



September 13, 2021

Via Electronic Mail

The Honorable Michael J. Rodrigues, Chair
Senate Committee on Ways and Means
Massachusetts State House, Room 212
24 Beacon Street
Boston, MA 02133

RE: Support of *An Act Preserving Open Space in the Commonwealth. (H.851)*

Dear Chair Rodrigues:

On behalf of our organizations, we are writing to respectfully request your support of *An Act Preserving Open Space in the Commonwealth*, filed by Senator James Eldridge and Representative Ruth Balser, and urge prompt and favorable reporting of the act out of committee and sending it to the Senate floor passage. This legislation (H.851), also known as the Public Lands Preservation Act, or “PLPA”, will add clarity and statutory protections for open space by codifying current state policy and ensuring preservation of open space lands or easements protected under Article 97 of the Massachusetts Constitution. The PLPA will provide critical open space protections without an increase in taxes or fees.

Public lands provide our communities with many benefits, including protecting drinking water quality and quantity; ensuring clean air; supporting agriculture, forestry, recreation, and tourism; sequestering and storing carbon; and buffering against flooding, as storms become more frequent and intense due to climate change.

This is a critical time for the General Court to restate its commitment to Article 97, as impacts from the COVID-19 pandemic and climate change have clearly highlighted the importance of natural areas, parks and trails to public health and wellbeing, outdoor recreation, and climate resiliency. Now more than ever, PLPA and no net loss regulations are needed to support our environmental justice communities, as they are most heavily impacted by climate change, COVID-19, pollution, racism, and poverty, and are all too often also burdened by a lack of access to open space and any outdoor recreational opportunities.

Background

In the 1970s, the adoption of Article 97 was a clear assertion by the people of the Commonwealth of their right to a clean and healthy environment and for the protection of our valuable open spaces. Lands acquired for conservation purposes under Article 97 have protected status, and their disposition must be approved by a two-thirds roll call vote of each branch of the Legislature. Unfortunately, the will of the people is

readily overridden by a two-thirds roll call vote every legislative session, resulting in public lands, protected using taxpayer dollars, being permanently converted to other, inconsistent uses.

In an effort to add a meaningful review before such action could be taken, in 1998, the Executive Office of Energy and Environmental Affairs (EEA) established an Article 97 Land Disposition Policy (also known as EEA's "No Net Loss" Policy). The policy outlines an approach to provide equivalent replacement land when selling, disposing, or converting Article 97 land. This bill would codify EEA's disposition policy into an enforceable statute to protect, clarify EEA's disposition process, and ensure that all future administrations are required to adhere to the law, rather than solely rely on an unenforceable administrative policy.

Previous PLPA bills have had a great deal of support from municipalities, legislators, and environmental groups, and this legislation continues to have support from municipal leaders, municipal commissions, land trusts, and organizations across the Commonwealth. The PLPA bill before you today, is brief and has been boiled down to its essence: the protection of public land as envisioned in Article 97 of the Massachusetts Constitution.

What is in this legislation?

- **No Net Loss of Article 97 Lands.** This bill will give the protection of law to the current state policy that there be *no net loss* of lands or easements protected under Article 97. Any replacement land must be of comparable acreage, location, fair market value, and natural resource value. The PLPA will allow for waivers from the replacement land requirement if the disposition involves only transfer of legal control between public entities.
- **Alternatives Analysis.** Prior to filing legislation petitioning a change in use or disposition of Article 97 land, an evaluation of alternatives would be required. This provision is consistent with the current policy.
- **Transparency.** The PLPA would require notification to the public and EEA prior to filing legislation petitioning a change in the use or disposition of public land. Prior notification will help streamline and add transparency to the process. This will also save time and money for the municipalities, as it offers the opportunity to make sure proposed replacement land is deemed suitable by EEA and the public prior to moving forward with the land disposition process.
- **Regulations.** Regulations would be created to convert the No Net Loss Policy and existing practice into enforceable regulations.

What is not in this legislation?

- The PLPA does not require additional funding to be implemented.
- The PLPA does not require fees.
- The PLPA does not remove municipal decision-making.
- The PLPA does not create excessive new legislation: this is a simple, clearly written, bill that will enhance current policies.

Why do we need this legislation now?

This legislation is needed to help combat climate change impacts. Green infrastructure is both essential to help us adapt to the most severe climate impacts and to store and sequester carbon emissions. Lands protected through Article 97 buffer against floods; minimize heat island effects; increase carbon dioxide sequestration in grasses, wetlands, trees, and soils; protect drinking water supplies; and continue to provide outdoor recreational opportunities.

We respectfully urge the Committee to provide a favorable report on the PLPA. If you have any questions, please do not hesitate to contact Dot McGlincy, Massachusetts Association of Conservation Commissions,

(617) 489-3930, or Robb Johnson, Massachusetts Land Trust Coalition, (978) 443-2233.

Thank you for your time and consideration of this matter.

Sincerely,

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Appalachian Mountain Club

Sarah Freeman
Representative
Arborway Coalition

Don Keeran
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Sharl Heller
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Southwest Corridor Park Management Advisory Committee

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The Nature Conservancy, Massachusetts Chapter

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The Trust for Public Land

Linda Orel
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Sonja Wadman
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Jordan McCarron
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Weston Conservation Commission

Harvey R. Boshart
Chair
Weston Select Board

Katherina Wilkins
Chair
Weston Sustainability Committee

Karen Grey
Executive Director
Wildlands Trust

Cc: Senator James Eldridge
Aaron Carty, Counsel

Amar Patel, Attorney

Attachments:

An Act Preserving Open Space in the Commonwealth. (H.851)

PLPA Fact Sheet

EEA's No Net Loss Policy