

Massachusetts House of Representatives Bill Summary

Bill #: H.497

Title: An Act relative to rail-trail construction

Sponsor: Rep. Margaret Scarsdale

Committee: Economic Development and Emerging Technologies

Hearing Date: June 5, 2025

Reporting Deadline: August 4, 2025 (subject to extensions under House Rule 27)

Prior History:

- 2023-2024 (H.422): Reported favorably, Referred to House Ways and Means
- 2021-2022 (H.513): Reported favorably; Referred to House Ways and Means
- 2019-2020 (H.374): Reported out favorably, Referred to House Ways and Means
- 2017-2018 (H.2831): Reported favorably, Referred to House Third Reading
- 2015-2016 (H.290): Ordered to a House Study-See Study Order H.4305
- 2013-2014 (H.318): Reported favorably with S.172 (Identical Bill); Referred to Senate Ways and Means

Key Terms: MGL refers to the Massachusetts General Laws.

Environmental contamination refers to oil or hazardous material that is released on one or more properties located within the commonwealth.

Environmental insurance provides coverage for unexpected release of pollutants and the costs of cleaning up pollution conditions, including bodily injury and property damage. Under section 3I of chapter 23A of MGL, this insurance policy shall have coverage limits

of at least \$3,000,000 per incident, a deductible of at most \$50,000 per incident, and a term of at least 5 years. Environmental insurance for rail trails is necessary as many rail corridors have contaminants like arsenic and creosote that were used for weed control and preserving railroad ties. Insurance can help protect communities and those creating rail trails from financial hardship from cleaning up the corridor.

A hold harmless agreement, also known as indemnity agreement, is a contractual clause in which one party agrees to not hold the other party responsible for certain damages or liabilities, effectively transferring the risk from one party to another.

A rail trail is defined in section 35A of chapter 82 of MGL as property converted from the former use as a railroad right-of way to a use as a publicly-owned, improved and maintained corridor for bicycle, pedestrian and other non-motorized public transportation, recreation and associated purposes.

Current Law: Chapter 21E Section 2 of MGL provides definitions for various terms related to the state's cleanup program. References to rail trail ownership is included in the definition of owner or operator in this section and chapter of MGL.

Chapter 82 of MGL concerns the laying out, alteration, relocation and discontinuance of public ways and related repairs.

- Section 35A of this chapter authorizes the board or officers authorized to lay out highways or town ways to lay out, construct and maintain rail trails under the law relative to the laying out, construction and maintenance of public ways. This section also provides a definition for rail trail.

Chapter 23A of MGL governs the Department of Economic Development.

- Section 31 of this chapter requires the Massachusetts office of business development to allocate at least \$500,000 annually in matching grants to assist municipalities in purchasing environmental insurance for the purposes of establishing and maintaining rail trails. This chapter defines what the environmental insurance coverage should consist of; what other documentation a grantee needs as part of the rail-trail project; and the Massachusetts office of business development's role in expediting the receipt and approval of grant applications in this section.

Summary: This bill allows for nonprofit organizations to receive funding in the form of matching grants for rail trail construction project grants. Currently, the General Laws only allow for municipalities to receive funding from the Massachusetts office of business development through this grant program.

Section 1 amends subsection (a) of section 3I of chapter 23A of MGL by inserting the words “or nonprofit organization” after the word “municipalities” in line 4. This addition has the effect of requiring the Massachusetts office of business development to allocate at least \$500,000 annually in matching grants to assist municipalities or nonprofit organizations in purchasing environmental insurance to establish and maintain rail trails.

Section 2 further amends section 3I of chapter 23A of MGL by inserting, in subsection (b), the words “or nonprofit organization” after the word “municipality” in line 15. With this addition, municipalities and nonprofit organizations that have applied for and received a grant and that have purchased environmental insurance, shall not be required to furnish any other form of environmental insurance, or any defense, indemnification or hold-harmless agreement with respect to any claims, injuries, costs, damages or other relief from environmental contamination connected to the design, construction, use, and maintenance of the rail trail to the MBTA, the executive office of transportation and public works or any person having an interest in the rail-trail project site.

Section 3 amends section 3I of chapter 23A of MGL by inserting, in subsection (c), the words “or nonprofit organization” after the words “city or town” in line 28. With this change, the new subsection (c) of section 3I holds that this section shall only apply to rail-trail projects on land in which a city or town, or a nonprofit acquires or has acquired an interest by deed, easement, lease, license or otherwise from the MBTA or the executive office of transportation and public works or a successor for the design, installation, construction, operation, maintenance or use of a rail trail.

Notes: Section 2 references the incorrect line in section 3I of chapter 23A of MGL. The section should reference line 17 not line 15.

Section 3 references the incorrect line in section 3I of chapter 23A of MGL. The section should reference line 31 not line 28.