

SENATE No. 2370

The Commonwealth of Massachusetts

—
**In the One Hundred and Ninety-First General Court
(2019-2020)**
—

SENATE, October 11, 2019.

The committee on Senate Ways and Means to whom was referred the Senate Bill authorizing the Department of Conservation and Recreation to grant easements to the town of Hubbardston for the reconstruction of the Evergreen Road bridge over Mason Brook (Senate, No. 1855), - reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2370).

For the committee,
Michael J. Rodrigues

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An Act authorizing the Division of Capital Asset Management and Maintenance to grant easements to the town of Hubbardston for the reconstruction of the Evergreen Road bridge over Mason Brook.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the division of capital asset management and maintenance, in consultation with the department of conservation and recreation to grant easements over certain water supply land in the town of Hubbardston for a bridge reconstruction project, 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 (a) Notwithstanding sections 34 to 37, inclusive, of chapter 7C of the General Laws, the
2 commissioner of capital asset management and maintenance, in consultation with the
3 commissioner of conservation and recreation, may grant permanent easements over portions of
4 certain parcels of land acquired for water supply purposes in the town of Hubbardston to the
5 town of Hubbardston for completion of a bridge reconstruction project. The portions of land are
6 located adjacent to and under the Evergreen road bridge over Mason brook. The easements shall
7 be used for the repair, reconstruction, operation, maintenance or improvement of the bridge,
8 subject to the requirements of this act and to such additional terms and conditions consistent with
9 this act as the commissioner may prescribe. The portions of land are shown as parcel E-1,

10 containing 48,138 square feet, more or less, parcel E-2, containing 340 square feet, more or less,
11 parcel E-3, containing 1,560 square feet, more or less, and parcel E-4, containing 1,210 square
12 feet, more or less, on a plan of land entitled “Easement Plan of Land Evergreen Road
13 Hubbardston, Massachusetts”, dated January 3, 2019, which is on file with the division of capital
14 asset management and maintenance.

15 (b) As consideration for the easements authorized in this act, the town of Hubbardston
16 shall compensate the commonwealth through the transfer to the department of conservation and
17 recreation of land or an interest in land or through the payment of an amount equal to or greater
18 than the appraised value as determined under subsection (c), or any combination thereof, and
19 approved by the department of conservation and recreation. Any land or interest in land acquired
20 by the department pursuant to this subsection shall be permanently held and managed for
21 conservation and recreation purposes by the department. If the appraised value of any land or
22 interest in land conveyed under this subsection is of greater value than the appraised value of the
23 interest in land in subsection (a), the commonwealth shall have no obligation to pay the
24 difference. Any payments to the commonwealth pursuant to this subsection shall be deposited in
25 the Conservation Trust established in section 1 of chapter 132A of the General Laws.

26 (c) The commissioner of capital asset management and maintenance shall provide for an
27 independent appraisal of the value of the easements and any land or interest in land proposed to
28 be conveyed by the town of Hubbardston to the department of conservation and recreation as
29 compensation under this act that shall be prepared in accordance with the usual and customary
30 professional appraisal practices by a qualified appraiser. The commissioner shall submit the
31 appraisals to the inspector general for review and comment. The inspector general shall review
32 and approve the appraisals and the review shall include an examination of the methodology

33 utilized for the appraisals. The inspector general shall prepare a report of the review and file the
34 report with the commissioner of capital asset management and maintenance. The commissioner
35 shall submit copies of the appraisals and the inspector general's review and approval and
36 comments, if any, to the house and senate committees on ways and means and the joint
37 committee on state administration and regulatory oversight at least 15 days prior to the execution
38 of any documents effecting the transfers authorized in this act.

39 (d) The town of Hubbardston shall assume all costs associated with engineering, surveys,
40 appraisals and deed preparation and any other costs as deemed necessary by the commissioner to
41 execute the conveyances authorized in this act.

42 (e) No instrument executed pursuant to this act shall be valid unless it provides that the
43 easements shall be used solely for the purposes of this act. Any such instrument shall include a
44 reversionary clause that stipulates that if the property ceases to be used for the express purposes
45 authorized in this act, the property shall revert to the commonwealth on such terms and
46 conditions as the commissioner of capital asset management and maintenance, in consultation
47 with the commissioner of conservation and recreation, may determine. Prior to effecting any
48 such reversion, the commissioner of capital asset management and maintenance shall provide the
49 town of Hubbardston with notice of such nonconforming use and an opportunity to cure the
50 violation to the satisfaction of the division. If the town fails to cure the defect to the satisfaction
51 of the division, the property shall revert to the commonwealth and any further disposition thereof
52 shall be subject to sections 34 to 37, inclusive, of chapter 7C of the General Laws and the prior
53 approval of the general court.