

SENATE No. 2418

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act relative to revitalization of the South Boston designated port area.

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. Legislative findings.

2 Whereas, by section 106 of chapter 273 of the acts of 1994, a certain parcel of land
3 described in SECTION 2 of this act and referred to in this act as the “DCR Parcel,” was
4 transferred to the metropolitan district commission, now known as the department of
5 conservation and recreation, for potential use as parkland, subject to the provisions of Article
6 XCVII of the Constitution of the Commonwealth;

7 Whereas, the DCR Parcel was previously used by the Massachusetts Bay Transportation
8 Authority as part of its East First Street power station and complex, a portion of which has been
9 demolished and removed from the DCR Parcel;

10 Whereas, a portion of the DCR Parcel remains in use by the Massachusetts Bay
11 Transportation Authority;

12 Whereas, a portion of the DCR Parcel is currently vacant industrial land;

13 Whereas, a portion of the DCR Parcel is used by a water-dependent commercial lobster
14 business;

15 Whereas, the DCR Parcel remains industrial in character and is unsuitable for park
16 purposes;

17 Whereas, the Massachusetts Bay Transportation Authority has retained ownership of a
18 parcel of land containing approximately 9.32 acres adjacent to the DCR Parcel which is currently
19 used as a bus layover and storage yard, and contains a generator building with associated
20 administrative offices;

21 Whereas, the DCR Parcel has never been used as a public park, and the department of
22 conservation and recreation has determined that the DCR Parcel is unsuitable for use as a public
23 park;

24 Whereas, the DCR Parcel lies within the South Boston Designated Port Area, abuts the
25 Reserved Channel, and is uniquely suitable for water-dependent industrial uses and other
26 economic development uses that would support revitalization of the Port of Boston;

27 Whereas, under the policies and regulations of the coastal zone management office and
28 department of environmental protection, Designated Port Areas are reserved for water-dependent
29 industrial uses, and any uses that would permanently displace water-dependent industrial uses
30 are prohibited;

31 Whereas, water-dependent industrial uses and other economic development uses that
32 would support revitalization of the Port of Boston have been proposed for the DCR Parcel which,
33 if implemented, would play a vital role in promoting sustainable economic development within

34 the Commonwealth and which, in all events, would be a more appropriate use of the DCR Parcel
35 than parkland use;

36 Whereas, the Massachusetts Port Authority is well positioned to facilitate such productive
37 and appropriate uses of the DCR Parcel in accordance with the purposes of this act;

38 Whereas, because the DCR Parcel was designated for purposes enumerated in Article
39 Amendment XCVII of the Constitution of the Commonwealth, it shall not be used for other
40 purposes except by a law enacted by two-thirds vote, taken by yeas and nays, of each branch of
41 the General Court of the Commonwealth;

42 Whereas, in order to allow the Massachusetts Port Authority to use the DCR Parcel for
43 water-dependent industrial uses or other economic development purposes that would support
44 revitalization of the Port of Boston consistent within the statutory authority of the Massachusetts
45 Port Authority, the General Court of the Commonwealth must enact a law identifying the land,
46 describing the existing public use and expressing a willingness to surrender or forego the same,
47 and providing a statement of the new use;

48 Whereas, it is in the best interest of the Commonwealth for a portion of the DCR Parcel,
49 described in SECTION 2 of the act and referred to in this act as the “Designated Port Area
50 Parcel,” to be transferred to the Massachusetts Port Authority to be used for water-dependent
51 industrial uses or other economic development purposes that would support revitalization of the
52 Port of Boston, rather than to remain under the control of the department of conservation and
53 recreation and designated for potential use as parkland;

54 Whereas, it is in the best interest of the Commonwealth for a portion of the DCR Parcel,
55 described in SECTION 2 of this act and referred to in this act as the “MBTA Use Area,” to be

56 transferred to the Massachusetts Bay Transportation Authority rather than to remain under the
57 control of the department of conservation and recreation and designated for potential use as
58 parkland;

59 Whereas, it is in the best interest of the Commonwealth for a portion of the MBTA
60 Parcel, described in SECTION 3 of this act and referred to in this act as the “Excess MBTA
61 Parcel,” to be transferred to the Massachusetts Port Authority to be used for water-dependent
62 uses or other economic development purposes that would support revitalization of the Port of
63 Boston and to allow appropriate access between the Conley Terminal and the Designated Port
64 Area Parcel;

65 Whereas, in order to allow the Massachusetts Port Authority to establish a buffer zone
66 along East First Street to help reduce visual and noise impacts associated with the existing and
67 future uses along Reserved Channel, the Massachusetts Port Authority will require ownership
68 and control of a parcel of land abutting East First Street in South Boston now owned by and to be
69 acquired by the Massachusetts Bay Transportation Authority; and

70 Whereas, the transfers in legal title and changes in use of land authorized by this act are
71 in furtherance of the purposes and intent of the “no net loss” policy of the Commonwealth
72 administered by the executive office of energy and environmental affairs regarding land subject
73 to the provisions of Article XCVII of the Constitution of the Commonwealth.

74 SECTION 2.

75 Notwithstanding any general or special law to the contrary, the commissioner of capital
76 asset management and maintenance, on behalf of the commonwealth and the department of
77 conservation and recreation, is authorized by this act to convey the property conveyed to the

78 metropolitan district commission by virtue of section 106 of chapter 273 of the acts of 1994,
79 together with all trees and structures thereon, if any, and appurtenant access, utility, or other
80 easements, collectively referred to in this act as the “DCR Parcel,” as directed herein. The DCR
81 Parcel is shown on the plan entitled “Plan of Land Between Reserved Channel and East First
82 Street in the South Boston Designated Port Area,” dated March 24, 2010, drawn by _John A.
83 Hammer III, PLS, on file with the Massachusetts Port Authority, referred to in this act as the
84 “Plan.” The DCR Parcel is being conveyed subject to and with the benefit of that certain lease
85 between the Massachusetts Bay Transportation Authority and Boston Harbor Lobstermen’s
86 Association, Inc., dated April 1, 1984, with respect to approximately 96,000 square feet of land,
87 and associated water sheet and access rights.

88 The legal description of the DCR Parcel, as set forth in Section 106 of chapter 273 of the
89 acts of 1994, is as follows:

90 Beginning at the northwesterly corner of the northerly sideline of east first street shown
91 as Point A on a plan entitled, “plan of land owned by metropolitan transit authority on O and
92 East First streets South Boston”, on file with the Massachusetts Bay Transportation Authority;
93 thence running in an easterly direction along said sidelines a distance of eighty feet + to a Point
94 B on the plan; thence returning and running on a northerly direction a distance of two hundred
95 eighty feet + to a Point C on the plan; thence turning and running in an easterly direction a
96 distance of one hundred feet + to a Point D on the plan; thence turning and running in a northerly
97 direction a distance of two hundred fifty feet + to a Point E on the plan; thence turning and
98 running in an easterly direction two hundred ninety feet + to a point F on the plan; thence turning
99 and running in a northeasterly direction fifty feet + to a Point G on the plan; thence turning and
100 running in a northerly direction one hundred twenty feet + to a Point H on the Plan; thence

101 turning and running in a northerly direction a distance of three hundred feet + to a Point I on the
102 plan; thence turning and running on a northerly direction six hundred ten feet + to a Point J on
103 the plan; said point being the northeasterly corner of the so-called line of Reserved Channel as
104 shown on the plan; thence turning and running in a westerly direction along said line of Reserved
105 Channel a distance of eight hundred two feet + to a Point K on the plan; thence turning and
106 running in a southerly direction a distance of one thousand three hundred feet + to a Point A
107 which is the point of beginning, containing six hundred twenty-four thousand eight hundred
108 thirty square feet + of varied facilities.

109 Notwithstanding any general or special law to the contrary, the commissioner of capital
110 asset management and maintenance, on behalf of the commonwealth and the department of
111 conservation and recreation, is authorized to convey the portion of the DCR Parcel consisting of
112 569,517_ square feet, shown on the Plan as the “Designated Port Area Parcel,” to the
113 Massachusetts Port Authority.

114 The legal description of the Designated Port Area Parcel is as follows:

115 Beginning at a point at the northeasterly corner of the parcel at the intersection of the
116 westerly line of a street formerly known as O Street and the southerly line of the Reserved
117 Channel,

118 Thence S88-23-28W a distance of 802.82 feet by said Reserved Channel,

119 Thence S01-36-32E, a distance of 770.00 feet by land now or formerly of Exelon New
120 Boston, LLC,

121 Thence N88-23-28E, a distance of 562.83 feet,

122 Thence N37-45-36E, a distance of 51.74 feet,
123 Thence N01-36-32W, a distance of 120.00 feet,
124 Thence N88-23-28E, a distance of 300.00 feet to said former O Street,
125 Thence N01-36-32W, a distance of 610.00 feet by said former O Street to the point of the
126 beginning,

127 Notwithstanding any general or special law to the contrary, the commissioner of capital
128 asset management and maintenance, on behalf of the commonwealth and the department of
129 conservation and recreation, is authorized to convey the portion of the DCR Parcel consisting of
130 67,400 square feet, shown on the Plan as “MBTA Use Area,” to the Massachusetts Bay
131 Transportation Authority.

132 The legal description of the MBTA Use Area is as follows:

133 Beginning at a point on East First Street being N88-23-28E, a distance of 810.00 feet
134 from the intersection of the northerly sideline of East First Street and the easterly sideline of
135 Summer Street,

136 Thence N88-23-28E, a distance of 80.00 feet by said East First Street,

137 Thence N01-36-32W, a distance of 280.00 feet,

138 Thence N88-23-28E, a distance of 100.00 feet,

139 Thence N01-36-32W, a distance of 250.00 feet, said last three courses by other land of
140 the MBTA,

141 Thence S88-23-28W, a distance of 272.83 feet by the previously described Designated
142 Port Parcel,

143 Thence S01-36-32E, a distance of 530.00 feet by land now or formerly of Exelon New
144 Boston, LLC to the point of the beginning.

145 SECTION 3. Notwithstanding any general or special law to the contrary, the
146 Massachusetts Bay Transportation Authority is authorized by this act to convey to the
147 Massachusetts Port Authority the parcel of land consisting of 159,309 square feet shown on the
148 Plan referenced in SECTION 2 as “Excess MBTA Parcel,” together with all trees and structures
149 thereon, if any, and appurtenant access, utility, or other easements..

150 The legal description of the Excess MBTA Parcel is as follows:

151 Beginning at a point on East First Street being N88-23-28E, a distance of 1362.82 feet
152 from the intersection of the northerly sideline of East First Street and the easterly sideline of
153 Summer Street,

154 Thence N88-23-28E, a distance of 210.00 feet by said East First Street,

155 Thence N43-23-28E, a distance of 56.57 feet by land of Massport,

156 Thence N01-36-32W, distance of 650.00 feet by said former O Street,

157 Thence S88-23-28W, a distance of 300.00 feet,

158 Thence S01-36-32E, a distance of 120.00 feet,

159 Thence S37-45-33W, a distance of 51.74 feet, said last three courses by said Designated
160 Port Area Parcel,

161 Thence reversing southeasterly along a non-tangent curve to the right of radius 144.08
162 feet, an arc distance of 114.93 feet, on a chord bearing S49-15-39E,

163 Thence S19-21-25E, a distance of 169.03 feet,

164 Thence southeasterly along a non-tangent curve to the left of radius 340.00 feet, an arc
165 distance of 82.05 feet, on a chord bearing S26-39-44E,

166 Thence continuing southeasterly along a tangent curve to the left of radius 282.00 feet, an
167 arc distance of 100.89 feet, on a chord bearing S43-49-31E,

168 Thence S01-36-32E, a distance of 45.15 feet,

169 Thence S88-23-28W, a distance of 150.28 feet,

170 Thence S01-36-28E, a distance of 100.00 feet, said last seven courses by remaining land
171 of MBTA shown as MBTA PARCEL, to the point of the beginning.

172 SECTION 4. Notwithstanding any general or special law to the contrary, upon
173 acquisition of the Designated Port Area Parcel and the Excess MBTA Parcel pursuant to this act,
174 the Massachusetts Port Authority shall dedicate a haul road right of way for future truck access
175 to and egress from the Conley Terminal. The location and dimensions of such right of way may
176 be established and changed by the Massachusetts Port Authority from time to time as long as
177 such right of way remains north of, and does not encroach upon or cross, the Buffer Zone Area
178 described in SECTION 5, or the Extended Buffer Areas described in SECTION 6. At such time
179 as the additional right of way of appropriate width and dimensions is made available to the
180 Massachusetts Port Authority to enable the haul road right of way to connect directly from
181 Conley Terminal across the Excess MBTA Parcel and the Designated Port Area Parcel to

182 Summer Street, the Massachusetts Port Authority shall have the obligation to design and
183 construct said haul road.

184 SECTION 5. Notwithstanding any general or special law to the contrary, the
185 Massachusetts Bay Transportation Authority is authorized by this act to convey to the
186 Massachusetts Port Authority the parcel of land abutting East First Street in South Boston shown
187 as “Buffer Zone Area” on the Plan referenced in SECTION 2, which shall be used by the
188 Massachusetts Port Authority as a buffer zone to help reduce visual and noise impacts associated
189 with existing and future uses along Reserved Channel. The Massachusetts Bay Transportation
190 Authority shall retain an easement within the Buffer Zone Area to maintain, repair, and replace
191 its existing access, egress, and utilities across such Buffer Zone Area, as the same may be
192 relocated, modified, or expanded in a manner consistent with this act and with the approval of
193 the Massachusetts Port Authority.

194 The legal description of the Buffer Zone Area is as follows:

195 Beginning at a point on East First Street being N88-23-28E, a distance of 810.00 feet
196 from the intersection of the northerly sideline of East First Street and the easterly sideline of
197 Summer Street,

198 Thence N88-23-28E, a distance of 552.82 feet by said East First Street,

199 Thence N01-36-32W, a distance of 80.00 feet,

200 Thence S88-23-28W, a distance of 472.82 feet,

201 Thence N01-36-32W, a distance of 20.00 feet,

202 Thence S88-23-28W, a distance of 80.00 feet,

203 Thence S01-36-32E, a distance of 100.00 feet to the point of the beginning.

204 SECTION 6. Notwithstanding any general or special law to the contrary, upon
205 acquisition of the Designated Port Area Parcel, the Excess MBTA Parcel, and the Buffer Zone
206 Area pursuant to this act, the Massachusetts Port Authority shall (i) dedicate the use of said
207 Buffer Zone Area and the areas labeled as “Extended Buffer Areas” on the Plan referenced in
208 SECTION 2, as a buffer zone along East First Street to help reduce visual and noise impacts
209 associated with existing and future uses along Reserved Channel, and (ii) promptly engage in a
210 planning process, with a committee of South Boston community residents, to design said Buffer
211 Zone Area and Extended Buffer Areas to achieve the purposes of this act. Said committee shall
212 be comprised of ten members, two of whom are to be appointed by the mayor of Boston, two of
213 whom are to be appointed by the senator in the general court representing the South Boston
214 district in which the DCR Parcel is located, two of whom are to be appointed by the
215 representative in the general court representing the South Boston district in which the DCR
216 Parcel is located, two of whom are to be appointed by the city district councilor representing the
217 South Boston district in which the DCR Parcel is located, and two of whom are to be appointed
218 by the Massachusetts Port Authority.

219 The legal descriptions of the areas labeled as “Extended Buffer Areas” on the Plan
220 referenced in SECTION 2 are as follows: Beginning at a point on East First Street at the
221 southwesterly corner of said Excess MBTA Parcel being N88-23-28E, a distance of 1362.82 feet
222 from the intersection of the northerly sideline of East First Street and the easterly sideline of
223 Summer Street,

224 Thence N88-23-28E, a distance of 1382.43 feet by said East First Street,

225 Thence N01-36-32W, a distance of 100.00 feet,

226 Thence S88-23-28W, a distance of 1382.43 feet,

227 Thence S01-36-32E, a distance of 100.00 feet to the point of the beginning,

228 SECTION 7. The Massachusetts Port Authority shall have the right to provide access and
229 egress, and utility services, across the Buffer Zone Area and Extended Buffer Areas described in
230 this act; provided, that, after acquisition of the Designated Port Area Parcel, the Excess MBTA
231 Parcel, and the Buffer Zone Area by the Massachusetts Port Authority pursuant to this act, in no
232 event shall freight hauling to and from Conley Terminal encroach upon or cross the Buffer Zone
233 Area or Extended Buffer Areas.

234 SECTION 8. The transfers in legal title and changes in use of land authorized in this act
235 shall be effective notwithstanding any inconsistent public use and no compensation shall be paid.
236 Notwithstanding any general or special law or regulation to the contrary, the transfers in legal
237 title and changes in use of land authorized by this act may be implemented without any review,
238 approval, authorization, or procedure otherwise applicable under the provisions of general or
239 special law or regulation.

240 SECTION 9. After acquisition of the Designated Port Area Parcel, the Excess MBTA
241 Parcel, and the Buffer Zone Area by the Massachusetts Port Authority pursuant to this act, the
242 Massachusetts Port Authority shall have the obligation to use and maintain the Buffer Zone Area
243 and Extended Buffer Areas described in this act as a buffer zone along East First Street to help
244 reduce visual and noise impacts associated with the existing and future uses along Reserved
245 Channel, and the Buffer Zone Area and the Extended Buffer Areas shall be subject to the
246 provisions of Article XCVII of the Massachusetts Constitution.

247 SECTION 10. Notwithstanding any provision of section 2B of chapter fifty-nine of the
248 general laws or section 17 of chapter 465 of the acts of 1956, leasehold improvements leased to a
249 foreign or domestic electric company, distribution company, or generating company, as such
250 terms are defined in section one of chapter one hundred sixty-four of the general laws,
251 constructed on land acquired by the Massachusetts Port Authority pursuant to this act shall be
252 subject to taxation and assessment to the lessee thereof in the same manner as the lands and
253 buildings thereon would be taxed to such lessee under section 2B of chapter fifty-nine of the
254 General Laws by the city of Boston, except that the payment of the tax shall not be enforced by
255 any lien upon or sale of the lands, but a sale of the leasehold interest therein and of the buildings
256 thereon may be made by the collector of the city of Boston in the manner provided by law in
257 case of nonpayment of taxes on real estate. Except as expressly provided in this section, the land
258 acquired by the Massachusetts Port Authority pursuant to this act shall not be subject to taxation
259 or assessment by the city of Boston nor shall the Massachusetts Port Authority be required to
260 make payments in lieu of taxes to the city of Boston with respect to such land, such land being
261 used for an essential governmental function.

262 SECTION 11. This act shall take effect upon its passage.