HOUSE DOCKET, NO. 955 FILED ON: 1/15/2013

# HOUSE . . . . . No. 2798

The Commonwealth of Massachusetts

PRESENTED BY:

***Peter J. Durant***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An act establishing the Rose Fitzgerald Kennedy Greenway division of the Department of Conservation and Recreation.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Peter J. Durant* | *6th Worcester* |
| *Paul K. Frost* | *7th Worcester* |
| *Ryan C. Fattman* | *18th Worcester* |
| *Kevin J. Kuros* | *8th Worcester* |

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# HOUSE . . . . . No. 2798

By Mr. Durant of Spencer, a petition (accompanied by bill, House, No. 2798) of Peter J. Durant and others establishing the Rose Fitzgerald Kennedy Greenway division of the Department of Conservation and Recreation. State Administration and Regulatory Oversight.

## The Commonwealth of Massachusetts

**In the Year Two Thousand Thirteen**

An act establishing the Rose Fitzgerald Kennedy Greenway division of the Department of Conservation and Recreation.

*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. Section 1 of chapter 21 of the General Laws, as appearing in the 2010 Official Edition, is hereby amended by inserting after the word "recreation" in lines 29 and 30 the following words:- a division of the Rose Fitzgerald Kennedy greenway.

SECTION 2. Chapter 21 of the General Laws is hereby amended by adding the following 3 sections:

Section 64. As used in this section and in sections 65 to 66, inclusive, the term "greenway" shall include (1) the open space and park parcels between the northerly limit of Causeway street and the southerly limit of Kneeland street in the city of Boston, not including the development parcels, and including at minimum parcels 5, 8, 10, 13, 14, 15, 16, 17, 19, 21, 22 and 23a through d, inclusive, as shown on a plan entitled "Parcel Land Use – Massachusetts Turnpike Authority - 2008", drawn by Don Kindsvatter, April 1999 and most recently revised May 2008, the original of which is kept on file at the office of the Massachusetts Department of Transportation, together with any additional parcels and other areas as may not be developed by the Massachusetts Department of Transportation; (2) landscaped and sidewalk areas owned by the authority and shown on the plan that are not used exclusively for highway purposes, as well as such of development parcels 6, 12 and 18, for which the Massachusetts Department of Transportation has not previously executed a development agreement; and (3) such other properties as may be agreed to by the board and the Massachusetts Department of Transportation or as the legislature may from time to time add to the greenway; provided, however, that in no event shall the term "greenway" include any element or space, deemed by the written

21 certification of the secretary and chief engineer of the Massachusetts Department of
22 Transportation to be necessary for the use, operation or maintenance of the Thomas P. O'Neill,
23 Jr. tunnel.

24 (a) There shall be within the department, a division of the Rose Fitzgerald Kennedy
25 greenway. The division shall maintain, subject to section 65, exclusive control over the
26 greenway.

27 (b) The division, on behalf of the commonwealth and in consultation with the
28 department, is hereby authorized and empowered to:

29 (1) improve, maintain and operate the greenway, including associated buildings and
30 facilities and improvements thereon, as a public park for the benefit and enjoyment of the general
31 public;

32 (2) apply for and receive funds from any source, public or private, by gift, grant, bequest,
33 or otherwise, and to expend the same on behalf of the department to provide for the design,
34 construction and operation of approved structures, facilities, and improvements thereon.

35 Section 65. (a) There shall be a Rose Fitzgerald Kennedy greenway board which shall
36 consist of 11 members: 4 of whom shall be appointed by the commissioner of the department; 2
37 of whom shall be appointed by the secretary of the Massachusetts Department of Transportation;
38 2 of whom shall be the district's house of representatives member and/or his designee(s); 2 of
39 whom shall be the district's senate member and/or his designee(s); and 1 of whom shall be the
40 Mayor of Boston or his designee; provided, however, that of these appointed members: 1 shall be
41 a horticulturist; 1 shall be a landscape architect; 1 shall be an arborist; and at least 6 shall reside
42 in the city of Boston.

43 (b) With the exception of the elected officials specified in Section 65 paragraph (a), board
44 members shall serve for no more than two consecutive terms of three years each. In the creation
45 of the board, members shall be appointed in the following manner: 3 members shall be appointed
46 to a one year term, 4 members appointed to a 2 year term and 4 members appointed to a 3 year
47 term. Subsequent appointees shall be made at the expiration of each term for a period of 3 years.

48 (c) The board shall be responsible for maintaining a balance of public recreation and open
49 space programs for the greenway.

50 (d) The board may assess an event fee for any commercial use of the greenway. All
51 monies collected pursuant to this subsection shall be deposited into the Rose Fitzgerald Kennedy
52 Greenway Fund, established by section 66 of chapter 21.

53 (e) The board may receive and expend funds from any source, public or private, to carry
54 out the purposes of this section. The monies collected and deposited into the Rose Fitzgerald
55 Kennedy Greenway Fund, established under section 66 of chapter 21, shall be controlled by the

56 board, in conjunction with and subject to an annual spending plan that shall be approved by the
57 secretary of administration and finance.

58 (f) The board shall keep books, records and accounts of all its activities, which shall be
59 open to inspection. The books and records of the board shall be subject to an annual audit by the
60 state auditor. The state auditor shall present the results of the audit to the board, the state
61 treasurer and the house and senate committees on ways and means. The board shall also prepare
62 an annual report which shall include: a summary of all receipts and expenditures, including
63 expenditures for specific operation, preservation, maintenance or recreation programs; a
64 description of the various programs operated, contracted or sponsored by the board; and a
65 directory of current board members, including their affiliation and terms of office thereof. The
66 board shall provide a copy of the annual report to the house and senate committee on ways and
67 means and the executive office of administration and finance.

68 (g) Board members shall serve without compensation, but shall be reimbursed for their
69 expenses actually and necessarily incurred as proposal review board members. The board shall
70 conduct all meetings in public, pursuant to sections 18 through 24, inclusive, of chapter 30A.
71 Six members shall constitute a quorum.

72 (h) The board may adopt rules and regulations governing conduct and activity within the
73 greenway, after consultation with the commissioner of the department of conservation and
74 recreation.

75 Section 66. There shall be established and set upon the books of the commonwealth a
76 separate fund to be known as the Rose Fitzgerald Kennedy Greenway Fund, consisting of
77 revenues received pursuant to sections 64 and 65 of chapter 21, including any interest or
78 investment earnings on such monies and all other monies credited or transferred thereto from any
79 other fund or source pursuant to law. This fund shall include money received from the Rose
80 Kennedy Greenway Conservancy pursuant to section 12 of chapter 306 in the acts of 2008. Any
81 unexpended balance in the fund at the end of the fiscal year shall not revert to the General Fund,
82 but shall remain available for expenditure in subsequent fiscal years. No expenditure made from
83 the Rose Fitzgerald Kennedy Greenway Fund shall cause the fund to become deficient at any
84 point during a fiscal year. The books and records of the Rose Fitzgerald Kennedy Greenway
85 Fund shall be subject to an annual audit by the state auditor.

86 SECTION 3. Notwithstanding any general or special law to the contrary, any interest in
87 land, lease, covenant, contract or agreement to operate, preserve, maintain, program or manage
88 the greenway and the other open space parcels referred to in section 64 of chapter 21 of the
89 General Laws is hereby transferred from either the Massachusetts Department of Transportation
90 or the Rose Fitzgerald Greenway Conservancy, Inc., to the board of the Rose Fitzgerald Kennedy
91 greenway division of the department of conservation and recreation.

92 SECTION 4. Chapter 306 of the Acts of 2008 is hereby repealed.