

HOUSE No. 4775

The Commonwealth of Massachusetts

PRESENTED BY:

Michael J. Moran

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 a surface and sub-surface easement at the Chestnut Hill Reservation located in the Brighton section of the City of Boston.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Michael J. Moran</i>	<i>18th Suffolk</i>	<i>7/2/2018</i>
<i>Kevin G. Honan</i>	<i>17th Suffolk</i>	<i>7/10/2018</i>

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By Mr. Moran of Boston, a petition (subject to Joint Rule 12) of Michael J. Moran and Kevin G. Honan for legislation to authorize the commissioner of Capital Asset Management and Maintenance to grant an easement at the Chestnut Hill Reservation located in the Brighton section of the city of Boston. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

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

An Act authorizing a surface and sub-surface easement at the Chestnut Hill Reservation located in the Brighton section of the City of Boston.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Whereas, the deferred operation of this act would tend to defeat its purpose, which is to
2 establish forthwith a transfer in an interest of property in the city of Boston, therefore it is hereby
3 declared to be an emergency law, necessary for the immediate preservation of the public
4 convenience.

5 Be it enacted by the Senate and House of Representatives in General Court assembled,
6 and by the authority of the same as follows:

7 SECTION 1. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General
8 Laws or any other general or special law to the contrary, the commissioner of capital asset
9 management and maintenance, may grant to Boston Gas Company, hereinafter referred to in this
10 act as the “company”, a permanent surface and sub-surface easement and right-of-way for the
11 purpose of installing, operating, and maintaining a natural gas main and regulator station and any

12 necessary appurtenances thereto, above and below ground. The easement shall be located on
13 portions of a parcel of state-owned land in the city of Boston bounded by Beacon street, Chestnut
14 Hill avenue, Commonwealth avenue, other land now and formerly of the city of Boston and land
15 owned by the commonwealth, described in a deed recorded on April 5, 1960 in the Suffolk
16 county registry of deeds in book 7474, page 391 and shown on a plan of land entitled
17 “Commonwealth of Massachusetts – Metropolitan District Commission – Parks Division –
18 BOSTON (BRIGHTON DISTRICT) – Plan of Land to be Conveyed to the Metropolitan District
19 Commission”, dated December 2, 1959.

20 SECTION 2. The easement shall be exclusive except:(i) as to the surface/above-grade
21 portion of the easement area, which shall be used for such recreational purposes as the
22 commissioner of capital asset management and maintenance, in consultation with the
23 commissioner of conservation and recreation, may reasonably determine to be appropriate for the
24 benefit of the citizens of the commonwealth in accordance with this act; and (ii) as to the
25 subsurface/below-grade portion of the easement area, the division of capital asset management
26 and maintenance may install, operate and maintain utility infrastructure necessary to service
27 facilities of the commonwealth in the vicinity of the easement area. The foregoing incursions
28 into and uses of the subsurface portion of the easement area, as set forth in clause (ii), shall be
29 subject to compliance with the company's clearance standards existing as of the effective date of
30 this act, including the requirement that subsurface utility infrastructure installed parallel to the
31 company's facilities shall maintain a minimum 3-foot separation from the company's facilities,
32 and any subsurface utility infrastructure installed above or below the company's facilities shall
33 maintain a minimum 1-foot separation from the company's facilities.

34 SECTION 3. The exact boundaries of the easement shall be determined by the
35 commissioner of capital asset management and maintenance, in consultation with the
36 commissioner of conservation and recreation, after completion of a survey. The easement shall
37 be subject to such additional terms and conditions as the commissioner of capital asset
38 management and maintenance, in consultation with the commissioner of conservation and
39 recreation, may prescribe, to ensure that environmental impacts associated with the use of the
40 parcel described in section 1 are addressed and that the conveyance results in a net benefit to the
41 park system operated by the department of conservation and recreation. No instrument executed
42 pursuant to this act shall be valid unless it provides that the easement shall only be used for the
43 purposes described in section 1. The instrument shall include a reversionary clause that
44 stipulates the easement shall revert to the commonwealth and be assigned to the care, custody
45 and control of the department of conservation and recreation, upon such terms and conditions as
46 the commissioner of capital asset management and maintenance may determine, if the property
47 ceases to be used for the express purposes authorized in this act. Notwithstanding section 7 of
48 chapter 184A or any other general or special law to the contrary, the commonwealth's
49 reversionary interest in the easement under this section shall be permanent. If any interest
50 reverts to the commonwealth, any further disposition shall be subject to sections 32 to 37,
51 inclusive, of chapter 7C of the General Laws and the prior approval of the general court.

52 SECTION 4. The consideration for the easement authorized in subsection (a) shall be an
53 amount equal to the net present value of the full and fair market value of the easement as
54 determined as determined by an independent appraisal commissioned by the commissioner of
55 capital asset management and maintenance and shall be deposited in the Conservation Trust,
56 established by section 1 of chapter 132A of the General Laws, and used by the department of

57 conservation and recreation for purposes of advancing the recreational and conservation interests
58 of the commonwealth.

59 SECTION 5. Notwithstanding any general or special law to the contrary, the inspector
60 general shall review and approve any appraisals required pursuant to section 4. An appraisal for
61 the full and fair market value of the easement shall be prepared in accordance with usual and
62 customary professional appraisal practices by a qualified appraiser commissioned by the
63 commissioner of capital asset management and maintenance. The inspector general shall prepare
64 a report of his review of the methodology utilized for the appraisal and shall file the report with
65 the commissioner of capital asset management and maintenance, the house and senate
66 committees on ways and means and the joint committee on state administration and regulatory
67 oversight. The commissioner of capital asset management and maintenance shall, 30 days before
68 the grant of an easement authorized by this act, or a subsequent amendment thereto, submit the
69 proposed easement and a report thereon to the inspector general for his review and comment.
70 The inspector general shall issue his review and comment within 15 days after receipt of the
71 proposed easement. The commissioner shall submit the proposed easement, and the reports and
72 the comments of the inspector general, if any, to the house and senate committees on ways and
73 means and the joint committee on state administration and regulatory oversight at least 15 days
74 before the execution of the easement.

75 SECTION 6. The conveyance of the easement pursuant to section 1 shall be conditional
76 upon the company mitigating the environmental impact of the easement on the park. Mitigation
77 shall consist of: (1) payment of fair market value for the easement pursuant to section 4: (2)
78 improvements by the company to an existing parking area; (3) the design and implementation by
79 the company of a landscape plan for the immediate easement area, which plan shall be subject to

80 the review and approval of the commissioner of the division of capital asset management and
81 maintenance, in consultation with the commissioner of the department of conservation and
82 recreation; and (4) a \$25,000 payment into the Chestnut Hill Reservation Improvement Fund
83 established in section 7.

84 SECTION 7. (a) There is hereby established and set up on the books of the
85 commonwealth a separate fund, to be known as the Chestnut Hill Reservation Improvement
86 Fund to be administered by the commissioner of conservation and recreation, without prior
87 appropriation, for the purpose of making improvements to the Chestnut Hill Reservation that
88 advance the recreational and conservation uses of the reservation. The fund shall be credited
89 with: the payment required pursuant to section 6; gifts, grants and other private contributions
90 designated to be credited to the fund; all other amounts credited or transferred to the fund from
91 any other fund or source; and interest earned on any monies within the fund. Any balance in
92 the fund at the end of the fiscal year shall not revert to the General Fund and shall remain
93 available for expenditure in subsequent fiscal years; provided, however, that any unexpended
94 balance in the fund on December 30, 2020 shall revert to the General Fund.

95 (b) All improvements to the Chestnut Hill Reservation made through expenditures from
96 the fund shall be agreed upon by the commissioner of conservation and recreation and the
97 Friends of the Chestnut Hill Reservation.

98 (c) For purposes of this section, the Chestnut Hill Reservation shall consist of: (1) the
99 parcel described in section 1; and (2) the abutting state-owned parcel managed by the department
100 of conservation and recreation identified as parcel 2102472000 by the assessing department of
101 the city of Boston.

102 SECTION 8. Notwithstanding any general or special law to the contrary, the company
103 shall be responsible for all costs and expenses including, but not limited to, actual costs incurred
104 in connection with any engineering, surveys, appraisals and easement preparation related to the
105 easement authorized in this act.

106 SECTION 9. Section 7 is hereby repealed.

107 SECTION 10. Section 9 shall take effect on December 31, 2020.