

SENATE No. 3088

Senate, July 30, 2022 -- Substituted as a new draft (Senator Collins) for the Senate Bill relative to sustainability and resiliency in the Dorchester section of the city of Boston (Senate, No. 3078).

The Commonwealth of Massachusetts

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

An Act relative to sustainability and resiliency in the Dorchester section of the city of Boston.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize forthwith the grant of easement rights over certain parcels of land in the city of Boston, 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. 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 that the University of
9 Massachusetts Building Authority has first entered into a ground lease with a third party, other
10 than the Commonwealth or the University of Massachusetts, for the property known as the

11 Bayside which lies adjacent to said parcels of land. The area where the easement may be granted
12 is more particularly described as an area approximately 26,000 square feet, more or less, running
13 from William J. Day Boulevard to lands of the University of Massachusetts Building Authority,
14 as shown on a plan entitled “Plan of Proposed Access Road Easement Area, Boston”, dated June
15 29, 2021. The exact boundaries and location of the easement which may be granted over the land
16 described in this section shall be determined by the commissioner of capital asset management
17 and maintenance, subject to the approval of the department of conservation and recreation and
18 the University of Massachusetts Building Authority, after completion of a survey. The surveyed
19 easement plan shall be recorded in the Suffolk county registry of deeds with the grant of
20 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 to 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 subsection (a).

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. In no event, however, shall the University of Massachusetts Building Authority, its
63 successors, or assigns be responsible for any such payment, costs and expenses associated with
64 said access road and easement area, including but not limited to, the full and fair market value of
65 the easement described in said section 1, or its value in use as proposed, including
66 improvements made to the land, whichever is greater, or those associated with the design,
67 engineering, and construction of said access road improvements and related facilities, as well as
68 the maintenance, repair and reconstruction as necessary from time to time, of the access road,
69 related to the grant authorized under this act, unless the University of Massachusetts Building
70 Authority, or its successors or assigns, shall enter into a ground lease with a third party, other
71 than the Commonwealth or the University of Massachusetts, for the adjacent property known as
72 the Bayside.

73 (3) Any instrument granting an easement as authorized in section 1 shall contain a
74 reversionary clause that shall provide that the easement shall terminate and the property shall
75 revert to the commonwealth under the care, custody and control of the department of
76 conservation and recreation in the event that the University of Massachusetts Building Authority,
77 its successors or assigns is not responsible for payments, costs or expenses pursuant to paragraph
78 (2).

79 (d) No instrument granting the easement described in section 1 shall be valid unless it
80 provides that the easement shall be used solely for the purposes described in said section 1. The
81 grant of easement shall stipulate that the easement shall terminate, and all rights shall revert to
82 the commonwealth under the care and control of the department of conservation and recreation,
83 if the property ceases to be used for the express purposes set forth in the instrument granting the
84 easement, upon such terms and conditions as the commissioner of capital asset management and
85 maintenance, in consultation with the commissioner of conservation and recreation, may
86 determine.

87 Following notice of such to the grantee by the division of capital asset management and
88 maintenance and a failure by the grantee to cure the violation to the satisfaction of the division of
89 capital asset management and maintenance in consultation with the commissioner of
90 conservation and recreation.

91 SECTION 3. (a) There shall be established and set up on the books of the commonwealth
92 a Dorchester Shores Reservation and Parks Trust Fund. The purpose of the fund shall be to
93 ensure the long-term conservation, maintenance, and improvement of the Dorchester Shores
94 Reservation properties as determined by the department of conservation and recreation as well as
95 McCormack Park in the Dorchester section of the City of Boston. The fund shall be administered
96 by the secretary of energy and environmental affairs, who may make expenditures from the fund
97 for any purpose consistent with the uses of the fund as described in section 3.

98 (b) The fund shall consist of: (i) revenue from appropriations or other money authorized
99 by the general court and specifically designated to be credited to the fund; (ii) any income derived
100 from the investment of amounts credited to the fund or repayment of loans from the fund; (iii)

101 funds from public or private sources including, but not limited to, gifts, federal or private grants,
102 donations, rebates and settlements received by the commonwealth that are specifically
103 designated to be credited to the fund; and (iv) all other amounts credited or transferred to the
104 fund from any other source. Amounts credited to the fund shall not be subject to appropriation
105 and any money remaining in the fund at the end of the fiscal year shall not revert to the General
106 Fund. Annually, not later than December 1, the secretary of energy and environmental affairs
107 shall report on the activities of the fund to the clerks of the house of representatives the senate
108 and to the house and senate committees on ways and means. The report shall include an
109 accounting of expenditures made from the fund and shall include a description of the authorized
110 purpose of each expenditure, an accounting of the amounts credited to the fund and any
111 unexpended balance remaining in the fund.