HOUSE . . . . . No. 4760

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 16, 2018.

The committee on State Administration and Regulatory Oversight to whom was referred the petition (accompanied by bill, House, No. 4626) of of Susannah M. Whipps that the commissioner of Capital Asset Management and Maintenance be authorized to convey an easement over a certain parcel of land in the town of New Salem, reports recommending that the accompanying bill (House, No. 4760) ought to pass.

For the committee,

JENNIFER E. BENSON.

FILED ON: 7/13/2018

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The Commonwealth of Massachusetts

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

An Act authorizing the Division of Capital Asset Management and Maintenance to convey a certain easement to the town of New Salem.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the conveyance of a certain easement, 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:

SECTION 1. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may grant to the town of New Salem, for consideration as provided in section 2, an easement for the purposes of installing, operating, maintaining and repairing utility poles and associated overhead wires, with all rights necessary and incidental thereto, subject to any such additional terms and conditions as the commissioner of capital asset management and maintenance may determine, and also subject to such additional terms and conditions as the commissioner of conservation and recreation may determine for the protection and stewardship of Quabbin Reservoir watershed resources, including without limitation that herbicides shall not be used in the easement area, over certain land currently held in the care, custody and control of

the department of conservation and recreation shown as: (i) lot 39 on the town of New Salem assessor's map 411, being parcels 9 and 10 of the land acquired by the commonwealth for state forest purposes described in a deed dated December 3, 1923 recorded in the Franklin county registry of deeds in book 675, page 343; and (ii) lot 23 on the town of New Salem assessor's map 412, being a parcel of the land taken by the commonwealth for water supply purposes pursuant to chapter 321 of the acts of 1927 described in an Order of Taking dated March 24, 1938 recorded in the Franklin county registry of deeds in book 829, page 1. The exact location of the easements to be granted over the land described in this section shall be determined by the commissioner after completion of a survey, in consultation with the department of conservation and recreation.

SECTION 2. In consideration for the easement authorized in section 1, the town of New Salem shall compensate the commonwealth through: (i) the transfer of land or an interest in land to the department of conservation and recreation, with a value equal to or greater than the full and fair market value of the easement described in said section 1, or its value in use as proposed, whichever is greater, as determined by independent appraisal; (ii) a sum of money equal to the full and fair market value of the easement or its value in use as proposed, whichever is greater, as determined by independent appraisal; or (iii) through some combination thereof. The exact boundaries of the property interests to be conveyed to the commonwealth pursuant to this section, if any, shall be determined by the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, after completion of a survey. The Commonwealth shall not be obligated to pay any consideration to the Town if the appraised value of any parcels or interests conveyed under Section 2 exceeds the value of the easements in Section 1.

SECTION 3. The value of the easement described in section 1 and the value of any property interests to be conveyed to the commonwealth pursuant to section 2 shall be determined by an independent appraisal prepared in accordance with the usual and customary professional appraisal practice by a qualified appraiser commissioned by the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation. The commissioner of capital asset management and maintenance shall submit any appraisals to the inspector general for review and comment. The inspector general shall review and approve any appraisals and the review shall include an examination of the methodology utilized for the appraisals. The inspector general shall prepare a report of such review and file the report with the commissioner of capital asset management and maintenance for submission by the commissioner to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight. The commissioner shall submit copies of the appraisals and the inspector general's report to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight at least 15 days before the execution of the instrument effecting the grant of the easement described in section 1.

SECTION 4. No instrument granting the easement described in section 1 shall be valid unless it provides that the easement shall be used solely for the purposes described in said section 1. The grant of easement shall stipulate that the easement shall terminate if the property ceases to be used for the express purposes set forth in the instrument granting the easement, upon such terms and conditions as the commissioner of the division of capital asset management and maintenance may determine, following notice of such to the grantee by the division of capital

asset management and maintenance and a failure by the grantee to cure the violation to the satisfaction of the division.

SECTION 5. The town of New Salem shall be responsible for all costs associated with engineering, surveys, appraisals, document preparation and other expenses deemed necessary by the commissioner of capital asset management and maintenance to convey the easements described in section 1.