

HOUSE No. 4568

The Commonwealth of Massachusetts

PRESENTED BY:

Kimberly N. Ferguson and Jonathan D. Zlotnik

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 town of Westminster to acquire state forest land.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Kimberly N. Ferguson</i>	<i>1st Worcester</i>	<i>5/21/2018</i>
<i>Jonathan D. Zlotnik</i>	<i>2nd Worcester</i>	<i>5/24/2018</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>	<i>5/22/2018</i>

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By Representatives Ferguson of Holden and Zlotnik of Gardner, a petition (subject to Joint Rule 12) of Kimberly N. Ferguson, Jonathan D. Zlotnik and Stephan Hay that the commissioner of Capital Asset Management and Maintenance, in consultation with the Department of Conservation and Recreation, be authorized to convey to the town of Westminster a certain parcel of land located within the Leominster State Forest. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act authorizing the town of Westminster to acquire state forest land.

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. The second sentence of section 2 of chapter 323 of the acts of 1970, as
2 amended by section 2 of chapter 531 of the acts of 1991, is hereby further amended by adding
3 the following words:- or by a governmental entity.

4 SECTION 2. The third sentence of said section 2 of said chapter 323, as so amended, is
5 hereby further amended by striking out the words “period of years” and inserting in place
6 thereof the following word:- term.

7 SECTION 3. Said third sentence of said section 2 of said chapter 323, as so amended, is
8 hereby further amended by striking out the words “twenty-five years ” and inserting in place
9 thereof the following words:- the useful life of the facility together with the duration of any
10 closure and post-closure requirements associated therewith.

11 SECTION 4. The first sentence of section 4 of said chapter 323 is hereby amended by
12 adding the following words:- on the parcels of land described in section 1.

13 SECTION 5. Notwithstanding sections 32 to 37 of chapter 7C of the General Laws, the
14 commissioner of capital asset management and maintenance, in consultation with the
15 commissioner of conservation and recreation, may convey in fee simple to the town of
16 Westminster to the following parcel of land, hereinafter referred to as the “continuation parcel”,
17 located within Leominster state forest, and now used for conservation and recreation purposes, to
18 use said parcel for solid waste management and disposal services.

19 The continuation parcel is a parcel of land located within the town of Westminster,
20 comprised of a portion of map 144, lot 1 on the assessor’s records of the town of Westminster,
21 more particularly described as follows:

22 Beginning at a point on the town line between the town of Westminster and the city of
23 Leominster, said point being northerly from the northeasterly corner of assessor’s map 166, lot 1,
24 and said point being the southeast corner of the parcel herein described; thence,

25 Westerly along a line parallel to the southerly line of assessor’s map 144, lot 1, to a point;
26 thence,

27 Northerly in a straight line to a point on a line projected from the southeasterly line of
28 assessor’s map 141, lot 4; thence,

29 Northwesterly along the line projected from the southeasterly line of assessor’s map 141,
30 lot 4, being parallel to said line to the southeast corner of assessor’s map 141, lot 4; thence,

31 North, northeasterly along assessor's map 141, lot 4, and assessor's map 141, lot 3, to a
32 point where the border of assessor's map 141, lot 3, turns easterly; thence,

33 Easterly along the southern line of assessor's map 141, lot 3, to the intersection with
34 assessor's map 144, lot 1; thence,

35 Southerly along the border between assessor's map 144, lot 1, and assessor's map 142,
36 lot 1; thence

37 Easterly along the border between assessor's map 144, lot 1, and assessor's map 142, lot
38 1, to the southeast corner of assessor's map 142, lot 1, and a point on the town line between the
39 town of Westminster and the city of Leominster; thence,

40 Southerly along the town line between the town of Westminster and the city of
41 Leominster to the point of beginning.

42 The continuation parcel contains 85 acres, more or less, and is shown on the plan entitled
43 "Continuation Parcel to be conveyed to the Town of Westminster," dated March 23, 2018, drawn
44 by WSP USA, Inc., on file with the town clerk of the town of Westminster.

45 Prior to finalizing the conveyance authorized herein, the division of capital asset
46 management and maintenance, in consultation with the department of conservation and
47 recreation, may enter into a purchase agreement with the town of Westminster setting forth the
48 required terms and timing of the conveyance authorized by this section, and which may include
49 minor modifications to the area and plan approved by the division of capital asset management
50 and maintenance and the department of conservation and recreation in order to carry out the
51 purposes of this act.

52 The conveyance of the continuation parcel to the town of Westminster shall not take
53 place until: (a) the secretary of energy and environmental affairs has issued a certificate
54 indicating that a single or final environmental impact report, describing the proposed solid waste
55 management and disposal activities on the continuation parcel including the land transfers as
56 related to said continuation parcel, adequately and properly complies with sections 61 to 62I,
57 inclusive, of chapter 30 of the General Laws ; and (b) the private party contracted to provide
58 long-term management of solid waste as authorized by section 2 of chapter 323 of the acts of
59 1970 has entered into an agreement with the department of conservation and recreation to pay
60 into the Conservation Trust established under section 1 of chapter 132A of the General Laws \$3
61 per ton of solid waste deposited as a result of incorporation of the continuation parcel into the
62 landfill facilities. The agreement shall be subject to any other applicable terms of the
63 conveyance, provide for security in the event of bankruptcy of the private party or other
64 unanticipated events and require that the parties amend it to the extent necessary to address the
65 findings in the certificate issued by the secretary of energy and environmental affairs. The
66 payments to the Conservation Trust shall be used by the department of conservation and
67 recreation for the purpose of advancing the recreational and conservation interests of the
68 commonwealth.

69 SECTION 6. As a condition of said conveyance of the continuation parcel to the town
70 of Westminster, the town of Westminster shall simultaneously cause or direct the conveyance to
71 the commonwealth, acting by and through the division of capital asset management and
72 maintenance, in consultation with the department of conservation and recreation, of land of
73 greater acreage and greater resource value deemed suitable by the secretary of the executive
74 office of energy and environmental affairs for incorporation into Leominster state forest or other

75 conservation lands, hereinafter referred to as the “compensating forest land”, which land the
76 town of Westminster may acquire, hold, convey or arrange for conveyance by others, to the
77 commonwealth. Any land proposed to be included as compensating forest land shall be
78 acceptable to the department of conservation and recreation. The town of Westminster is may
79 convey the fee or an easement or other interest in the continuation parcel to the private party
80 contracted to provide long-term management of solid waste as authorized by section 2 of chapter
81 323 of the acts of 1970.

82 SECTION 7. An independent appraisal of the fair market value and of the value in
83 proposed use of the continuation parcel described in section 5, and the fair market value of the
84 compensating forest land described in section 6, shall be prepared in accordance with the usual
85 and customary professional appraisal practices by a qualified appraiser commissioned by the
86 commissioner of capital asset management and maintenance. The commissioner of capital asset
87 management and maintenance shall submit the appraisal to the inspector general for review and
88 approval. The inspector general shall thereafter prepare a report of the review and file the report
89 with the commissioner of capital asset management and maintenance for submission by the
90 commissioner to the house and senate committees on ways and means and the joint committee
91 on state administration and regulatory oversight. The commissioner shall submit copies of the
92 appraisal and the inspector general’s review to the house and senate committees on ways and
93 means and the joint committee on state administration and regulatory oversight prior to the
94 execution of documents effecting the transfer described in section 5. The appraisals shall be
95 updated as necessary, or as otherwise required by the inspector general or the commissioner of
96 capital asset management and maintenance, so as to have valuation dates within 1 year of the
97 date of the conveyance of the continuation parcel authorized by section 5.

98 SECTION 8. The town of Westminster or its designated facility operator shall, as
99 consideration for the conveyance authorized by section 5, compensate the commonwealth, by
100 paying into the Conservation Trust established pursuant to section 1 of chapter 132A of the
101 General Laws, the appraised fair market value of the continuation parcel set forth in the appraisal
102 described in section 7. The payment to the Conservation Trust shall be made simultaneously
103 with the conveyance authorized by section 5 and be used by the department of conservation and
104 recreation for the purpose of advancing the recreation and conservation interests of the
105 commonwealth.

106 SECTION 9. If the fair market value or value in proposed use for the continuation
107 parcel, whichever is greater, exceeds the fair market value for the compensating forest land, as
108 determined by the independent appraisals described in section 7, then the difference, minus the
109 amounts paid in accordance with section 8, shall be paid by the town of Westminster or its
110 designated facility operator to the Conservation Trust simultaneously with the conveyance
111 authorized by section 5, hereinafter the “additional closing payment”. The additional closing
112 payment and the amounts paid in accordance with section 8 may be credited against the total
113 expected payments to be made to the department of conservation and recreation pursuant to the
114 agreement described in section 5. If the appraisal value for the continuation parcel is greater
115 than the appraisal value for the compensating forest land in combination with the present value
116 of payments, as determined by an independent evaluation approved by the commissioner of
117 capital asset management and maintenance, to be made to the department of conservation and
118 recreation pursuant to the agreement described in section 5, then the entire present value of the
119 payments to be made to the department of conservation and recreation under the agreement
120 described in section 5 shall be paid as the additional closing payment, and no additional

121 payments shall be paid to the department of conservation and recreation pursuant to the
122 agreement; provided, however, that the secretary of the executive office of energy and
123 environmental affairs may determine and approve such additional compensation or mitigation to
124 be paid or performed by the town or its designated facility operator . Nothing in this act shall
125 be construed as precluding the secretary of the executive office of energy and environmental
126 affairs from requiring additional compensation or mitigation pursuant to sections 61 to 62I,
127 inclusive, of chapter 30 of the General Laws or otherwise.

128 SECTION 10. The town of Westminster or its designated facility operator shall cause to
129 be prepared a recordable plan with a more precise description of the continuation parcel based
130 upon survey information, which plan is suitable for recording along with the deed conveying the
131 continuation parcel to the town of Westminster. The town of Westminster or its designated
132 facility operator shall assume all costs associated with engineering, surveys, appraisals, deed
133 preparation and other expenses deemed necessary by the commissioner of capital asset
134 management and maintenance to execute the conveyance of the continuation parcel as authorized
135 by this act.

136 SECTION 11. Notwithstanding any general or special law to the contrary, the
137 requirements of sections 33 to 37, inclusive, of chapter 7C of the General Laws, chapter 30B of
138 the General Laws, chapter 40 of the General Laws and chapter 149 of the General Laws shall not
139 apply to any of the transactions contemplated by this act, including but not limited to the
140 disposition of the continuation parcel by the commonwealth to the town of Westminster, the
141 acquisition of compensating forest land by the commonwealth, the grant by the town of
142 Westminster of a fee or easement or other interest in the continuation parcel to the private party
143 contracted to provide long-term management of solid waste as authorized by section 2 of chapter

144 323 of the acts of 1970 or the city of Fitchburg and the town of Westminster entering into a
145 contract or contracts with said private party for the long-term management of solid waste.

146 SECTION 12. This act shall take effect upon its passage.