved in the water

33 (d) Said section 1 of chapter 21N of the General Laws, as so appearing, is hereby further
34 amended by inserting after the definition of “Vulnerability assessment” the following definition:-

35 “Watershed”, any defined land area drained by a river or stream, karst system, or system
36 of connecting rivers or streams such that all surface water within the area flows through a single
37 outlet

38 SECTION 3. Chapter 21N of the General Laws, as appearing in the 2018 Official
39 Edition, is hereby amended by adding, after section 11, the following section:-

40 Section 12: The establishment of a blue communities program

41 (a) The executive office shall establish a blue communities program to incentivize local
42 action to reduce nutrient pollution and ocean acidification in the ocean, coastal waters, fresh
43 waters, and watersheds. The program shall provide technical and financial assistance, in the form
44 of grants and loans, to municipalities and other local governmental bodies that qualify as blue
45 communities under this section.

46 (b) The executive office may delegate certain initiatives within the blue communities
47 program to certain executive departments, divisions, or offices, including but not limited to, the
48 department of environmental protection, the division of ecological restoration, the division of
49 marine fisheries, and the office of coastal zone management. The executive office may also
50 integrate certain initiatives within the blue communities program with already existing programs,
51 including but not limited to, the green communities division, the municipal vulnerability
52 preparedness grant program, and municipal recycling programs.

53 (c) To qualify as a blue community, a municipality or other local governmental body
54 shall:

55 (1) file an application in a form and manner to be prescribed by the executive office;

56 (2) adopt five of the following nine initiatives:

57 (i) a liquid hazardous waste program which advertises detergents, cleaning products, and
58 other hazardous or nutrient-dense liquids that cannot safely be thrown away, flushed, or poured
59 down drains and annually collects and properly disposes of such liquids;

60 (ii) the model groundwater protection regulation proposed by the department of
61 environmental protection or a similar impervious surface zoning bylaw that limits the total area
62 of land covered by impervious surfaces to reduce runoff, particularly in areas closest to coastal
63 waters;

64 (iii) a rain barrel program which incentivizes and coordinates the implementation of
65 residential rain barrels to collect rainwater and prevent excess runoff;

66 (iv) a shell collection system for local businesses to return carbonate-containing shells to
67 the ocean;

68 (v) a shellfish or seaweed regenerative ocean farming operation or shellfish or seaweed
69 restoration project approved by the executive office;

70 (vi) a water quality monitoring system that must include, but is not limited to, monitoring
71 levels of pH, phosphorus, and nitrogen;

72 (vii) a plan to eliminate municipal owned sanitary sewer or combined sewer overflows;

73 (viii) a fertilizer bylaw and lawns program that restricts fertilizer use on grass, educates
74 the public and business-owners on proper lawn care to minimize adverse impacts to coastal
75 waters, and provides contact information for certified professionals to assist in the
76 implementation of these goals; and

77 (ix) a stormwater utility program to fund upgrades to stormwater infrastructure.

78 (3) develop a blue community plan that (a) prioritizes implementation in environmental
79 justice communities and (b) outlines specific metrics for each implemented initiative, to be
80 determined by the executive office; and

81 (4) report the expenditures and results of their blue community plan to the executive
82 office and to the joint committee on environment, natural resources, and agriculture every two
83 years from the date the application is approved by the executive office.

84 (d) The executive office shall establish a fund to be known as the Blue Communities
85 Fund, which shall be used to finance this program and all or a portion of the costs of studying,
86 designing, constructing, and implementing ocean acidification mitigation programs. The
87 executive office may integrate this fund with the Global Warming Solutions Trust Fund
88 established in section 3 of chapter 209 of the acts of 2018. Funds shall be appropriated annually
89 by the state and include, among other sources, monies obtained from:

90 (1) offshore wind contributions;

91 (2) cap-and-invest programs within the commonwealth;

92 (3) sales tax on fertilizers; and

93 (4) other sources of revenue related to carbon reduction, the fishing industry,
94 environmental protection and mitigation and ocean acidification.

95 (e) The executive office shall be responsible for the administration and oversight of the
96 blue communities program, including by:

97 (1) adopting rules, regulations and guidelines for the administration and enforcement of
98 this section, including, but not limited to, establishing applicant criteria, detailing operations and
99 requirements of the programs in section (b), funding priority, and application forms and
100 procedures;

101 (2) adopting a structure for communities to receive funding that gives greater amounts of
102 funding to communities that adopt a greater number of initiatives; and

103 (3) submitting an annual report by September 1 to the clerks of the senate and the house
104 of representatives detailing expenditures and results relative to the blue communities program.