

HOUSE No. 3905

The Commonwealth of Massachusetts

PRESENTED BY:

Michael A. Costello

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 authorizing the granting of easements at Northern Essex Community College in the city of Haverhill.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michael A. Costello</i>	<i>1st Essex</i>	<i>2/11/2014</i>
<i>Kathleen O'Connor Ives</i>	<i>First Essex</i>	<i>2/12/2014</i>

HOUSE No. 3905

By Mr. Costello of Newburyport, a petition (subject to Joint Rule 12) of Michael A. Costello and Kathleen O'Connor Ives for legislation to authorize the commissioner of the Division of Capital Asset Management and Maintenance to grant easements and lease agreements to certain land and property in the city of Haverhill. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act authorizing the granting of easements at Northern Essex Community College in the city of Haverhill.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to grant forthwith certain easements over portions of the Northern Essex Community College campus in Haverhill to Opportunity Works, Inc., 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 any general or special law to the contrary, as used in this
2 act the following terms shall, unless the context clearly requires otherwise, have the following
3 meanings:-

4 “College”, Northern essex community college.

5 “College campus”, northern essex community college’s campus located in the city of
6 Haverhill.

7 “Commissioner”, the commissioner of the division of capital asset management and
8 maintenance.

9 “Division”, the division of capital asset management and maintenance.

10 “Opportunity Works”, Opportunity Works, Inc., a Massachusetts not-for-profit
11 corporation formerly known as Greater Newburyport Opportunities, Inc., and its tenants,
12 licensees, successors and assigns,

13 “Opportunity Works property”, the parcel of land known and numbered as 667 Kenoza
14 street in Haverhill, located adjacent to the campus of the college.

15 “President”, the president of Northern Essex Community College

16 SECTION 2. (a) Notwithstanding any general or special law to the contrary, but subject
17 to section 38 of chapter 7C of the General Laws, the commissioner, on behalf of and in
18 consultation with the president, may grant easements over portions of the college campus to
19 Opportunity Works as follows:

20 (i) for the purposes of constructing, maintaining, repairing and replacing a driveway
21 and parking lot within the area marked as “proposed access, parking and utility easement” as
22 shown on a plan entitled “Opportunity Works site layout plan” on file with the division;

23 (ii) for the purposes of installing, maintaining, repairing and replacing underground
24 electrical lines within the area marked as “20’ wide utility easement” as shown on a plan entitled
25 “easement plan” on file with the division;

26 (iii) for the purposes of installing, maintaining, repairing and replacing sewer lines to
27 connect the Opportunity Works property with existing sewer lines on the college campus within
28 the area marked as “utility easement” as shown on a plan entitled “easement plan” on file with
29 the division; and

30 (iv) to use roads now or hereafter located on the campus for vehicular and pedestrian
31 access and egress to the Opportunity Works property.

32 (b) The exact boundaries of the easements described in subsection (a) shall be
33 determined by the commissioner, in consultation with the president, after completion of an
34 independent professional appraisal and survey; provided, however, that any deed conveying said
35 parcel shall contain the restrictions required pursuant to subsection (c). The consideration for the
36 easement shall be the right of the college to access and utilize the above referenced underground
37 electrical and sewer lines, the right to enter into leases of space in any building now or hereafter
38 located on the Opportunity Works property pursuant to section 3 and the right of first refusal
39 established pursuant to section 5.

40 (c) The grants of easement or other agreements pertaining to the easements described in
41 subsection (a) shall include, without limitation, the following conditions:

42 (i) a reservation, in perpetuity, for the college to use the driveway and parking lot
43 described in clause (i) of subsection (a);

44 (ii) a reservation, in perpetuity, for the college to connect to the underground
45 electrical lines in the easement described in clause (ii) of subsection (a) for the purposes of
46 providing lighting for the college’s athletic fields and other facilities; and

47

48 (iii) language requiring that Opportunity Works: (a) construct the driveway and
49 parking lot identified in clause (i) of subsection (a) in a good and workmanlike manner; (b)
50 install the utilities identified in clause (ii) of subsection (a) in a good and workmanlike manner;
51 (c) repair and repave any road areas disturbed or damaged as a result of the installation or
52 maintenance, repair or replacement of the parking lot or utility lines; (d) utilize the easement
53 solely for the purposes set forth in subsection (a) as determined by the commissioner.

54 (d) Opportunity works shall not convey, assign or otherwise transfer their rights to the
55 easements specified in this act without the express written approval of the commissioner and the
56 president. If the easements cease to be used or are used for any purposes, other than those
57 specified in this act, the commissioner may, after notice and an opportunity to cure, terminate
58 one or more of the easements, and such other terms and conditions as the commissioner, in
59 consultation with the president of the college, deems appropriate.

60 (e) The easements shall be granted without warranties or representations by the
61 commonwealth.

62 SECTION 3. Notwithstanding any other general or special law to the contrary, but
63 subject to section 38 of said chapter 7C, the commissioner, on behalf of and in consultation with
64 the president of the college, may enter into one or more leases of space in any building now or
65 hereafter located on the Opportunity Works property on such terms and conditions as the
66 commissioner, in consultation with the president of the college, deems appropriate.

67 SECTION 4. Notwithstanding any general or special law to the contrary, the provisions
68 of sections 43 to 57, inclusive, of chapter 7C and sections 44A to 44J, inclusive, of chapter 149
69 of the General Laws, and any other general or special law relating to the advertising, bidding or
70 award of contracts, or to the procurement of services or to the construction and design of
71 improvements on commonwealth property shall not be applicable to construction undertaken by
72 Opportunity Works within the easements described in section 2 or to build out any space leased
73 by the college pursuant to section 3, except that the design of and plans and specifications for
74 any such improvements to be constructed by the lessee shall be subject to the review and
75 approval of the commissioner and the president of the college.

76 SECTION 5. Notwithstanding any general or special law to the contrary, but subject to
77 section 38 of said chapter 7C, the commissioner, on behalf of the college, shall have the right of
78 first refusal to purchase, lease or otherwise acquire an interest in the Opportunity Works property
79 in the event that Opportunity Works intends to sell, lease, convey or otherwise transfer all or any
80 portion of the Opportunity Works property. If Opportunity Works intends to sell, lease, convey
81 or otherwise transfer all or any portion of the Opportunity Works property Opportunity Works
82 shall provide written notice of such intent to the commissioner and the president of the college.
83 Such notice shall include, without limitation, a description of the portion of the Opportunity

84 Works property which Opportunity Works intends to sell, lease, convey or otherwise transfer.
85 The commissioner, in consultation with the president of the college, shall have not less than 90
86 days to notify Opportunity Works that the commissioner intends to acquire the property for a
87 purchase price to be determined by independent appraisal. If the commissioner does so notify
88 Opportunity Works that the commonwealth intends to acquire the property, the commissioner
89 shall have not less than 90 days from the date of its notice to complete the purchase.

90 SECTION 6. Notwithstanding any general or special law to the contrary, Opportunity
91 Works

92 shall be responsible for all costs and expenses, including but not limited to, costs
93 associated with any engineering, surveys, appraisals, and deed preparation related to the transfers
94 and conveyances authorized pursuant to this act as such costs may be determined by the
95 commissioner. Upon conveyance of the easements, Opportunity Works shall be solely
96 responsible for all costs, liabilities and expenses of any nature and kind for the development,
97 maintenance, use and operation of the easements.