

HOUSE No. 5160

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 31, 2022.

The committee on Ways and Means, to whom was referred the Senate Bill relative to sustainability and resiliency in the Dorchester section of the city of Boston (Senate, No. 3088), reports recommending that the same ought to pass with amendments striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 5160.

For the committee,

AARON MICHLEWITZ.

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Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill relative to sustainability and resiliency in the Dorchester section of the city of Boston (Senate, No. 3088). July 31, 2022.

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In the One Hundred and Ninety-Second General Court
(2021-2022)

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 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 University of Massachusetts Building Authority, its successors, or
5 assigns, for consideration as provided in section 2, a permanent, non-exclusive subsurface and
6 surface easement for the purposes of providing vehicular, pedestrian and utility access across
7 certain parcels of land under the care and control of the department of conservation and
8 recreation and held for conservation and recreation purposes; provided, however, that the
9 University of Massachusetts Building Authority has first entered into a ground lease with a third
10 party, other than the commonwealth or the University of Massachusetts, for the property known
11 as the Bayside which lies adjacent to said parcels of land. The area where the easement may be
12 granted is more particularly described as an area approximately 26,000 square feet, more or less,
13 running from William J. Day boulevard to lands of the University of Massachusetts Building
14 Authority, as shown on a plan entitled “Plan of Proposed Access Road Easement Area, Boston”,
15 dated June 29, 2021. The exact boundaries and location of the easement which may be granted

16 over the land described in this section shall be determined by the commissioner of capital asset
17 management and maintenance, subject to the approval of the department of conservation and
18 recreation and the University of Massachusetts Building Authority, after completion of a survey.
19 The surveyed easement plan shall be recorded in the Suffolk county registry of deeds with the
20 grant of easement and easement agreement instrument.

21 SECTION 2. (a) As consideration for the easement authorized in section 1, the University
22 of Massachusetts Building Authority, its successors, or assigns, shall compensate the
23 commonwealth through: (i) the transfer of land or an interest in land to the department of
24 conservation and recreation, subject to the approval of the department of conservation and
25 recreation, with a value equal to or greater than the full and fair market value of the easement
26 described in said section 1, or its value in use as proposed, including improvements made to the
27 land, whichever is greater, as determined by the independent appraisal required pursuant to
28 subsection (b); (ii) a sum of money equal to the full and fair market value of the easement or its
29 value in use as proposed, whichever is greater, as determined by an independent appraisal
30 required pursuant to subsection (b); or (iii) some combination thereof. Any funds received shall
31 be deposited in the Conservation Trust established in section 1 of chapter 132A of the General
32 Laws and expended by the department of conservation and recreation to acquire lands or
33 interests in land to be permanently under the care and control of the department for conservation
34 and recreation purposes.

35 (b) The value of the easement described in section 1 and the value of any property
36 interests to be conveyed by the commonwealth pursuant to said section 1 shall be determined by
37 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. For the purposes of such appraisal, the full and fair market value shall be calculated
41 with regard to the financial benefit of the access provided by the parcel described in said section
42 1 to development on adjacent land, known as the Bayside, to be leased by the University of
43 Massachusetts Building Authority. The commissioner of capital asset management and
44 maintenance shall submit any appraisals to the inspector general for review and comment. The
45 inspector general shall review and approve any appraisals and the review shall include an
46 examination of the methodology utilized for the appraisals. The inspector general shall prepare a
47 report of such review and file the report with the commissioner of capital asset management and
48 maintenance for submission by the commissioner of capital asset management and maintenance
49 to the house and senate committees on ways and means and the joint committee on state
50 administration and regulatory oversight. The commissioner shall submit copies of the appraisals
51 and the inspector general's report to the house and senate committees on ways and means and the
52 joint committee on state administration and regulatory oversight not less than 15 days before the
53 execution of the instrument effecting the grant of the easement described in section 1.

54 (c)(1) The University of Massachusetts Building Authority, its successors or assigns,
55 shall be responsible for all costs associated with engineering, surveys, appraisals, document
56 preparation and other expenses deemed necessary by the commissioner of capital asset
57 management and maintenance to convey the easement described in section 1.

58 (2) The University of Massachusetts Building Authority, its successors or assigns, shall
59 be responsible for all costs associated with the design, engineering and construction of the access
60 road and related facilities and improvements described in section 1 and the maintenance, repair

61 and reconstruction of the land, road, and improvements subject to the easement described in
62 section 1.

63 (3) Any instrument granting an easement as authorized in section 1 shall contain a
64 reversionary clause that shall provide that the easement shall terminate and the property shall
65 revert to the commonwealth under the care, custody and control of the department of
66 conservation and recreation in the event that the University of Massachusetts Building Authority,
67 its successors or assigns does not enter into a ground lease, other than with the commonwealth or
68 the University of Massachusetts, and is therefore not responsible for payments, costs or expenses
69 pursuant to paragraph (2).

70 (d) No instrument granting the easement described in section 1 shall be valid unless it
71 provides that the easement shall be used solely for the purposes described in said section 1. The
72 grant of easement shall stipulate that the easement shall terminate, and all rights shall revert to
73 the commonwealth under the care and control of the department of conservation and recreation,
74 if the property ceases to be used for the express purposes set forth in the instrument granting the
75 easement, upon such terms and conditions as the commissioner of capital asset management and
76 maintenance, in consultation with the commissioner of conservation and recreation, may
77 determine.

78 SECTION 3. (a) There shall be established and set up on the books of the commonwealth
79 a Dorchester Shores Reservation and Parks Trust Fund. The purpose of the fund shall be to
80 ensure the long-term conservation, maintenance and improvement of the Dorchester Shores
81 Reservation properties as determined by the department of conservation and recreation and
82 McCormack park in the Dorchester section of the city of Boston. The fund shall be administered

83 by the secretary of energy and environmental affairs, who may make expenditures from the fund
84 for any purpose consistent with the uses of the fund as described in this section.

85 (b) The fund shall consist of: (i) revenue from appropriations or other money authorized
86 by the general court and specifically designated to be credited to the fund; (ii) any income
87 derived from the investment of amounts credited to the fund or repayment of loans from the
88 fund; (iii) funds from public or private sources including, but not limited to, gifts, federal or
89 private grants, donations, rebates and settlements received by the commonwealth that are
90 specifically designated to be credited to the fund; and (iv) all other amounts credited or
91 transferred to the fund from any other source. Amounts credited to the fund shall not be subject
92 to appropriation and any money remaining in the fund at the end of the fiscal year shall not revert
93 to the General Fund. Annually, not later than December 1, the secretary of energy and
94 environmental affairs shall report on the activities of the fund to the clerks of the house of
95 representatives and the senate and to the house and senate committees on ways and means. The
96 report shall include an accounting of expenditures made from the fund and shall include a
97 description of the authorized purpose of each expenditure, an accounting of the amounts credited
98 to the fund and any unexpended balance remaining in the fund.