SENATE . . . . . No. 2880

The Commonwealth of Massachusetts

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

SENATE, May 16, 2022.

The committee on Environment, Natural Resources and Agriculture, to whom was referred the petitions (accompanied by bill, Senate, No. 495) of Joseph A. Boncore, Adrian C. Madaro, James B. Eldridge, Marc R. Pacheco and other members of the General Court for legislation to crate a Garden Agriculture Program; (accompanied by bill, Senate, No. 502) of Joanne M. Comerford, Hannah Kane, Brendan P. Crighton, Brian W. Murray and other members of the General Court for legislation to promote agriculture; (accompanied by bill, House, No. 860) of Natalie M. Blais and others relative to racially equitable investments, policies, and practices to promote equity in agriculture; (accompanied by bill, House, No. 967) of Adrian C. Madaro and others for legislation to create local and community garden agriculture programs within the Department of Agricultural Resources; and (accompanied by bill, House, No. 1007) of Paul A. Schmid, III and others for legislation to authorize the Department of Conservation and Recreation to establish a program to provide for the use of certain state owned land for community gardens and farmers' markets, reports the accompanying bill (Senate, No. 2880).

For the committee,
Rebecca L. Rausch

FILED ON: 5/12/2022

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

An Act advancing food and agricultural equity in the commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 20 of the General Laws is hereby amended in subsection (a) of section 6C by striking the words "1 of whom shall be a member of the house of representatives; 1 of whom shall be a member of the senate" and inserting in place thereof the following words:- 2 of whom shall be the senate and house co-chairs of the joint committee on environment, natural resources and agriculture, or their respective designees.

SECTION 2. Said chapter 20 is hereby further amended by inserting after section 6C the following section:-

Section 6D. There shall be established within the department a circuit rider program to provide on-site guidance to businesses regulated by the department about state programs, regulations, and funding opportunities available to farmers in the commonwealth. Subject to appropriation, the commissioner shall designate a program director. The director shall establish places at which and the methods whereby farmers may make requests for a farm visit by program staff at no cost. Program staff shall coordinate with state agencies as necessary to assist farmers

with compliance with state programs, regulations, and funding sources. No enforcement measures shall be taken during or as a result of farm visits provided under this section.

SECTION 3. Said chapter 20 is hereby further amended in subsection (a) of section 23 by inserting at the end of the second sentence thereof the following words:- ; provided, however, that the committee or any independent appraisal to determine the fair market value of the land restricted for agricultural purposes shall include in its valuation the appraised value of any easements and infrastructure including dwellings, structures, plumbing and irrigation systems on the entire parcel in its fair market value consideration or any payment.

SECTION 4. Said chapter 20 is hereby further amended by inserting after section 32 the following section:-

Section 33. There shall be established a Massachusetts Farmer Equity Commission Fund administered by the department of agricultural resources. The fund shall be credited with: (i) revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund; (ii) interest earned on such revenues; and (iii) funds from public and private sources such as gifts, grants and donations. Amounts credited to the fund shall not be subject to further appropriation and any money remaining in the fund at the end of a fiscal year shall not revert to the General Fund; provided, however, that such contributions shall not be further restricted by the donor or used by the commonwealth for any other purpose. Any bond proceeds deposited into the fund shall be kept separate from any and all other funds deposited into the fund. The commission shall disburse funds to provide stipends for time spent and costs incurred furthering the cause of the commission made by non-governmental members of the commission.

SECTION 5. Chapter 29 of the General Laws is hereby amended by adding the following section:-

Section 2DDDDD. (a) There shall be established and set up on the books of the commonwealth a separate fund to be known as the Next Generation Farmers Fund. The fund shall be administered by the secretary of energy and environmental affairs, in consultation with the secretary of labor and workforce development. The fund shall be credited with: (i) revenue from appropriations or other money authorized by the general court and specifically designated to be credited to the fund; (ii) interest earned on such revenues; and (iii) funds from public and private sources such as gifts, grants and donations. Amounts credited to the fund shall not be subject to further appropriation and any money remaining in the fund at the end of a fiscal year shall not revert to the General Fund; provided, however, that such contributions shall not be further restricted by the donor or used by the commonwealth for any other purpose. Any bond proceeds deposited into the fund shall be kept separate from any and all other funds deposited into the fund.

(b) Monies in the fund shall be used to establish and implement an agricultural workforce development grant program to provide training in agriculture, as such term is defined in section 1A of chapter 128. Said program shall award grants to the commonwealth's higher education institutions, vocational technical schools, or community-based organizations that have existing programs for providing workforce development training to first time farmers or the capacity to create such programs. Priority consideration shall be given to programs that serve environmental justice populations or people with disabilities, as well as programs that include hands-on agricultural job training and training in agricultural practices that mitigate climate change and protect the environment. Not more than one-third of the total grants awarded under this program

shall be granted annually to programs providing training in the growing and harvesting of forest products upon forest land. Funds from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established by section 35FF of chapter 10, may be allocated for purposes of funding the grant program described in this paragraph.

(c) A report detailing the expenditures of the fund shall be submitted annually on or before May 30 to the clerks of the house of representatives and the senate, the house and senate committees on ways and means, the committee on economic development and emerging technologies and the committee on environment, natural resources and agriculture.

SECTION 6. The General Laws, as so appearing, are hereby amended by inserting after chapter 128C the following new chapter:-

Chapter 128D: Local Garden Agriculture Program

Section 1: As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

“Chemical fertilizer”, any chemical compound of synthetic origin applied to soil or to a plant to supply the plant with nutrients.

“Chemical herbicide”, any chemical compound of synthetic origin applied to plants, crops, or soil which is designed, used, or intended to kill or inhibit the growth of unwanted plants or fungi.

“Chemical pesticide”, any chemical compound of synthetic origin applied to plants, crops, or soil which is designed, used, or intended to kill pests that can damage crops or interfere with agricultural production, including insects, birds, rodents, or any other type of animal.

"Commissioner", the commissioner of the Massachusetts department of agricultural resources.

"Division", the agriculture jobs division.

"Garden Agriculture Program", the cumulative entirety of any and all rules, regulations, contracts, plans, projects, expenditures, and activities completed by the division in order to award Garden Agriculture Grants to recipients, including, but not limited to, designing the Garden Agriculture Grant Application, reviewing Garden Agriculture Grant Applications which have been submitted by Garden Agriculture Grant Applicants, awarding Garden Agriculture Grants, hiring Technical Assistance Experts, and monitoring and enforcing compliance with the provisions of this chapter. The Program shall be designed to: (i) enable Massachusetts residents, whether individually or through a nonprofit entity, to establish small-scale food gardens; (ii) localize food production to reduce the carbon emissions created by buying food produced out of state; and (iii) increase Massachusetts residents' access to locally grown food with high nutritional value.

"Garden Agriculture Grant", a delivery, from the Agriculture Jobs Division to a Garden Agriculture Grant Recipient, of items, tools, resources, seeds, instructional guides, and other goods specified in Section 5 of this chapter.

"Garden Agriculture Grant Application", a form used to request a Garden Agriculture Grant.

"Garden Agriculture Grant Applicant", a party who submits a Garden Agriculture Grant Application.

"Garden Agriculture Grant Recipient", a party who receives a Garden Agriculture Grant.

Section 2. The division shall create the Garden Agriculture Program.

Section 3. (a) The division shall create the Garden Agriculture Grant Application for use by individuals and qualifying nonprofit organizations to apply for a Garden Agriculture Grant. The division and its agents and employees shall refer to the Garden Agriculture Grant Application as such.

(b) The Garden Agriculture Grant Application shall require individual applicants to: (i) provide their name; (ii) provide their address; (iii) provide their cumulative family adjusted gross income; (iv) identify which of the available gardening items they would like to receive as part of the grant from a list, which list shall include without limitation a trowel, a spade, a pair of pruners, soil, mulch, and organic fertilizer; (v) identify which types of seeds they would like to receive as part of the grant, choosing from a list of available seed types which shall be listed on the Garden Agriculture Grant Application; (vi) indicate whether they would like to receive one raised garden bed or two raised garden beds as part of the grant; (vii) identify the dimensions that they would like the raised garden bed or beds to have, choosing from a list of available dimensions which shall be listed on the Garden Agriculture Grant Application; (viii) indicate whether they would like to receive any other tools, equipment, resources, or items listed on the Garden Agriculture Grant Application, which the commissioner has deemed appropriate to list on the Garden Agriculture Grant Application, provided that it is reasonable to believe that including those tools, equipment, resources, or items on the Garden Agriculture Grant Application would improve the Garden Agriculture Program; and (ix) provide any other

information the commissioner deems appropriate for determining whether to award the applicant a Garden Agriculture Grant.

(c) The Garden Agriculture Grant Application shall require nonprofit organization applicants to: (i) provide the title of their organization; (ii) provide their address; (iii) provide their taxpayer identification number; (iv) provide the name and contact information for a staff person responsible for implementing the grant; (v) provide demographics information and income eligibility of the population that will farm or be served by the community garden; (vi) indicate whether the community garden will be located in or will serve an environmental justice population or a community lacking convenient access to quality fresh food; (vii) identify which of the available gardening items they would like to receive as part of the grant from a list, which list shall include without limitation a trowel, a spade, a pair of pruners, soil, mulch, and organic fertilizer; (viii) identify which types of seeds they would like to receive as part of the grant, choosing from a list of available seed types which shall be listed on the Garden Agriculture Grant Application; (ix) indicate the number of individuals that will be farming and therefore the number of garden plots as part of the grant; (x) identify the dimensions that they would like the garden plots to have, choosing from a list of available dimensions which shall be listed on the Garden Agriculture Grant Application; (xi) indicate whether they would like to receive any other tools, equipment, resources, or items listed on the Garden Agriculture Grant Application, which the commissioner has deemed appropriate to list on the Garden Agriculture Grant Application, provided that it is reasonable to believe that including those tools, equipment, resources, or items on the Garden Agriculture Grant Application would improve the Garden Agriculture Program; and (xii) provide any other information the commissioner deems appropriate for determining whether to award the applicant a Garden Agriculture Grant.

(d) The Garden Agriculture Grant Application shall include: (i) a brief description of the purposes of the Garden Agriculture Grants; (ii) a description of the restrictions, legal duties, and obligations that accompany the receipt of a Garden Agriculture Grant, including, but not limited to, the requirements provided in Section 7 of this chapter; (iii) a space for the applicant to sign and date the application; and (iv) a clearly worded statement advising potential applicants that by signing, dating, and submitting a Garden Agriculture Grant Application, they are agreeing to abide by and comply with the restrictions, legal duties, and legal obligations that accompany receipt of a Garden Agriculture Grant.

(e) The Garden Agriculture Grant Application shall be easily accessible on the website of the division. Applicants shall be given the option of submitting their Garden Agriculture Grant Application electronically on the website of the division. Visitors to the website of the division shall be able to download and print as many copies of the Garden Agriculture Grant Application as they wish. The division shall also allow applicants to easily and conveniently submit non-electronic, paper versions of the Garden Agriculture Grant Application.

(f) The Garden Agriculture Grant Application shall be available in English and in any other language spoken by at least 10 percent of the Massachusetts population.

(g) The division shall only approve a Garden Agriculture Grant Application if it intends to provide the Garden Agriculture Grant Applicant with a Garden Agriculture Grant.

Section 4. The division shall, at all times, prioritize Garden Agriculture Grant Applications submitted by Garden Agriculture Grant Applicants who are individuals with lower annual, cumulative household adjusted gross incomes or nonprofit organizations that serve such individuals.

Section 5. (a) A Garden Agriculture Grant shall consist of: (i) all of the items requested by the applicant pursuant to Section 3(b)(iv) of this chapter; (ii) all of the seeds requested by the applicant pursuant Section 3(b)(v) of this chapter, in a quantity equal to no less than 200 seeds divided by the number of types of seeds the applicant requested; (iii) any raised garden bed or raised garden beds requested by the applicant, pursuant to Section 3(b)(vi) and Section 3(b)(vii) of this chapter, provided that no applicant shall receive more than two raised garden beds; (iv) any additional items requested by the applicant, pursuant to Section 3(b)(viii) of this chapter; (v) organic fertilizer; (vi) mulch and soil; (vii) assistance assembling and setting up any raised garden bed which was included in the Garden Agriculture Grant; (viii) assistance setting up any pest control cage included in the Garden Agriculture Grant; (ix) an accessible instructional guide for how to plant, grow, and harvest the types of plants associated with the seeds the applicant requested, pursuant to Section 3(b)(v) of this chapter, in English and in any other language spoken by at least 10 percent of the Massachusetts population; and (x) any other item or items which the commissioner determines should be included in all Garden Agriculture Grants.

(b) Any raised garden bed delivered to any applicant as part of a Garden Agriculture Grant shall have a built-in pest-control cage or shall arrive with a separately installable pest-control cage.

Section 6. (a) No later than 2 weeks after approving a Garden Agriculture Application, the division shall notify the applicant that their application was approved, either by mail, electronic mail, or by telephone.

(b) After approving a Garden Agriculture Application, the division shall deliver the Garden Agriculture Grant to the applicant, to arrive no later than 2 months after the application was approved.

Section 7. (a) Every Garden Agriculture Grant Recipient is prohibited from using chemical pesticides.

(b) Every Garden Agriculture Grant Recipient is prohibited from using chemical herbicides.

(c) Every Garden Agriculture Grant Recipient is prohibited from using chemical fertilizer.

(d) Every Garden Agriculture Grant Recipient is prohibited from selling, trading, or otherwise alienating any of the items, seeds, tools, equipment, or raised garden bed that they received as part of their Garden Agriculture Grant.

Section 8. (a) The division shall hire at least one Technical Assistance Expert as a full-time employee to receive and resolve questions from Garden Agriculture Grant Recipients related to optimal, effective, or proper agricultural practices, and to refer Garden Agriculture Grant Recipients to agricultural resources and resource centers, as appropriate, including but not limited to the University of Massachusetts Center for Agriculture, Food and the Environment.

(b) Technical Assistance Experts must speak both English and any other language spoken by at least 10 percent of the Massachusetts population.

(c) Technical Assistance Experts must have experience practicing agricultural gardening without the use of chemical fertilizers, chemical pesticides, or chemical herbicides.

(d) Technical Assistance Experts must be qualified to answer questions that Garden Agriculture Grant Recipients could reasonably be expected to have as they set up their gardens, plant seeds, and grow and harvest plants.

(e) Technical Assistance Experts must receive an annual salary that is not less than 140 percent of the statewide per capita income, as calculated by the United States Census Bureau.

(f) Technical Assistance Experts must receive health insurance, dental insurance, at least two weeks of paid vacation time, and at least one paid sick day off of work for every 20 days in which they work more than 6 hours.

SECTION 7. Chapter 132A of the General Laws is hereby amended by inserting after section 2D the following 2 sections:-

Section 2E. (a) The commissioner of the department of conservation and recreation shall establish a program to provide for the use of designated lands in state-owned department parks and reservations throughout the commonwealth for community gardens. Lands so designated shall be restricted to noncommercial horticultural uses of growing and harvesting food crops by inhabitants of local communities.

Under the program, specific planting areas that are available within designated community garden sites shall be allotted for personal use on a seasonal basis by special permits issued to qualifying individual gardeners.

The department shall evaluate, identify and map community garden lands, and post relevant information about the sites and potential sites on the department’s public website. The department shall conduct culturally competent and linguistically diverse public outreach to

municipalities and qualified nonprofit organizations about the program, including targeted efforts in environmental justice populations as defined in section 62 of chapter 30.

(b) The commissioner shall be authorized to license cities and towns and qualified non-profit organizations to establish, improve, maintain, operate and access local community gardens on designated department land. The commissioner shall prioritize initial grants to municipalities that encompass and nonprofit organizations that serve environmental justice populations as defined in section 62 of chapter 30. Said licenses shall be granted for no fee, upon such terms, restrictions and agreements, and for such period of years as the commissioner may deem appropriate; provided, that the land licensed is utilized for the purposes of the department's community garden program consistent with the applicable rules and regulations established by the department; provided further, that licenses shall be granted through a competitive application process; provided further, that licensees may be responsible for costs and expenses, or portions thereof, to establish, improve, maintain and operate community gardens; provided further, that licenses to cities and towns shall be for periods not to exceed 10 years; provided further, that licenses to qualified non-profit organizations shall be for periods not to exceed 5 years; and provided further, that no license shall be granted to a qualified non-profit organization for designated land unless the commissioner has first provided the city or town where the available land is located the option to be granted a license for such community garden site.

(c) Licenses granted for community garden lands under this section shall be revocable at any time by the commissioner for the failure of licensees to comply with license terms, restrictions and agreements, or applicable rules and regulations established by the department.

(d) In no event shall the granting of said licenses be construed to create in such licensees any title, right to acquire title, or ownership interest in licensed lands. The provisions of this subsection shall not prohibit the commissioner from leasing such lands to municipalities or qualified non-profit organizations under applicable law, for the purposes of the community garden program.

(e) The department and its employees shall not be liable for injuries or death to persons, or damage to property, resulting from any conduct related to the operation and use of community gardens on department lands, in the absence of willful, wanton, or reckless conduct on the part of said department or employees; provided, the community garden where such injury or death occurred, is enclosed by suitable fencing of not less than 4 feet in height and conspicuous signage warning of such limitation of liability is posted on, or near such fence at garden entryways.

(f) The department shall adopt rules and regulations related to the establishment, use and operation of community gardens under the department's community garden program.

Section 2F. The commissioner of the department of conservation and recreation shall establish a program to provide for the seasonal use of areas in department parks and reservations by farmers for public marketplaces. Such public markets shall be limited mainly to the vending of food and other agricultural products that are grown, raised or produced on Massachusetts farms.

The temporary establishment of said public markets as approved by the commissioner shall be at suitable land and parking areas accessible by the public, and, at appropriate times during daylight hours. Under the program, the commissioner shall be authorized to issue special

seasonal permits to farmer vendors, with a priority for permits granted to environmental justice populations as defined in section 62 of chapter 30, which shall be restricted to specific approved public market sites and times, upon such terms and conditions as the commissioner may deem appropriate. As a condition of the issuance of a permit, a farmer vendor shall be required to comply with any laws and regulations applicable to the vending of food and agricultural products at said public markets.

Special permits issued by the commissioner shall be based on a competitive application and proposal process and be subject to revocation by the commissioner upon 60 days' notice.

The commissioner, in consultation with the commissioner of the department of agricultural resources, shall adopt rules and regulations for said public markets.

Farmers' markets allowed pursuant to this section shall not be subject to the commercial limitations under section 2B of chapter 132A.

SECTION 8. The Massachusetts emergency management agency shall consider and develop, in all emergency preparedness planning efforts, plans for supporting agricultural, seafood, and processed food production in the commonwealth in order to mitigate the impacts of food supply chain disruptions. Plans shall be developed in coordination with the department of agricultural resources, the department of public health, and the department of transitional assistance, and shall include consideration for production, transportation, storage, and distribution.

SECTION 9. (a) There shall be established a special legislative commission on agricultural equity and develop recommendations for supporting investments, policies, and practices designed to promote racial equity in agriculture in the commonwealth.

The commission shall consist of the following 17 members: the commissioner of agricultural resources or a designee; the senate and house chairs of the committee on environment, natural resources and agriculture or their respective designees; 1 member appointed by the Massachusetts Black and Latino legislative caucus; 1 member appointed by the Massachusetts Asian legislative caucus; 2 members appointed by the Massachusetts food system legislative caucus, to be selected through an open nomination process under criteria developed by the caucus; 2 members appointed by Buy Local organizations funded by the department of agricultural resources; 2 members appointed by the Massachusetts Food System Collaborative; 1 member appointed by the commission on African Americans; 1 member appointed by the commission on Latinos and Latinas; 1 member appointed by the commission on the status of citizens of Asian descent; 1 member appointed by the commission on Indian affairs; 1 member appointed by Massachusetts Farm Bureau Federation; and 1 member appointed by the University of Massachusetts Center for Agriculture, Food and the Environment. The appointing entities shall appoint members generally familiar with agriculture and who represent a diversity of knowledge of urban and rural agricultural practices and experiences.

The commission shall be co-chaired by the commissioner of agricultural resources and a member of the commission chosen by the members.

The commission shall hold 3 or more public hearings in various regions of the state, including 1 in a rural area and 1 in an urban area with potential for increased urban agriculture.

(b) The commission shall investigate and study ways to increase equity in agriculture in the commonwealth, and shall prepare a report that includes, but is not limited to: (i) recommendations for data collection and dissemination, benchmark development, targeting

practices, and transparency for grantmaking to promote equitable access to grant programs and equitable distribution of funds; (ii) recommendations for generating greater equity in the laws, regulations, and other policies that regulate and support agriculture in the commonwealth, including without limitation legislative, regulatory, and sub-regulatory processes; (iii) recommendations for improving equity in the programs and services offered by the department, including but not limited to those programs regarding land access and protection, farmer technical assistance and education, marketing, and others; (iv) recommendations for the ongoing role of the commission or another representative body in supporting implementation and monitoring of these goals; and (v) a plan for implementation of these recommendations, including a timeline.

The department of agriculture shall furnish reasonable staff and other support for the work of the commission. Commissioners may receive reimbursement for the reasonable expenses incurred in carrying out their responsibilities as members of the commission under procedures established by the department.

The department of agriculture may fund the expenses of the commission from the Massachusetts Farmer Equity Commission Fund, without further appropriation.

(d) The Commission shall, not later than 12 months following the date of enactment of this act, report to the general court on the results of its investigation and study together with its findings, recommendations, and drafts of legislation, if any, necessary to carry out those recommendations. The report shall be posted on the web site of the department and shall be submitted to the speaker of the house, the senate president, the house and senate committees on ways and means and the joint committee on environment, natural resources and agriculture.