

**SENATE . . . . . No. 2582**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Patrick M. O'Connor*

*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 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.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Patrick M. O'Connor</i>	<i>Plymouth and Norfolk</i>
<i>Joan Meschino</i>	<i>3rd Plymouth</i>

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**The Commonwealth of Massachusetts**

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

An Act 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.

*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 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 may prescribe, in consultation with the commissioner  
12 of conservation and recreation and executive director of the Massachusetts Water Resources  
13 Authority. The permanent subsurface easement area is shown as “Proposed 20’ Wide Sewer

14 Easement, Area = 5,158 S. F. ±” and the temporary subsurface easement is shown as “Proposed  
15 10’ Wide Temporary Easement” on a plan of land entitled “Sewer Easement Plan” prepared for  
16 the town of Hingham by Perkins Engineering, Inc. to be recorded in the Plymouth county  
17 registry of deeds. Prior to finalizing the transaction or making the conveyance authorized herein,  
18 the division of capital asset management and maintenance may make minor modifications to the  
19 area and plan in order to carry out this act. The easement rights granted to the town hereunder,  
20 including surface rights for the installation, maintenance and repair of subsurface infrastructure,  
21 shall not limit, restrict or close vehicular or pedestrian access to the department’s Stodder’s Neck  
22 property or the Massachusetts Water Resources Authority sewage pumping station for any period  
23 of time, 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 the appraisals and the inspector general's review and approval and comments, if any, to  
40 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 described 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 registry of deeds in book  
74 3788, page 64. Prior to finalizing the transaction or making the conveyance authorized in this  
75 section, the division of capital asset management and maintenance may make minor  
76 modifications to the area to carry out this act. The easement rights granted to the authority in this  
77 section shall not limit, restrict or close vehicular or pedestrian access to the department’s  
78 Stodder’s Neck property for any period of time, except as may be approved in writing by the  
79 department.

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

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

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