

SENATE NO. 542

AN ACT PROTECTING THE NATURAL AND HISTORIC RESOURCES OF THE COMMONWEALTH

*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. The General Laws are hereby amended by inserting after chapter 132B the
2 following chapter:-

3 CHAPTER 132C. PUBLIC LANDS PRESERVATION ACT.

4 Section 1. It is hereby declared to be the policy of the commonwealth that lands or easements
5 taken or acquired for natural resource purposes, consistent with Article 97, are a vital and
6 indispensable public natural and historic resource and, therefore, that there shall be no net loss
7 of lands or easements taken or acquired for public natural resource purposes as a result of any
8 disposition or change in use of these lands.

9 Section 2. As used in this chapter, the following words shall have the following meanings: -
10 “Alternatives analysis”, a description of alternatives to the disposition or change in use of lands
11 or easements protected under Article 97, including but not limited to (a) an analysis of at least
12 the most reasonable alternative (other than the no-action alternative) that does not require a
13 disposition or change in use under Article 97, including costs and environmental impact; and (b)
14 whether the alternative(s) are economically feasible for the owner.
15 “Article 97”, Article XLIX, as appearing in Article XCVII, of the Amendments to the
16 Constitution.

17 “Change in use” or “used for other purposes”, diversion of lands or easements protected under

18 Article 97, or a portion thereof, from existing use.

19 “Disposition” or “disposed”, the transfer of physical or legal custody or control of lands or
20 easements, or a portion thereof by conveyance, taking by eminent domain, lease for any term,
21 granting or taking of interests in land or easements, or any other means of transfer or change of
22 legal or physical control, regardless of whether the transfer is for the same or different uses, or
23 for consistent or inconsistent purposes, except (1) the issuance of a nonexclusive revocable
24 license or permit for a term not to exceed 5 years, and (2) the issuance of a license under chapter
25 91.

26 “Lands or easements”, lands, easements, conservation restrictions, agricultural restrictions,
27 watershed preservation restrictions, and historical preservation restrictions, as defined in section
28 31 of chapter 184, and other restrictions or conditions contained in a deed, grant or other
29 instrument purporting to transfer or convey an interest in land, regardless of the term of such
30 easements, restrictions or conditions.

31 “Natural resource purposes”, the purposes described in Article 97.

32 “Owner”, the agency, authority, public instrumentality, town, municipality or political
33 subdivision that owns or has care, custody and control of the lands or easements for which there
34 is a proposed change in use.

35 “Replacement land”, lands or easements acquired by the owner that is comparable in area and
36 fair market value as compared with the Article 97 lands or easements being disposed of or used
37 for other purposes, and of comparable location and use. Lands already covered by Article 97
38 shall not classify as replacement land.

39 “Taken or acquired”, obtained by gift, purchase, devise, grant, exchange, lease, taking by
40 eminent domain or otherwise by the commonwealth, any of its political subdivisions, and bodies

41 politic, and any instrumentality thereof, or through use of public funds, including so called land
42 bank funds.

43 Section 3. It shall be the policy of the General Court not to enact legislation to allow a
44 disposition or change in use of lands or easements acquired for natural resource purposes under
45 Article 97, unless the owner of the lands or easements provides the General Court with the
46 following:-

47 (a) a statement from the secretary of environmental affairs as to whether the land or easement is
48 classified as article 97 land;

49 (b) a metes and bounds description of the lands or easements, a copy of the deed into the
50 present owners and a statement of the market value, as defined in United States Code, Title 12,
51 Sec. 34.43(g), of the lands or easements, substantiated by an appraisal, as defined in United
52 States Code, Title 12, Sec. 34.42(a), meeting minimum appraisal standards, as defined in United
53 States code, Title 12, Sec. 34.44, and prepared by a state certified appraiser or state licensed
54 appraiser, as defined in United States Code, Title 12, Secs 34.43(j) and (k);

55 (c) copies of statutorily required approvals by the governing body or officer of the owner
56 approving disposition or change in use of the subject land and acquisition of replacement land,
57 preceded, if applicable, by the approval of the conservation commission.

58 (d) an alternatives analysis approved by the secretary of environmental affairs;

59 (e) a signed offer, signed purchase and sale agreement, fully executed lease, deed or other legal
60 documents for the replacement land, a metes and bounds description of the replacement land
61 and a statement of the market value, as defined in United States Code, Title 12 Sec. 34.43(g), of

62 the lands or easements, substantiated by an appraisal, as defined in United States Code, Title 12,
63 Sec 34.43(a), meeting minimum appraisal standards, as defined in United States Code, Title 12,
64 Sec 34.44, and prepared by a state certified appraiser or state licensed appraiser, as defined in
65 United States Code, Title 12, Secs. 34.43(j) and (k);.

66 (f) a letter from the secretary of environmental affairs, approving the replacement land;

67 Section 4. The secretary of environmental affairs shall develop guidelines for conducting an
68 alternatives analysis and identifying replacement land.

69 Section 5. The joint committee on bonding, capital expenditures and state assets shall file a
70 report by August 30 of the second year of each legislative session with the clerks of the senate
71 and house of representatives detailing their activities on all bills referred to them that involve
72 dispositions or changes in use of lands or easements taken or acquired for natural resources
73 purposes under this chapter.