

HOUSE No. 5154

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 31, 2022.

The committee on Ways and Means, to whom was referred the Senate Bill authorizing the Division of Capital Asset Management and Maintenance to grant easements to the town of Hubbardston for the reconstruction of the Evergreen Road bridge over Mason Brook (Senate, No. 3073), reports recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in House document numbered 5154.

For the committee,

AARON MICHLEWITZ.

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Text of an amendment, recommended by the committee on Ways and Means, to the Senate Bill authorizing the Division of Capital Asset Management and Maintenance to grant easements to the town of Hubbardston for the reconstruction of the Evergreen Road bridge over Mason Brook (Senate, No. 3073). July 31, 2022.

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

By striking out all after the enacting clause and inserting in place thereof the following:—

1 (a) Notwithstanding sections 34 to 37, inclusive, of chapter 7C of the General Laws, the
2 commissioner of capital asset management and maintenance, in consultation with the
3 commissioner of conservation and recreation, may grant permanent easements over portions of
4 certain parcels of land acquired for water supply purposes in the town of Hubbardston to the
5 town of Hubbardston for completion of a bridge reconstruction project. The portions of land are
6 located adjacent to and under the Evergreen road bridge over Mason brook. The easements shall
7 be used for the repair, reconstruction, operation, maintenance or improvement of the bridge,
8 subject to the requirements of this act and to such additional terms and conditions consistent with
9 this act as the commissioner may prescribe. The portions of land are shown as parcel E-2,
10 containing 340 square feet, more or less, parcel E-3, containing 1,560 square feet, more or less,
11 and parcel E-4, containing 1,210 square feet, more or less, on a plan of land entitled “Easement
12 Plan of Land Evergreen Road Hubbardston, Massachusetts”, dated January 3, 2019, which is on
13 file with the division of capital asset management and maintenance.

14 (b) As consideration for the easements, the town of Hubbardston shall: (i) transfer to the
15 department of conservation and recreation land or an interest in land of equal or greater acreage
16 and recreational and natural resource value, as determined by the department of conservation and
17 recreation; (ii) pay to the department of conservation and recreation an amount equal to or
18 greater than the fair market value or value in use, whichever is greater, as determined by the
19 appraisal required by paragraph (c); or (iii) a combination of clauses (i) and (ii) as approved by
20 the department of conservation and recreation. If the appraised value of any land or interest in
21 land conveyed under this subsection is of greater value than the appraised value of the interest in
22 land in subsection (a), the commonwealth shall not be obligated to pay the difference. Any
23 payments to the commonwealth pursuant to this subsection shall be deposited in the
24 Conservation Trust established in section 1 of chapter 132A of the General Laws and expended
25 by the department of conservation and recreation to acquire lands or interests in land to be
26 permanently under the care and control of the department of conservation and recreation for
27 water supply purposes.

28 (c) The commissioner of capital asset management and maintenance shall provide for an
29 independent appraisal of the value of the easements and any land or interest in land proposed to
30 be conveyed by the town of Hubbardston to the department of conservation and recreation as
31 consideration. The appraisal shall be prepared in accordance with the usual and customary
32 professional appraisal practices by a qualified appraiser. The commissioner shall submit any
33 appraisals to the inspector general for review and comment. The inspector general shall review
34 and approve any such appraisals; provided, however, that the review shall include an
35 examination of the methodology utilized for the appraisals. The inspector general shall prepare a
36 report of the review and file the report with the commissioner of capital asset management and

37 maintenance. The commissioner shall submit copies of the appraisals and the inspector general's
38 review and approval and comments, if any, to the senate and house committees on ways and
39 means and the joint committee on state administration and regulatory oversight not less than 15
40 days before the execution of any documents effecting the transfers authorized in this act.

41 (d) The town of Hubbardston shall be responsible for all costs associated with
42 engineering, surveys, appraisals and deed preparation and any other costs as deemed necessary
43 by the commissioner of capital asset management and maintenance to execute the conveyances
44 authorized in this act.

45 (e) Any instrument executed pursuant to this act shall provide that the easements shall be
46 used solely for the purposes of this act and shall include a reversionary clause that stipulates that
47 if the property ceases to be used for the express purposes authorized in this act, the property shall
48 revert to the commonwealth on such terms and conditions as the commissioner of capital asset
49 management and maintenance, in consultation with the commissioner of conservation and
50 recreation, may determine. Prior to effecting any such reversion, the commissioner of capital
51 asset management and maintenance shall provide the town of Hubbardston with notice of such
52 nonconforming use and an opportunity to cure the violation to the satisfaction of the division. If
53 the town fails to cure the defect to the satisfaction of the division, the property shall revert to the
54 commonwealth and any further disposition thereof shall be subject to sections 34 to 37,
55 inclusive, of chapter 7C of the General Laws and the prior approval of the general court.