

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 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.

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:

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

12 the department of conservation and recreation shown as: (i) lot 39 on the town of New Salem
13 assessor's map 411, being parcels 9 and 10 of the land acquired by the commonwealth for state
14 forest purposes described in a deed dated December 3, 1923 recorded in the Franklin county
15 registry of deeds in book 675, page 343; and (ii) lot 23 on the town of New Salem assessor's map
16 412, being a parcel of the land taken by the commonwealth for water supply purposes pursuant
17 to chapter 321 of the acts of 1927 described in an Order of Taking dated March 24, 1938
18 recorded in the Franklin county registry of deeds in book 829, page 1. The exact location of the
19 easements to be granted over the land described in this section shall be determined by the
20 commissioner after completion of a survey, in consultation with the department of conservation
21 and recreation.

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

35 SECTION 3. The value of the easement described in section 1 and the value of any
36 property interests to be conveyed to the commonwealth pursuant to section 2 shall be determined
37 by an independent appraisal prepared in accordance with the usual and customary professional
38 appraisal practice by a qualified appraiser commissioned by the commissioner of capital asset
39 management and maintenance, in consultation with the commissioner of conservation and
40 recreation. The commissioner of capital asset management and maintenance shall submit any
41 appraisals to the inspector general for review and comment. The inspector general shall review
42 and approve any appraisals and the review shall include an examination of the methodology
43 utilized for the appraisals. The inspector general shall prepare a report of such review and file
44 the report with the commissioner of capital asset management and maintenance for submission
45 by the commissioner to the house and senate committees on ways and means and the joint
46 committee on state administration and regulatory oversight. The commissioner shall submit
47 copies of the appraisals and the inspector general's report to the house and senate committees on
48 ways and means and the joint committee on state administration and regulatory oversight at least
49 15 days before the execution of the instrument effecting the grant of the easement described in
50 section 1.

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

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

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