

HOUSE No. 5161

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 31, 2022.

The committee on Ways and Means, to whom was referred the Bill authorizing the town of Ayer select board to acquire a water line easement on land of the department of conservation and recreation (House, No. 4811), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 5161).

For the committee,

AARON MICHLEWITZ.

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

An Act authorizing the town of Ayer select board to acquire a water line easement on land of the department of conservation and recreation.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the authority of the town of Ayer select board to acquire a water line easement on land of the department of conservation and recreation, which easement is necessary to provide water to the residents of Ayer, 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 SECTION 1. (a) Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the
2 General Laws or any other general or special law to the contrary, the commissioner of capital
3 asset management and maintenance, in consultation with the commissioner of conservation and
4 recreation, may convey a subsurface easement to the town of Ayer on a parcel of land containing
5 approximately 1,940 square feet described in an order of taking recorded with the Middlesex
6 south registry of deeds in book 18528 and page 64, currently under the care and control of the
7 department of conservation and recreation and held for conservation and recreation purposes.
8 The easement area is shown as “20’ Wide Water Easement” on a plan of land entitled “Easement
9 Plan of Land in Ayer, Mass.” dated September 13, 2017, prepared by Goldsmith, Prest &
10 Ringwall, Inc., recorded in the Middlesex south registry of deeds in book 2017, page 886.

11 (b) The easement shall be used only for the purposes of installing, constructing, repairing,
12 reconstructing, operating, maintaining or improving subsurface water infrastructure, subject to
13 the requirements of sections 2 through 4, inclusive, and to such additional terms and conditions
14 consistent with this act as the commissioner of capital asset management and maintenance, in
15 consultation with the commissioner of conservation and recreation, may prescribe. Prior to
16 making the conveyance authorized in subsection (a), the commissioner of capital asset
17 management and maintenance may make minor modifications to the area and plan in order to
18 carry out this act.

19 SECTION 2. The town of Ayer shall compensate the commonwealth for the easement
20 described in section 1 through any 1 or a combination of the following: (i) the transfer of land or
21 an interest in land to the commissioner of conservation and recreation, with a value equal to or
22 greater than the full and fair market value of the easement, or the value of the easement in use as
23 proposed, whichever is greater, as determined by independent appraisal; or (ii) a sum of money
24 equal to the full and fair market value of the easement or the value of the easement in use as
25 proposed, whichever is greater, as determined by independent appraisal. The commonwealth
26 shall not be obligated to pay any consideration to the town if the appraised value of any parcels
27 or interests conveyed under this section exceeds the value of the easement described in section 1.

28 SECTION 3. The value of the easement described in section 1 and the value of any
29 property interests to be conveyed to the commonwealth pursuant to section 2 shall be determined
30 by an independent appraisal prepared in accordance with the usual and customary professional
31 appraisal practice by a qualified appraiser commissioned by the commissioner of capital asset
32 management and maintenance, in consultation with the commissioner of conservation and
33 recreation. The commissioner of capital asset management and maintenance shall submit the

34 appraisal to the inspector general for review and comment. The inspector general shall review
35 and approve the appraisal and the review shall include an examination of the methodology
36 utilized for the appraisal. The inspector general shall prepare a report of such review and file the
37 report with the commissioner of capital asset management and maintenance for submission by
38 the commissioner to the house and senate committees on ways and means and the joint
39 committee on state administration and regulatory oversight. The commissioner shall submit
40 copies of the appraisal and the inspector general's report to the house and senate committees on
41 ways and means and the joint committee on state administration and regulatory oversight not less
42 than 15 days before the execution of the instrument effecting the grant of the easement described
43 in section 1. Any funds shall be deposited in the Conservation Trust established in section 1 of
44 chapter 132A of the General Laws, and shall be expended by the commissioner of conservation
45 and recreation, in the commissioner's discretion, towards acquiring lands or interests in land to
46 be permanently held and managed for conservation and recreation purposes by the department of
47 conservation and recreation.

48 SECTION 4. The town of Ayer shall assume any and all costs associated with
49 engineering, surveys, appraisals, deed preparation and other expenses deemed necessary by the
50 commissioner of capital asset management and maintenance for the purpose of conveying the
51 easement to the town of Ayer authorized by this act.