

SENATE No. 2831

Senate, April 14, 2022 -- Text of the Senate amendment to the House Bill preserving open space in the Commonwealth (House, No. 851) (being the text of Senate, No. 2820, printed as amended)

The Commonwealth of Massachusetts

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

1 SECTION 1. Chapter 3 of the General Laws is hereby amended by inserting after section
2 5 the following section:-

3 Section 5A. (a) In order to use for another purpose or otherwise dispose of land, an
4 easement or other real property interest subject to Article XCVII of the Amendments to the
5 Constitution of the Commonwealth, a public entity, including the commonwealth, any agency,
6 authority, board, bureau, commission, committee, council, county, department, division,
7 institution, municipality, officer, quasi-public agency, public instrumentality or any subdivision
8 thereof shall: (i)(A) conduct an alternatives analysis demonstrating that all other options to avoid
9 or minimize Article XCVII disposition have been explored and no feasible or substantially
10 equivalent alternative exists; and (B) submit the analysis to the secretary of energy and
11 environmental affairs and make the analysis public; (ii) identify replacement land or an interest
12 in land, not already subject to said Article XCVII, that is of: (A) equal or greater natural resource
13 value or recreation value, as determined by the secretary of energy and environmental affairs,
14 and acreage and monetary value, as determined by an appraisal of the fair market value or value
15 in use, whichever is greater; and (B) comparable location; and (iii) take, acquire or dedicate the
16 replacement land or interest in land identified pursuant to clause (ii) in perpetuity for the same

17 Article XCVII purpose. Upon request of a public entity seeking to use for another purpose or
18 otherwise dispose of land, an easement or another real property interest subject to said Article
19 XCVII, the secretary of energy and environmental affairs may: (i) permit the provision of
20 funding dedicated to all costs of acquiring replacement land or an interest land, or a combination
21 of replacement land or an interest in land and funding, where: (A) the alternatives analysis
22 required by clause (i) of the first sentence has been submitted to the secretary and made public;
23 (B) the secretary determines, after consideration of the analysis, that it is not feasible to provide
24 replacement land or an interest in land meeting all of the criteria in clause (ii) of the first
25 sentence, the interests protected by said Article XCVII are better served and an environmental
26 justice population is not adversely impacted; and (C) the funding is placed in an account
27 dedicated solely for the acquisition of land for Article XCVII purposes and expended within 3
28 years; (ii) waive or modify the appraisal requirement if the cost of the appraisal is greater than
29 one-half of the value of the property interest to be transferred based on assessor or other public
30 records; and (iii) waive or modify the replacement land requirement pursuant to clauses (ii) and
31 (iii) of the first sentence if: (A) the disposition involves only the transfer of legal control between
32 public entities as described in this subsection and does not involve any other change, including,
33 but not limited to, a change allowing the land to be used for another purpose; or (B) the transfer
34 is of a parcel of insignificant natural resource and recreation value that is less than 2,500 square
35 feet in area and the transfer serves a significant public interest.

36 (b) A petition to the general court to authorize the use for another purpose or other
37 disposition of land, an easement or another real property interest subject to said Article XCVII
38 shall be accompanied by: (i) the alternatives analysis conducted pursuant to subsection (a); (ii) a
39 description of the replacement land or interest in land and funding to be dedicated pursuant to

40 said subsection (a), if not waived pursuant to said subsection (a); (iii) a copy of the appraisal
41 required by said subsection (a), if not waived pursuant to said subsection (a); and (iv) a copy of
42 any waiver or modification granted pursuant to said subsection (a).

43 SECTION 2. The secretary of energy and environmental affairs shall promulgate
44 regulations to implement subsection (a) of section 5A of chapter 3 of the General Laws within 18
45 months after effective date of this act.