

**SENATE . . . . . No. 1988**

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Senate, Wednesday, July 27, 2011 – Recommended new draft from the Senate committee on Ways and Means for Senate, No. 1899, An Act relative to an exclusive and perpetual easement within Monroe State Forest.

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**

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An Act relative to an exclusive and perpetual easement within Monroe State Forest.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to facilitate forthwith easements necessary for the maintenance of electrical tie lines within Monroe State Forest, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*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 40E to 40J, inclusive, of chapter 7 of the General  
2 Laws or any other general or special law to the contrary, the commissioner of capital asset  
3 management and maintenance, in consultation with the commissioner of conservation and  
4 recreation, may grant permanent easements over, under and through portions of certain parcels of  
5 land in the Monroe State Forest in the town of Monroe, to Massachusetts Electric Company, its  
6 successors and assigns, solely for the purposes of clearing of vegetation in connection with the  
7 construction, operation and maintenance of an electrical tie line for a wind power facility, subject  
8 to sections 3 and 4, and to such reasonable additional terms and conditions consistent with this  
9 act as the commissioner of capital asset management and maintenance, in consultation with the  
10 commissioner of conservation and recreation, may prescribe. The parcels are more particularly

11 described in a deed to the Commonwealth of Massachusetts recorded in the Franklin county  
12 registry of deeds in book 690, page 231. The permanent easement to be granted shall apply to  
13 8,000 square feet of land in the aggregate, more or less, as more fully described on plans  
14 prepared by Hill-Engineers, Architects, Planners, Inc., and numbered respectively as drawings  
15 VE-106 - 108, dated April 18, 2008 and labeled as "Clearing Area #1" through "Clearing Area  
16 #8", as filed with the department of conservation and recreation. Modifications to the easement  
17 description set forth in the plans described above may be made in order to conform with a final  
18 land survey, as accepted by the division and the department, before any conveyance to carry out  
19 this act.

20 SECTION 2. The full and fair market value of the easements described in section  
21 1, or the value in use as proposed, shall be determined by 1 or more independent appraisals as  
22 commissioned by the commissioner of capital asset management and maintenance. The grantee  
23 of these easements shall compensate the commonwealth in an amount greater than or equal to the  
24 full and fair market value, or the value in use of these easements as proposed, whichever is  
25 greater, as determined by the independent appraisals. For the purposes of any appraisal, the full  
26 and fair market value of the area to be conveyed shall be calculated with regard to its full  
27 development potential as assembled with other abutting lands owned or otherwise controlled by  
28 Massachusetts Electric Company, if any. The commissioner of capital asset management and  
29 maintenance shall submit any such appraisals and any report thereon to the inspector general for  
30 review and comment. Notwithstanding any general or special law to the contrary, the inspector  
31 general shall review and approve an appraisal, including an examination of the methodology  
32 used for the appraisal. The inspector general shall prepare a report of the review and file the  
33 report with the commissioner of capital asset management and maintenance and copies of the

34 same shall be filed with the house and senate committees on ways and means and the house and  
35 senate committees on bonding, capital expenditures and state assets.

36 The commissioner of capital asset management and maintenance shall, 30 days prior to  
37 executing a grant of easement authorized by this act, or any subsequent amendment thereto,  
38 submit the proposed easement or amendment and a report thereon to the inspector general for  
39 review and comment. The inspector general shall issue the review and comment within 15 days  
40 after receipt of the proposed easement or amendment. The commissioner shall submit the  
41 proposed easement or amendment, and the reports and the comments of the inspector general to  
42 the house and senate committees on ways and means and the house and senate committees on  
43 bonding, capital expenditures and state assets at least 15 days before the execution of the  
44 conveyance or amendment.

45 SECTION 3. To ensure a no-net-loss of lands protected for conservation  
46 purposes, the granting of any easements authorized in section 1 shall only occur if the easement  
47 holder has mitigated, or caused to be mitigated, the impact and conveyed, or caused to be  
48 conveyed, to the commonwealth or its designee land or an interest in land to be held by the  
49 department of conservation and recreation or its designee, for conservation purposes. The land or  
50 interest in land shall be of greater value than as determined in accordance with section 2 and  
51 shall be acceptable to the department, in its discretion.

52 SECTION 4. Notwithstanding any general or special law to the contrary,  
53 Massachusetts Electric Company, or its successors and assigns, shall be responsible for all costs  
54 and expenses including, but not limited to, costs associated with any engineering, surveys,

55 appraisals and deed preparation directly related to the conveyance authorized in this act, as those  
56 costs may be determined by the commissioner of capital asset management and maintenance.