

SENATE No. 2474

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

SENATE, Thursday, July 28, 2016

The committee on Ways and Means, to whom was referred the Senate Bill authorizing the Commonwealth to grant an easement to the town of Barnstable and the town of Barnstable to grant or assign several conservation restrictions to the Commonwealth (Senate, No. 1990),-- reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2474).

For the committee,
Karen E. Spilka

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act authorizing the Commonwealth to grant an easement to the town of Barnstable and the town of Barnstable to grant or assign several conservation restrictions to the Commonwealth.

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. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General
2 Laws or any other general or special law to the contrary, the division of capital asset
3 management and maintenance, in consultation with the division of fisheries and wildlife in the
4 department of fish and game, may enter into an agreement with the city known as the town of
5 Barnstable to grant to the town an easement upon a certain parcel of land currently under the care
6 and control of the department to be used as a shared use pedestrian and bicycle path. The parcel
7 of land upon which the easement may be granted was acquired by the commonwealth for the
8 protection of endangered species and habitat, natural habitat protection, fish and wildlife
9 conservation and associated public recreation contains 237,250 square feet, more or less, and is
10 shown from “Project Begin Sta. 40+00.00” to “town line” on the plan of land entitled
11 “Massachusetts Department of Transportation Highway Division Plan and Profile of Cape Cod
12 Rail Trail Extension in the Towns of Barnstable & Yarmouth Barnstable County Preliminary
13 Right of Way” dated February 20, 2015. The exact boundaries of the easement shall be agreed to
14 by the division of capital asset management and maintenance and, prior to finalizing the

15 transaction or making the conveyance authorized in this section, the town and the division of
16 capital asset management and maintenance may make minor modifications to the area and plan
17 in order to carry out this act.

18 SECTION 2. To ensure a no-net-loss of lands protected for endangered species and
19 habitat, natural habitat protection, fish and wildlife conservation and associated public recreation
20 and in consideration of and as a condition of the grant of the easement authorized in section 1,
21 the city known as the town of Barnstable shall make available by grant or assignment to the
22 division of capital asset management and maintenance, in consultation with the division of
23 fisheries and wildlife in the department of fish and game, conservation restrictions on the
24 following parcels of land:

25 (i) a lot shown as parcel 009 on Barnstable assessors' map 332, containing 1.5 acres,
26 more or less, with a street address of 844 Mary Dunn road in the village of Hyannis in the town
27 of Barnstable and recorded in the Barnstable county registry of deeds in plan book 477, page 66;

28 (ii) a lot shown as parcel 005 on Barnstable assessors' map 332, containing 0.59 acres,
29 more or less, with a street address of 864 Mary Dunn road in the village of Hyannis in the town
30 of Barnstable, shown on plan recorded in Barnstable county registry of deeds in plan book 340,
31 page 26 and owned by the town by a deed recorded in the Barnstable county registry of deeds in
32 book 26130, page 73;

33 (iii) a lot shown as parcel 036 on Barnstable assessors' map 348, containing 1.2 acres,
34 more or less, located on United States highway route 6 and owned by the town of Barnstable by
35 a deed recorded in the Barnstable county registry of deeds in book 26130, page 73;

36 (iv) a lot shown as parcel 001 on Barnstable assessors' map 177, containing 133 acres,
37 more or less, owned by the town for conservation purposes under land court certificate of title
38 number 76207 in the Barnstable county registry of deeds; and

39 (v) a grant or assignment of a conservation restriction on a portion of the land owned by
40 the Cobb Trust, with a street address of 755 Independence drive in the village of Hyannis in the
41 town of Barnstable, shown on assessors map 332 as parcel 010002, containing 9.86 acres, more
42 or less, after completion of a survey of the restricted portion in accordance with the registry of
43 deeds' recording standards.

44 SECTION 3. The city known as the town of Barnstable shall be responsible for all costs
45 associated with engineering, surveys, appraisals and deed preparation related to the conveyances
46 authorized in this act as determined by the commissioner of the division of capital asset
47 management and maintenance.

48 SECTION 4. An instrument executed pursuant to this act shall not be valid unless it
49 provides that the area conveyed shall be used solely for the purposes described in this act. The
50 instrument authorized in section 1 shall include a reversionary clause that stipulates that the
51 property shall revert to the commonwealth and be assigned to the care, custody and control of the
52 department of fish and game, upon the terms and conditions that the commissioner of capital
53 asset management and maintenance may determine, if the property ceases to be used for the
54 express purposes authorized in this act. If any interest reverts to the commonwealth, any further
55 disposition shall be subject to sections 32 to 37, inclusive, of chapter 7C of the General Laws and
56 the prior approval of the general court.