

Public Policy Update
MLTC Steering Committee Meeting
Friday, March 5, 2021
Presented by Linda Orel, Policy Director, The Trustees

New Legislative Session

In January, 19 new legislators (2 senators and 17 representatives) joined our friends on Beacon Hill for the new legislative session. The House and Senate released leadership and committee assignments, including some key changes. There is a new House Speaker, Representative Ronald Mariano (D-Quincy); and Senator Rebecca Rausch and Representative Carolyn Dykema will chair the Joint Committee on Environment, Natural Resources and Agriculture. If a new legislator will be representing your service area, now is the time to reach out to introduce yourself. See Find My Legislator. It's also a good time to connect with your representative and senator as well as committee members about your legislative priorities. To view all assignments see Committees.

I. State Legislation

The bill filing deadline for the two-year legislative session (2021-2022) was Friday, February 15. All bills have docket numbers ("SD" and "HD"). Over the next few weeks, the clerks in the House and Senate will give each bill its own number, which will be different than the docket number. Soon, bills will also be assigned to a committee for review. Below please find a list of multiple bills related to land policy:

These MLTC legislative priorities have been carried over from last session:

S.9, An Act creating a next-generation roadmap for Massachusetts climate policy (Sen. Barrett)

After the Governor vetoed this bill at the end of the last session, the legislature quickly refiled and enacted the it and sent it back to the Governor's desk. On February 7, the Governor signaled general support for the bill but sent a few amendments back to the legislature for consideration. The legislature can accept or reject each amendment and/or further amend each; with each of those paths triggering slightly different processes for moving forward. We expect the bill to be enacted by the legislature and back on the Governor's desk by mid-March. The Governor then has two weeks to sign.

SD1837/HD2668, 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, an existing 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.

SD146/HD271, An Act Combating Climate Change by Preserving Open Space (Sen. Eldridge; Rep. Balsler)

Previously known as the Public Lands Protection Act (PLPA), this bill would prevent loss of constitutionally protected open space (Article 97 lands) by requiring replacement land, as well as notification to the Executive Office of Energy and Environmental Affairs (EEA) prior to filing legislation to dispose of land. The legislation codifies EEA's current "no net loss" policy.

FY22 Green Budget Priorities

In January, the Governor released his proposed FY22 state operating budget (H1), which eliminated the four Green Budget increases that the legislature included in the FY21 operating budget. The Green Budget Coalition will maintain the same four priorities from last session and will lobby for the following increases:

- MassDEP Administration: \$40M (from \$39.78M in FY21; H1 is \$33.12M)
- Natural Heritage and Endangered Species Program: \$1M (from \$500k in FY21; H1 is \$154,222)
- DCR State Parks: \$50M (from \$51.5M in FY21 with earmarks; H1 is \$47.38M)
- Division of Ecological Restoration: \$3M (from \$2.6M in FY21; H1 is \$2M)

Below are multiple bills for MLTC's consideration. The MLTC Policy Committee will evaluate these bills, identify MLTC priorities, and monitor other bills.

SD1452/HD3103, 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 to homes and buildings by acquiring homes and 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.

SD1206/HD264, An Act authorizing the establishment of old growth forest reserves (Sen. Hinds; Rep. Blais)

This bill requires the state to establish an inventory, management plan, and a protected system of old growth forest reserves, including 'buffer areas' adjacent to old growth. The bill prohibits new development, recreational facilities, and commercial timber cutting in old growth forests.

SD2461, An Act reducing unnecessary destruction of forests (Sen. Hinds)

This bill would amend the forest cutting practices statute to require the minimal cutting of trees on state-owned lands, except as necessary to maintain forest health and safety. It would also stipulate that a solar installation on lands that requires destruction of a forest not be considered eligible for benefits under the Renewable Energy Portfolio Standard.

SD2445, An Act to create a forest carbon incentive program to enhance carbon storage on private timber lands (Sen. Hinds)

This bill would create a new forest resilience program under Chapter 61 that would provide grants to landowners who enroll for 20 years to carry out carbon-friendly practices. It would also provide grants to towns to help offset lost tax revenue. This kind of program was a recommendation of the Resilient Lands Initiative.

SD2460, An Act furthering our commitment to non-carbon emitting energy sources (Sen. Hinds)

This bill strikes all references to biomass as a renewable energy source everywhere it appears in the general laws, thereby making it no longer considered renewable.

SD2441, An Act promoting and protecting Massachusetts forests (Sen. Hinds)

This omnibus bill combines Sen. Hinds' forest-related bills listed above, as well as SD.1209, *An Act to protect public and private woodlands and woodlots in the Commonwealth*.

HD.3972, 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 was a recommendation of the Resilient Lands Initiative.

SD1197, 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.

SD1202/HD2383, 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.

SD1661/HD3574, An Act responding to the threat of invasive species (Sen. Jehlen; Rep. Rogers)

This bill would create a framework for the control and mitigation of invasive species in the commonwealth and would establish a trust fund, council, and office in MDAR. It also calls for development and implementation of a statewide strategic management plan for invasive species.

No net loss of farms and forests

We expect a comprehensive “no net loss of farms and forests bill” to be filed sometime this year. Meetings are currently taking place with legislators. This is also informed by Resilient Lands Initiative recommendations.

Pesticides

There are a few bills that would impact pesticide use and management. We are waiting to determine which bills are priorities for conservation partners. In the meantime, the state drafted regulations limiting the use of neonics (see below summary).

II. State Administration

Neonicotinoid Pesticide Regulations

On March 1, 2021, the Massachusetts Pesticide Board Subcommittee passed a motion to protect pollinators by restricting the use of neonicotinoid pesticides (neonics). The new regulations, which go into effect in 2022, will remove pesticide products containing neonics from retail stores and require that only licensed pesticide applicators use such products for lawn care or on turf, trees, shrubs, and gardens.

Mosquito Control Task Force

The [Mosquito Control Task Force](#) started meeting via EEA. This week, the Task Force hired the Eastern Research Group, Inc. to assist with its comprehensive review of the state’s antiquated mosquito control system. The task force is reviewing a draft document from the MDAR Commissioner for municipalities to opt-out of DPH-initiated spraying in response to elevated risk of EEE, as well as the existing landowner opt-out process. (Land trusts should be aware of the [opt-out process](#) and enter information for 2021 ASAP.) Partners filed legislation to overhaul and re-focus the system on ecologically based approaches including restoration of streams and wetlands to support fish and other mosquito predators. (See bill summary above.)

Capital Budget

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 FY22 Capital Investment Plan is expected to be finalized and released in May 2021.

Renewable Portfolio Standard regulations drafted

In December 2020, the Department of Energy Resources (DOER) filed amended draft regulations with the Joint Committee on Telecommunications, Utilities and Energy (TUE) to update the Renewable Energy Portfolio Standard (RPS). DOER still needs to refile the draft regulations with TUE this session. NGO partners and the Attorney General submitted letters to TUE expressing strong opposition to DOER's proposed changes to the eligibility requirements for utility-scale biomass eligibility requirements. DOER also proposed retaining the eligibility requirement for hydropower of re-certification by the Low Impact Hydropower Institute instead of its proposal to substitute in FERC licensing.

Clean Energy and Climate Plan

In January, EEA released their draft *Clean Energy and Climate Plan for 2030* (CECP). Chapter 6 of the CECP addresses the conservation, restoration, and improved management of natural and working lands. Public comments will be accepted until 5pm on March 22, 2021. To review the plan and instructions on how to submit comments, please visit: [CECP 2030](#) You can also review the Implementation Advisory Committee (IAC) recommendations [here](#). The IAC Land Use and Nature Based Solutions Working Group's recommendations include: setting goals and a baseline for natural carbon sequestration and storage; avoided forest conversion; restoration and protection of wetland systems' greenhouse gas sequestration and services; reforestation and city trees; net gain of ecosystem functions/services; increase carbon on working lands; and operationalize nature-based solutions for new and redevelopment. See the Working Group's comments [here](#).

SMART Solar Regulations and Dual-Use Agriculture

Kristen Sykes, Chair of MLTC's Policy Committee, will provide an update on dual use ag in Massachusetts.

III. Federal Policy

Update on Congresswoman Lori Trahan

Rep. Trahan was appointed to the House Committee on Natural Resources, an important committee with direct oversight of federal agencies and programs governing conservation and outdoor recreation.

Infrastructure/Climate Stimulus package

Once Congress passes its coronavirus relief package, lawmakers will turn their attention to a new stimulus package. This effort is expected to be centered on a Biden Administration's "Build Back Better" proposal. Consistent with Biden's campaign promises, including his \$2 trillion climate plan, the plan is expected to include significant infrastructure and climate investments with a focus on job creation. There will be an important role for the conservation community in advocating for natural resource investments when stimulus discussions start to move forward.

Charitable Conservation Easement Program Integrity Act

The Charitable Conservation Easement Program Integrity Act would curb abuse of charitable tax laws through syndicated conservation easement transactions. It has not yet been reintroduced in the 117th Congress. When the bill is introduced, land trusts around the country will be asked to urge their congressional delegation to co-sponsor.

Recovering America's Wildlife Act

The Recovering America's Wildlife Act would fund local and state efforts to prevent wildlife from becoming endangered, and to help recover species that are already endangered. Funds would be used by state agencies to implement their congressionally mandated State Wildlife Action Plans in partnership with state-based conservation entities. It would be the most significant investment in wildlife conservation in many decades. This

bill will soon be reintroduced in the House and is expected to resemble [HR3742](#) from the 116th Congress, which had strong bi-partisan support from 185 cosponsors.

30x30 conservation target

On January 27, 2021, President Biden signed an [Executive Order](#) that initiates a process to achieve the goal of conserving 30 percent of the country's lands and waters by 2030 (30x30). This aligns the U.S. with a global 30x30 effort. The Executive Order sets a 90 day period for federal agencies, including the Department of Interior, US Department of Agriculture, National Oceanic Atmospheric Association and Council on Environmental Quality to recommend steps that the US should take, working with state, local, tribal, and territorial governments, agricultural and forest landowners, fishermen and other key stakeholders, to achieve the goal. The report will also propose guidelines for determining whether lands and waters qualify for conservation and mechanisms for measuring progress.

Land and Water Conservation Fund

Kristen Sykes, Chair of MLTC's Policy Committee, will provide an update on LWCF spending and implementation.