



Six Beacon Street, Suite 1025, Boston, MA 02108
617-523-8448 kheyman@massaudubon.org

**Public Policy Update
February 2018**

Karen Heymann, Legislative Director

The 2017-2018 legislative session is now entering its most critical phase – July 31st is the deadline for the majority of bills to be co-nsidered by the legislature, after which the legislature will break for summer and then the fall campaign cycle. The February 7th deadline, by which committees must have decided whether or not to advance the 7,300 bills filed at the start of this session, has passed.

It is difficult to predict which bills will move forward by the end of the session, though bills which have passed at least one chamber may have more of a fighting chance. Governor Baker highlighted housing in his January State of the Commonwealth speech, and has filed legislation to spur housing production. Speaker Deleo has prioritized lowering health care costs, criminal justice reform and civics education, but has not offered any indicators on other major pending issues such as transportation, energy and climate change or marijuana.

Pending 2018 ballot questions – millionaire’s tax, sales tax reduction, minimum wage increase, and paid family leave - will be on the minds of the Governor and leadership, who may seek to pass compromise legislation in order to keep certain questions off of the November ballot.

Operating Budget

- FY19 operating budget has been filed by Governor Baker early 2018
- [Green budget coalition main priorities](#) for FY19 are increasing funding for state parks funding and for the Department of Environmental Protection (DEP). Staffing, monitoring and enforcement are major concerns at both agencies.
- Other budget priorities include Division of Ecological Restoration, Natural Heritage and Endangered Species Program, Department of Environmental Protection, Climate Adaptation, Community Preservation Trust fund.

Capital Budget

Massachusetts periodically issues “green bonds) which fund projects that benefit the environment such as open space protection and habitat restoration. The Governor’s administration oversees and disburses bond funding for critical grant programs; the legislature must periodically authorize bond funding programs, typically every four years.

In August 2014, a four-year, \$2.23 billion energy and environmental bond bill was signed into law by Governor Patrick. The bond authorized capital expenditures for state agencies, municipalities and nongovernmental partners to conserve natural resources, improve energy efficiency, support local farmers and fisheries, protect wildlife, maintain water quality and quantity and coast infrastructure, manage solid waste, and promote smart planning and development, among other critical environmental and public health initiatives. The land conservation NGO’s advocate for \$50 million a year to be spent on land conservation in the state’s capital budget.



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Update: New environmental bond is being drafted by EOEEA for release in early 2018.

Priorities:

- Land Protection grant Programs (Conservation Partnership, Landscape Partnership)
- Community Investment Grant Programs (Gateway City Parks, LAND, PARC, Small Communities, Drinking Water Supply Protection)
- Climate change adaptation (nature based solutions)
- Greening the Gateway Cities (tree planting)
- Working Forest Preservation Restrictions
- Agricultural Preservation Restriction (APR) program

Legislation

H.3855, An Act relative to land conservation incentives (*Rep. Stephen Kulik, Worthington*)

- Increase annual cap for existing program from \$2M to \$5M over a period of three years (\$3M in 2019, \$4 million in 2020, and \$5 million in 2021)
- Amend the definition of ‘public or private conservation agency’ which may receive a donation of land subject to a conservation tax credit to include realty trusts organized for conservation purposes pursuant to Chapter 203 (more than 1/3 of land trusts in MA organized as realty trusts)
- Set a 10 year sunset

Update: Reported favorably out of Joint Committee on Revenue, now in House Ways and Means Committee. Stephen Kulik, the main sponsor of this bill is retiring at the end of this session.

S.1504, H.2615 An Act to sustain Community Preservation Revenue (*Reps. Stephen Kulik, Worthington and Kevin Honan, Brighton, Senator Cynthia Stone Creem*)

- Bill would increase the state trust fund distribution, which has hit an all-time low of 20% state match.
- 172 communities, or 49% of the Commonwealth’s cities and towns have adopted CPA including the City of Boston
- \$1.75B raised by CPA since adoption in 2000; over 9,000 projects including 26,000 acres of open space protected.

Update: Reported favorably out of Joint Committee on Revenue Committee; now in House Committee on Ways and Means.

H.2420 An Act building the future of the commonwealth (*Rep. Stephen Kulik, Worthington, Rep. Peake, Provincetown*)

- Bill would update the Commonwealth's planning, zoning and subdivision control statutes by implementing a comprehensive overhaul of the state's land use laws for the first time in decades.
- Encourages modern land-use tools such as inclusionary zoning, transfer of development rights, site plan review, and natural resource protection zoning.
- Allows cities to reduce sprawl by replacing Approval Not Required (ANR) provisions with regulations for minor subdivisions.
- Creates incentives for communities to plan ahead for growth in appropriate locations while improving protection of important natural resources using techniques such as Open Space Residential Design.

Update: Committee on Municipalities and Regional Government; competing bill filed by Senator Harriet Chandler in the Senate heard by Joint Committee on Community Development and Small Business.

Governor filed a housing bill, which lowers thresholds for adopting "smart growth" local zoning ordinances. The Governor's bill replaces "cluster" with "open space residential design" which are similar; however, the new OSRD definition does not clearly address whether municipalities can allow non-profits such as land trusts to own the land set aside as "open space" in these developments.

S.2181 An Act protecting the natural resources of the Commonwealth (*Sen. Jamie Eldridge, Acton, Rep. Ruth Balsler, Newton*)

- "No net loss" bill would prevent loss of constitutionally protected open space (Article 97 lands) by requiring replacement land, as well as notification prior to filing legislation to dispose of land. Essentially codifies state's "no net loss" policy.

Update: Reported favorably Joint Committee on Environment, Natural Resources and Agriculture, sent to the Senate Committee on Ways and Means.

An Act establishing the Mohawk Trail Woodlands Partnership (*Rep. Kulik, Worthington*)

- Partnership of 21 towns in Northwestern region of Massachusetts to promote sustainable forestry and economic development in the Berkshire region.
- State legislation provides authorization and funding; federal support and funding required
- Status: Joint Committee on Environment, Natural Resources and Agriculture

S2196 An Act providing for the establishment of a Comprehensive Adaptation Management Plan in response to climate change (*Senator Marc Pacheco, Taunton, Representative Frank Smizik, Brookline*)

- Bill would require the Commonwealth to prepare a climate adaptation action plan, and establish program to provide technical assistance to communities to assess and address impacts
- Status: Senate Ways and Means
- Prioritizes green infrastructure and open space protection as climate resilience tools.

Update: Passed by the Senate, now being reviewed by the House Committee on Ways and Means.

S.451, H.2926 An Act to protect pollinator habitat (*Sen. Lewis, Winchester Rep. Keefe, Worcester*)

- Bill would establish commission to explore ways to enhance and increase pollinator habitat around the state, would explore opportunities for funding, research and public education
- Status: Joint Committee on Environment, Natural Resources and Agriculture

Update: Reported out of Environment Committee. H.4041. Referred to House Committee on Ways and Means.

S.2164, H.2113 An Act Protecting Massachusetts Pollinators (*Sen. Eldridge, Rep. Dykema*)

- Bill would limit the application of neonicotinoids to commercial pesticide applicators.

Update: Reported out of Environment Committee. H.4041. Referred to House Committee on Ways and Means.

Bills to Oppose

Multiple bills filed to require organizations exempt from paying tax on property to make PILOT payments to municipalities. These bills are opposed by the land conservation organizations. Other bills have been filed relating to PILOT – some having to do with the lack of consistency in PILOT payment agreements from town to town, and others related to the state's failure to make agreed upon payments to municipalities.

Update: new Coalition to Preserve Nonprofit Services formed by nonprofit sector organizations (led by Mass. Nonprofit Network) and will soon release report about the impact of the Massachusetts nonprofit sector. To be released in 2018 at the State House and used to promote nonprofit services at state and federal levels and pushback on PILOT bills.

H.1565 An Act relative to payments in lieu of taxation by organizations exempt from the property tax (*Rep. Kulik, Worthington*) ** We oppose this bill**

- Would assess a PILOT payment for non-profits across the state.
- Not a lot of traction, but land orgs. would push for exemption for land trusts if bill were to move (bills largely aimed at Eds and Meds)

Update: Accompanied study order (no longer a threat this session)

H.458 An Act to promote and strengthen agricultural preservation restrictions (*Rep. Keiko Orral*)

- Amends APR definition to expand potential uses of APR land/

S.2175 An act reforming agricultural preservation restrictions (Sen. Michael Rodriguez)

- Amends definition of APR to allow buildings for family, employees, etc. on APR land.

Update: reported favorably out of Joint Committee on Environment, Natural Resources and Agriculture.

Federal

Land and Water Conservation Fund (LWCF)

- 3 bills filed, all of which would permanently reauthorize the LWCF; one version would direct small amount of funding to open up additional access to public lands for sportsmen and other recreational users (200 bipartisan cosponsors); another version would fully fund LWCF (has never been fully funded and \$20 billion lost to General Treasury over 50 year history of LWCF through the appropriations process)

Farm Bill

- Farm bill set to be reauthorized in 2018 (every 5 years), and should aim to streamline existing conservation programs, protect more land and help farmers.
- Agricultural Conservation Easement Program provides matching funds that land trusts can use to purchase conservation easements on agricultural land, grasslands, and wetlands. NRCS pays a portion of the fair market value of the easement.
- Healthy Forest Reserve protects and restores forest land
- Forest Legacy Program is funded by LWCF but authorized by the Farm bill.
- Regional Conservation Partnership Program enlists partner groups such as land trusts, state agencies, tribes, and other related groups to coordinate conservation activities on a national or state scale. A land trust can acquire conservation easements using RCPP funds.



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Charitable Conservation Easement Program Integrity Act of 2017 (Rep. Mike Thompson [D-CA-5])

- Bipartisan bill recently filed, barring charitable deductions only when a profit is made in a short time from the donation of the conservation easement.
- Objective is to stop rare but illegal schemes where investors make millions of dollars by claiming deductions from donations of vastly overvalued conservation easements.
- Land Trust Alliance is the lead on this legislation