

HOUSE No. 4756

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act authorizing the department of fish and game to acquire land of the town of Athol and to acquire a conservation restriction on lands of the town of Athol in exchange for grants of easements to the town of Athol..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 the towns of Athol and Phillipston, including lands under water, located along South
2 Royalston road, Cobb Hill road, Willis road, Schoolhouse road and state highway route 2A
3 associated with Thousand Acre Reservoir, Thousand Acre Brook and its watershed, described in
4 deeds to the town of Athol recorded at the South Worcester district registry of deeds in book
5 1981, page 401; book 2077, page 117; book 2338, page 177; book 2283, page 136; book 2123,
6 page 368; book 3530, page 442; book 1947, page 283; book 2145, page 479; and book 1836,
7 page 133 (parcels 13 and 14). The commissioner of capital asset management and maintenance,
8 in consultation with the commissioner of the department of fish and game, shall determine the
9 exact boundaries of the parcels of land after completion of a survey.

10 SECTION 3. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General
11 Laws or any general or special law to the contrary, the commissioner of capital asset
12 management and maintenance, in consultation with the commissioner of the department of fish
13 and game, may convey to the town of Athol easements or lesser interests for the purpose of

installing and maintaining water mains across all or portions of a certain parcel of land of the commonwealth identified in section 4. The commissioner of capital asset management and maintenance, in consultation with the commissioner of the department of fish and game, shall determine the exact boundaries of the water main easements after completion of a survey.

SECTION 4. The parcel of land to be subject to the water main easements under section 3 is identified as follows: land in Athol described in a deed to the commonwealth recorded at the south Worcester district registry of deeds at book 14525, page 380 and shown on plan entitled “Plan of Land in Athol owned by Lois E. Lawrence” recorded at said south Worcester district registry of deeds in plan book 407, plan 8.

SECTION 5. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of the department of fish and game, may convey to the town of Athol easements or lesser interests for drinking water supply wellhead protection over all or portions of a certain parcel of land of the commonwealth identified in section 6. The commissioner of capital asset management and maintenance, in consultation with the commissioner of the department of fish and game, shall determine the exact boundaries of the drinking water supply wellhead protection easement or parcel of land after completion of a survey.

SECTION 6. The parcel of land to be subject to the wellhead protection easements under section 5 is identified as follows: land in Athol, described in a deed to the commonwealth recorded at the south Worcester district registry of deeds in book 16041, page 160 and shown on a plan entitled “Plan of Land in Athol, Massachusetts prepared for Mount Grace Land

Conservation Trust, Inc.” recorded at said south Worcester district registry of deeds in plan book 670, plan 86.

SECTION 7. Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of the department of fish and game, may convey to the town of Athol easements or lesser interests for the purpose of constructing, maintaining and using a bicycle path across all or portions of a certain parcel of land of the commonwealth identified in section 8. The commissioner of capital asset management and maintenance, in consultation with the commissioner of the department of fish and game, shall determine the exact boundaries of the bike path easement after completion of a survey.

SECTION 8. The parcel of land to be subject to the bicycle path easements under section 7 is identified as follows: land in Athol described in deed to the commonwealth recorded at the south Worcester district registry of deeds at book 16041, page 160 (parcel III).

SECTION 9. In consideration for the conveyance described in sections 3 to 8, inclusive, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of the department of fish and game, may take under chapter 79 of the General Laws or otherwise acquire and the town of Athol may convey easements or lesser interests through a conservation restriction under sections 31, 32 and 33 of chapter 184 of the General Laws for the preservation and protection of wildlife habitat and passive recreation and consistent purposes, in all or portions of certain parcels of land identified

in section 10. The parcels were acquired by the town of Athol for water supply purposes. The conservation restriction authorized by this act shall allow for the town to retain the right to use the premises as a potential water supply for the town. The conservation restriction, if taken and not otherwise acquired, shall be subject to any easement or lesser interest in land held by any person or governmental agency, except for said town, that lawfully exists and is recorded in the appropriate registry of deeds, unless the commissioner capital asset management and maintenance expressly takes the easement or lesser interest through eminent domain under said chapter 79.

SECTION 10. The parcels of land, including lands under water, to be subject to the conservation restriction are identified as follows: land in Athol, including lands under water, located along South Royalston road and Bearsden road, associated with Newton Reservoir and its watershed, described in deeds to the town of Athol recorded at the south Worcester district registry of deeds in book 3543, page 194; book 1995, page 600; and book 1836, page 133 (parcels 24, 25, 26, 27, 28, 29 and 30).

SECTION 11. The consideration for the 3 easements described in sections 3 to 8, inclusive, and the easement or conservation restriction described in sections 9 and 10, shall be the full and fair market value of the easements or conservation restriction for the uses authorized by this act, as determined by the commissioner of the division of capital asset management and maintenance based upon 1 or more independent professional appraisals. The authorization granted in said sections 3 to 10, inclusive, shall be contingent on the appraised value of the conservation restriction described in sections 9 and 10 being equal to or greater than the appraised value of the 3 easements described in sections 3 to 8, inclusive, as determined by 1 or more independent professional appraisals; provided further, that the commissioner of capital

81 asset management and maintenance may accept the findings of a previous appraisals of the
82 easements or conservation restriction conducted by an appraiser acceptable to the commissioner
83 division of capital asset management and maintenance.

84 SECTION 12. Notwithstanding any general or special law to the contrary, the inspector
85 general shall review and approve the appraisals required pursuant to section 11. The inspector
86 general shall prepare a report of his review of the methodology utilized for the appraisal and
87 shall file the report with the commissioner of capital asset management and maintenance.

88 Within 15 days of receiving the inspector general's report but not later than 15 days before the
89 execution of any agreement or other document relating to the lease, the commissioner shall
90 submit the report to the house and senate committees on ways and means and the joint committee
91 on state administration and regulatory oversight.

92 SECTION 13. Costs and expenses associated with the transactions authorized in this act
93 shall be apportioned as agreed by the town of Athol and the department of fish and game.