

# **HOUSE . . . . . No. 4339**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, July 27, 2012.

The committee on Ways and Means, to whom was referred the Bill relative to authorizing the town of Needham to take by eminent domain easements in land owned by the Commonwealth of Massachusetts adjacent to South Street and the Charles River for the purpose of installing utilities and to change the use of the land from open space to utility use under Article of Amendment XLIX (House, No. 2582), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4339).

For the committee,

BRIAN S. DEMPSEY.

# HOUSE . . . . . No. 4339

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Twelve  
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**An Act AUTHORIZING THE DIVISION OF CAPITAL MANAGEMENT AND MAINTENANCE TO GRANT AN EASEMENT OVER A PARCEL OF LAND IN THE TOWN OF NEEDHAM IN EXCHANGE FOR A PARCEL OF LAND TO BE CONVEYED TO THE COMMONWEALTH.**

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to grant an easement forthwith over a parcel of land managed for conservation and recreation purposes in accordance with Article 97 of the Amendments to the Massachusetts Constitution to the town of Needham, therefore it is hereby declared to be an emergency law 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:*

- 1 SECTION 1. Notwithstanding the provisions of sections 40E to 40J, inclusive, of chapter 7 of
- 2 the General Laws or any other general or special law to the contrary, the commissioner of the
- 3 division of capital asset management and maintenance, in consultation with the commissioner of
- 4 the department of conservation and recreation, may grant an easement for no monetary
- 5 consideration for stormwater management purposes over land described in section 2 and located

6 in the town of Needham, and currently under the care and control of said department of  
7 conservation and recreation for recreation and conservation purposes, to the town of Needham.  
8 SECTION 2. The easement granted to the town of Needham contains approximately 1,358  
9 square feet of land located along the Charles River and is described as Parcel DS-1 on a plan of  
10 land entitled “Alteration Plan for a Portion of South Street in Needham, Massachusetts” dated  
11 April 13, 2010, and recorded in the Norfolk District Registry of Deeds on June 30, 2010 in Plan  
12 Book 600, Page 82. The exact boundaries of the easement shall be determined by the  
13 commissioner of the division of capital asset management and maintenance in consultation with  
14 the commissioner of the department of conservation and recreation after completion of a survey.  
15 This easement shall be conveyed by deed without warranties or representations by the  
16 commonwealth.

17 SECTION 3. In consideration for and as a condition of the grant of easement authorized in  
18 section 1 and described in section 2, and to ensure a no-net-loss of lands protected for natural  
19 resource and recreation purposes, the town of Needham shall convey to the commonwealth for  
20 no monetary consideration a fee interest in municipal land located in the town of Needham and  
21 lying between Great Plain Avenue, Route 128 and the Charles River. Said parcel, comprising  
22 approximately 4.67 acres, was previously acquired by the town of Needham for water supply  
23 purposes and is more particularly described as parcel 301-6 on a plan of land entitled “Needham  
24 – Topographic and Boundary Survey Plan, Great Plain Ave., Green International Affiliates, Inc.,  
25 Consulting Engineers, Westford Massachusetts, 7/27/2012.” Any land area that exceeds the  
26 amount necessary to ensure a no-net-loss of lands protected for natural resource and recreation  
27 purposes shall be available to the Town of Needham to satisfy no-net-loss of lands for a period  
28 not to exceed ten years from the date of enactment of this bill. The Massachusetts department of

29 transportation shall perform a survey to determine the valuation and surplus of lands described in  
30 this section.

31 SECTION 4. Notwithstanding any general or special law to the contrary, the town of Needham  
32 shall be responsible for all costs and expenses, including but not limited to, costs associated with  
33 any engineering, surveys, appraisals, and deed preparation related to the conveyances authorized  
34 pursuant to this act as such costs may be determined by the commissioner of the division of  
35 capital asset management and maintenance.

36 SECTION 5. The town of Needham shall use the easement described in section 2 solely for the  
37 purposes of stormwater management. The easement or other agreement pertaining to the grant  
38 of the easement to the town of Needham shall include a provision restricting the use of the  
39 property to such purposes and providing that such property shall revert to the commonwealth,  
40 under the care and control of the department of conservation and recreation, if the property  
41 ceases to be so used or is used for any other purpose.