

Public Policy Update

MLTC Steering Committee Meeting

March 11, 2022

Budget Updates

Green Budget

In January, the Governor released his proposed FY23 state operating budget (H2). The Green Budget Coalition is advocating for the following increases:

- DCR State Parks and Recreation line item (2810-0100): \$60M plus retained revenue from \$50M in FY22; H2 is \$73.5M (but includes retained revenue)
- MassDEP Administration line item (2200-0100): \$45M (from \$40M in FY22; H2 is \$36.2M)
- EEA Climate line item (2000-0101): \$5M (from \$2.2M in FY22; H2 is \$3.7M)
- EEA Environmental Justice line item (2000-0102): \$1.3M (new line item in FY23; H2 is \$330K)
- DER line item (2300-0101): \$4M (from \$3.25M in FY22; H2 is \$3.16M)

Supplemental Budget

In February, the Governor released a FY22 Supplemental Operating Budget. H.4479, *An Act making appropriations for Fiscal Year 2022 to provide for supplementing certain existing appropriations and for certain other activities and projects*, among other investments, allocates \$150 million of the FY22 budget surplus to support investments in climate resiliency. This funding would build on work already completed by municipalities, state agencies, and non-profit partners, and serve as a crucial infusion to implement projects statewide to help mitigate the impacts of extreme flooding, increased temperatures, and vulnerable wildlife populations. The bill includes funding for:

- 27 dam removal projects
- 22 culvert replacements or repairs
- Dozens of new or improved recreational facilities, and
- Increased stormwater management

It also includes over \$40M in funding for Municipal Vulnerability Preparedness Program grants and names regional municipal partnerships, regional planning bodies, watershed associations, land trusts, conservation organizations, and similar non-profit organizations as lawful grantees.

In addition, H.4479 includes an outside section which would permanently codify reimbursements to the Inland Fisheries and Game Fund for free and reduced licenses – an effort supported by conservation, environmental, and sports people organizations. Several partner organizations are actively lobbying to keep this provision in the House and Senate version of the FY22 Supplemental Budget.

ARPA 2.0

We are preparing advocacy for the second round of allocating American Rescue Plan Act (ARPA) funds, which we expect to happen sometime this spring. Final recommendations will be shared when available.

State Legislative Update

The following bills have been selected as legislative priorities by the MLTC Policy Committee. Notable updates are **bolded**:

S.1986/H.2960, *An Act increasing the conservation land tax credit* (Sens. Tarr and Hinds; Reps. Jones and Pignatelli)

- The bill would raise the annual cap under the Conservation Land Tax Credit (CLTC), the state income tax credit for donations of conservation land, from \$2 million to \$5 million - phased over three years. It would also amend the definition of a "public or private conservation agency" that may receive donations of land and provide a ten-year sunset.
- This is a recommendation of the Resilient Lands Initiative (which has not yet been finalized and published by EEA)
- **Reported favorably by the Joint Committee on Revenue, currently before House Ways and Means.**
- **Will also pursue as an FY23 budget amendment.**

S.524/H.851, *An Act preserving open space in the Commonwealth* (Sen. Eldridge; Rep. Balsler)

- Previously known as the Public Lands Protection Act (PLPA), this bill would prevent loss of constitutionally protected Article 97 lands by requiring replacement land, as well as notification to EEA prior to filing legislation to dispose of land. The legislation codifies EEA's current "no net loss" policy.
- This is a recommendation of the Resilient Lands Initiative.
- PLPA was engrossed (passed) by the House and now before Senate Ways and Means. **On March 1, MLTC co-led a joint letter to the Senate President asking that the senate act to pass the PLPA.**

S.603/H.983, *An Act establishing a Massachusetts flood risk protection program* (Sen. Pacheco; Rep. Peake)

- This bill would require the state to create a new Flood Risk Protection Program (FRPP) to eliminate risk of flooding by acquiring homes, small businesses, and nonprofit properties from interested owners and helping them relocate. The FRPP would cover inland and coastal properties and would be entirely voluntary. Once property is acquired, the legislation requires the removal of structures and the permanent conservation of the land. A new climate resilient landscape would serve as a natural buffer against flooding to protect communities and natural resources.
- **An extension order on this legislation was filed until March 31, 2022, while the ENRA committee works on this legislation. The House Sponsor and ENRA Committee Chair are discussing the possibility of creating a commission, that would include multiple agencies and stakeholders, to look at property buyouts in a comprehensive way and to submit recommendations to the House and Senate in the fall of 2023.**

H.2977, *An Act relative to the classification and taxation of urban public access land* (Rep. LeBoeuf)

- This bill would add a new chapter 61C entitled, Classification and Taxation of Urban Public Access Land. The bill incentivizes the protection of urban open space by reducing the acreage of land eligible for the Chapter 61 tax program to 5,000 square feet for land that is retained as defined open space or recreational resource open to the public. It also sets out parameters for valuation and changes of use.
- This is a recommendation of the Resilient Lands Initiative.
- **This bill was sent to study.**

S.1875/H.2831, *An Act to reform payments in lieu of taxes for state-owned land* (Sen. Hinds; Rep. Blais)

- This bill would change the way PILOT program payments for state-owned lands are calculated for municipalities, based on recommendations in the State Auditor's December 2020 [PILOT Report](#). The goal is to increase and equitably distribute of PILOT funds to make sure the formula no longer disadvantages smaller, rural communities.
- **This bill was heard in January and MLTC signed on to a joint letter of support.**
- **Reported favorably by the Joint Committee on Revenue.**

S.560, *An Act Establishing the Office of Outdoor Recreation* (Sen. Hinds)

- This bill would create a new office focused on outdoor recreation within EEA to support, promote and market outdoor recreational activities available throughout the state. The office would coordinate with other secretariats and nonprofit and business partners, stimulate economic development, and improve the quality of life, health, and well-being of residents and visitors to the Commonwealth.
- **Reported favorably by the Joint Committee on Environment, Natural Resources and Agriculture Committee.**

S.556/H.937, *An Act providing for the public health by establishing an ecologically based mosquito management program in the Commonwealth* (Sen. Hinds; Rep. Gouveia)

- This bill proposes comprehensive improvements to the way the state manages mosquitoes. It establishes a new Mosquito Management Office and new Mosquito Management Board within EEA and creates a system where pesticide use is allowed only for disease control under ecologically based management plans. It also creates streamlined notice and opt out requirements and bans pesticides containing PFAS.
- **This bill was sent to study. However, related legislation is likely to be filed or inserted as an amendment in another bill, as the state's authority to conduct mosquito control without local approval expires at the end of 2022. See also task force below.**

S.2147 / H.3306, *An Act to Improve Outdoor Lighting, Conserve Energy, and Increase Dark-Sky Visibility* (Sen. Creem; Rep. Garbally)

- This bill would promote energy-efficient lighting practices by requiring municipal- and state-funded projects to adopt standards for exterior lighting that meet best standards for human and wildlife habitat, require the Mass. Department of Transportation to update its criteria for road lighting, and require the Mass. Department of Public Utilities to establish incentives for energy efficient street lighting.
- **Reported favorably by the Joint Committee on Telecommunications, Utilities and Energy and now before Senate Ways and Means.**

State Administrative Update

FY23 Capital Spending Plan

In February, the Commonwealth Conservation Council (of which MLTC is a member), sent a comprehensive comment letter to EEA requesting an increase in capital investments to several critical land acquisition and park programs, including state agency capital budgets and competitive grants to municipalities. The Commonwealth's FY23 Capital Investment Plan is expected to be finalized and released in May 2021.

Mosquito Control Task Force

The Mosquito Control for the 21st Century Task Force is finalizing its recommendations and the report will be issued by the end of March. It is unclear whether the majority will support recommendations that effectively address the current lack of accountability in the program, despite the consultant's [report](#) confirming that there is no system for tracking either the efficacy of mosquito control practices or impacts on people or the environment. EEA has not yet issued guidance for communities to request opt-out from spraying for 2022. The state's authority to conduct spraying without local approval expires 12/31/22, and it is likely language will be inserted in a bill to extend that authority. Several pesticides used widely in the program are highly toxic to bees, fish, and many other beneficial species. See the [NOFA website](#) for more information on this effort and the reform bill.

MA Clean Energy and Climate Plan

As required under the Natural and Working Lands provisions of the Next Generation RoadMap Climate Change Law for Massachusetts, EEA held three public meetings on Forest Carbon Policies for the Clean Energy and Climate

Plan on [December 21](#) (Statutory requirements and the Clean Energy and Climate Plan (CECP) development process), [January 14](#) (Summarize and gather feedback on key elements of the Resilient Lands Initiative), and [February 11](#) (Gather feedback on additional options for reducing GHG emissions and enhancing carbon sequestration on forestlands)

At the [February 28 meeting](#) of the Implementation Advisory Committee of the Global Warming Solutions Act the Land Use and Nature Based Solution Working group requested EEA Updates: on efforts to develop a regional carbon market; and on implementation of the EEA Reforestation and Urban Greening Program. Requested EEA Actions: Release the Resilient Lands Initiative report, and: implement RLI recommendations -- low-hanging fruit, do ahead of CECP finalization; and, be more clear on which of these recommendations it plans to incorporate into the CECP. Requested EEA action: Provide guidance on NWL best practices for municipalities/NGOs ; and, Convene a robust DCR Forest Revisioning process

This Spring, EEA will present and gather feedback on: Proposed emissions limits and sector-specific sublimits for 2025 and 2030; Proposed goals for reducing emissions from and increasing carbon sequestration on natural and working lands (NWL); and, Proposed policy portfolio that aim to achieve these emission limits, sublimits, and NWL goals. Meeting One focus: Power, Transportation, and Non-Energy Sectors on March 31st 6PM-8PM; and, April 1st 12PM-2PM. Meeting Two focus: Buildings Sector and Natural and Working Lands on April 14th 12PM-2PM and 6PM-8PM

Solar Energy

The MA Department of Energy Resources (DOER) has issued its [Requests for Quotes](#) for a technical study on solar siting. The RFQ is seeking firms that could lead a public/stakeholder engagement process, conduct a spatial analysis to assess the potential for solar development, and suggest "policy considerations on best approaches to realize solar development that maximizes the amount of solar development while ensuring it is done in a cost-effective manner that minimizes environmental impacts." The analysis is to include "a thematic ranking of preferred and least preferred sites, listing the total amount of solar capacity that could be developed within each ranking."

Meanwhile, the SJC heard arguments on 3/7/22 in a case (SJC-13195) that will determine "whether allowing solar energy facilities in certain areas of a municipality but prohibiting them in other areas is permissible or whether it constitutes unreasonable regulation" under MGL Ch. 40A S.3. Several bills are pending on solar siting. Mass Audubon, TNC, and AMC are leading efforts to advance provisions that will serve the dual goals of accelerating solar deployment while minimizing impacts to important forests and farmlands.

Federal Policy Update

Short-Term Government Funding Legislation

In February, Congress passed a short-term government funding bill that will keep the federal government open through March 11. President Biden signed the legislation into law on Feb. 18.

Appropriators remain optimistic about reaching an agreement on an omnibus bill that would fund several federal government agencies, including the United States Departments of the Interior and Agriculture, through the end of the fiscal year. Among other things, the legislation is expected to provide more money to the Department of Agriculture for technical assistance, which includes funding for more Natural Resources Conservation Service staff.

Build Back Better

Currently, the legislation is stalled in the Senate, although some think a scaled back package could move forward. There seems to be broad support for the conservation provisions in the bill, but the path forward remains unclear.

Abusive Syndicated Conservation Transactions

Earlier this month, the Department of Justice announced that a federal grand jury returned an indictment charging seven individuals with conspiracy to defraud the United States and other crimes arising out of their promotion of fraudulent tax shelters involving syndicated conservation easements. While we hope the DOJ announcement will make people think twice before engaging in this abuse, it underscores the need for Congress to pass the Charitable Conservation Easement Program Integrity Act (S. 2256 / H.R. 4164).

Farm Bill

The Land Trust Alliance's Farm Bill Working Group is currently fleshing out recommendations for the 2023 Farm Bill, if you would like to join the group, you can email Manager for NRCS Programs, Nikki Nesbary at nnesbary@lta.org.

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The Biden Administration also continues to focus on achieving this goal. In late December 2021, the Administration released its first progress report for the America the Beautiful Initiative. As part of ongoing efforts to solicit stakeholder input, the Department of the Interior put out a request for comments on the forthcoming American Conservation and Stewardship Atlas – comments were due on March 7th.

USDA Climate Smart Agriculture Partnership Program

In February, USDA announced a \$1 billion Notice of Funding Opportunity for its new [Partnerships for Climate-Smart Commodities pilot program](#). The program will finance partnerships that provide technical and financial assistance to producers who implement voluntary climate-smart practices on working lands, and in particular those that support small and/or historically underserved producers. All projects must focus on the on-farm, on-ranch or forest production of climate-smart commodities and associated reductions of greenhouse gas emissions and/or carbon sequestration. Projects must also include a robust greenhouse gas measurement and verification component.