

HOUSE No. 4842

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 30, 2018.

The committee on Ways and Means, to whom was referred the Senate Bill authorizing the commissioner of capital asset management and maintenance and the town of Hingham to grant certain easements upon certain land located in the town of Hingham (Senate, No. 2582), reports recommending that the same ought to pass with an amendment striking all after the enacting clause and inserting in place thereof the text contained in House document numbered 4842.

For the committee,

JEFFREY SÁNCHEZ

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

By striking out all after the enacting clause and inserting in place thereof the following:—

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 and the executive director of the Massachusetts Water Resources Authority, may grant
5 a nonexclusive permanent and a temporary subsurface easement upon a certain parcel of land
6 known as Stodder’s Neck in the town of Hingham, currently under the care and control of the
7 department of conservation and recreation and held for conservation and recreation purposes, to
8 the town of Hingham acting through its board of sewer commissioners to be used for the
9 installation and maintenance of a subsurface sewer main, subject to the requirements of this act
10 and to such additional terms and conditions consistent with this act as the commissioner of
11 capital asset management and maintenance, in consultation with the commissioner of
12 conservation and recreation and executive director of the Massachusetts Water Resources
13 Authority may prescribe. The permanent subsurface easement area is shown as “Proposed 20’
14 Wide Sewer Easement, Area = 5,158 S. F. ±” and the temporary subsurface easement is shown
15 as “Proposed 10’ Wide Temporary Easement” on a plan of land entitled “Sewer Easement Plan”
16 prepared for the town of Hingham by Perkins Engineering, Inc. to be recorded in the Plymouth

17 county registry of deeds. Prior to finalizing the transaction or making the conveyance authorized
18 herein, the division of capital asset management and maintenance may make minor
19 modifications to the area and plan in order to carry out this act. The easement rights granted to
20 the town under this act, including surface rights for the installation, maintenance and repair of
21 subsurface infrastructure, shall not limit, restrict or close vehicular or pedestrian access to the
22 Stodder's Neck property or the Massachusetts Water Resources Authority sewage pumping
23 station except as may be approved in writing by the department and the Massachusetts Water
24 Resources Authority.

25 SECTION 2. An independent appraisal of the fair market value and value in use of the
26 easement described in section 1 shall be prepared in accordance with the usual and customary
27 professional appraisal practices by a qualified appraiser commissioned by the commissioner of
28 capital asset management and maintenance. Consideration for the grant of the easement shall be
29 the full and fair market value or the value in proposed use, whichever is greater, as determined
30 by the commissioner of capital asset management and maintenance and calculated with regard to
31 its full development potential as assembled with other lands owned or otherwise controlled by
32 the grantee. The commissioner of capital asset management and maintenance shall submit any
33 appraisals to the inspector general for review and comment. The inspector general shall review
34 and approve any such appraisals and the review shall include an examination of the methodology
35 utilized for the appraisals. The inspector general shall prepare a report of such review and file the
36 report with the commissioner of capital asset management and maintenance for submission by
37 the commissioner to the house and senate committees on ways and means and the joint
38 committee on state administration and regulatory oversight. The commissioner shall submit
39 copies of any appraisals and the inspector general's review and approval and comments, if any,

40 to the house and senate committees on ways and means and the joint committee on state
41 administration and regulatory oversight at least 15 days prior to the execution of any documents
42 effecting the transfers authorized in said section 1.

43 SECTION 3. As consideration for the grant of easement authorized in section 1, the town
44 of Hingham shall transfer to the department of conservation and recreation land, an interest in
45 land or funding for the acquisition of land or an interest therein equal to or greater than the
46 resource value of the land described in said section 1 and the highest appraised value as
47 determined under section 2. The fair market value of any land or interest in land proposed to be
48 conveyed by the grantee to the department shall be included within the appraisal prepared under
49 said section 2. The land, interest in land or funding for the acquisition of land or an interest
50 therein shall be subject to the approval of the department of conservation and recreation and any
51 land or interest in land, whether conveyed by the grantee or acquired by the department, shall be
52 permanently held and managed for conservation and recreation purposes by the department. If
53 the appraised value of any land or interests in land transferred to the department is greater than
54 the appraised value of the interests in land described in said section 1, the commonwealth shall
55 have no obligation to pay the difference to the grantee. All payments paid to the commonwealth
56 as a result of the conveyances or grants authorized in this act shall be deposited in the
57 Conservation Trust established in section 1 of chapter 132A of the General Laws.

58 SECTION 4. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General
59 Laws or any other general or special law to the contrary, the commissioner of capital asset
60 management and maintenance, in consultation with the commissioner of conservation and
61 recreation, may grant a permanent nonexclusive easement to the Massachusetts Water Resources
62 Authority for no monetary consideration to access, erect, inspect, renew, replace, operate and

63 forever maintain poles, wires, underground conduits and their appurtenances for the transmission
64 of electricity and communication and pipes for the conveyance of water and sewage in, through,
65 under and over the easement and for the continued access to its sewage pumping station in the
66 town of Hingham in accordance with chapter 372 of the acts of 1984. The easement area
67 contains 8,000 square feet, more or less, and is shown as “Proposed Easement Parcel #2” on a
68 plan entitled “The Commonwealth of Massachusetts, Metropolitan District, Sewerage Division,
69 Plan of Land in Hingham, Oct. 1956, A. E. Sulesky, Director of Sewerage Division and Chief
70 Sewerage Engineer, Land Taking for Proposed Sewage Pumping Station, South Metropolitan
71 System,” recorded in the Plymouth registry of deeds as plan 835 of 1956 and is described in an
72 order of taking recorded in the Plymouth registry of deeds in book 2543, page 177 and located
73 upon a portion of the land described an order of taking recorded in the Plymouth registry of
74 deeds in book 3788, page 64. Prior to finalizing the transaction or making the conveyance
75 authorized in this section, the division of capital asset management and maintenance may make
76 minor modifications to the area to carry out this act. The easement rights granted to the authority
77 in this section shall not limit, restrict or close vehicular or pedestrian access to the department’s
78 Stodder’s Neck property except as may be approved in writing by the department.

79 SECTION 5. The town of Hingham shall assume all costs associated with engineering,
80 surveys, appraisals, deed preparation and other expenses deemed necessary by the commissioner
81 of capital asset management and maintenance to execute the conveyance authorized in section 1.
82 The Massachusetts Water Resources Authority shall assume all costs associated with
83 engineering, surveys, appraisals, deed preparation and other expenses deemed necessary by the
84 commissioner of capital asset management and maintenance to execute the conveyance
85 authorized in section 4.

86 SECTION 6. No instruments executed pursuant to this act shall be valid unless it
87 provides that the easements authorized in sections 1 and 4 shall be used solely for the purposes
88 described in said sections 1 and 4. The instruments authorized pursuant to said sections 1 and 4
89 shall include a reversionary clause that stipulates that if the interest ceases to be used for the
90 express purposes authorized in said sections 1 and 4, such interest shall revert to the
91 commonwealth and be assigned to the care, custody and control of the department of
92 conservation and recreation upon such terms and conditions as the commissioner of capital asset
93 management and maintenance may determine. If any interest reverts to the commonwealth, any
94 further disposition shall be subject to sections 34 to 37, inclusive, of chapter 7C of the General
95 Laws and the prior approval of the general court.