FILED ON: 7/30/2022

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:

SECTION 1. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General Laws or any general or special law to the contrary, the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may grant to the University of Massachusetts Building Authority, its successors, or assigns, for consideration as provided in section 2, a permanent, non-exclusive subsurface and surface easement for the purposes of providing vehicular, pedestrian and utility access across certain parcels of land under the care and control of the department of conservation and recreation and held for conservation and recreation purposes, provided that the University of Massachusetts Building Authority has first entered into a ground lease with a third party, other than the Commonwealth or the University of Massachusetts, for the property known as the

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

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

interests in land to be permanently under the care and control of the department for conservation and recreation purposes.

(b) The value of the easement described in section 1 and the value of any property interests to be conveyed to the commonwealth pursuant to said section 1 shall be determined by an independent appraisal prepared in accordance with the usual and customary professional appraisal practice by a qualified appraiser commissioned by the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation. For the purposes of such appraisal, the full and fair market value shall be calculated with regard to the financial benefit of the access provided by the parcel described in said section 1 to development on adjacent land, known as the Bayside, to be leased by the University of Massachusetts Building Authority." The commissioner of capital asset management and maintenance shall submit any appraisals to the inspector general for review and comment. The inspector general shall review and approve any appraisals and the review shall include an examination of the methodology utilized for the appraisals. The inspector general shall prepare a report of such review and file the report with the commissioner of capital asset management and maintenance for submission by the commissioner of capital asset management and maintenance to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight. The commissioner shall submit copies of the appraisals and the inspector general's report to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight not less than 15 days before the execution of the instrument effecting the grant of the easement described in subsection (a).

(c) (1) The University of Massachusetts Building Authority, its successors, or assigns, shall be responsible for all costs associated with engineering, surveys, appraisals, document

preparation and other expenses deemed necessary by the commissioner of capital asset management and maintenance to convey the easement described in section 1.

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

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

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

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

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

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

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