

Help us protect public parks and conservation land with

An Act Preserving Open Space in the Commonwealth

(often referred to as the *Public Lands Preservation Act*, or *PLPA*)

H.851 / S.2820 An Act preserving open space in the Commonwealth

Lead Sponsors: Senator James Eldridge (Acton) and Representative Ruth B. Balsler (Newton)

Update (April 19, 2022): The original version of this bill (H. 851) passed the House in July 2021. An amended version (S.2820) passed the Senate in April 2022. See the next page for a comparison of these versions. The bill now goes back to the House, which will either accept the Senate version or send the bill to a conference committee to work out differences between the House and Senate versions. We will continue to advocate for the best possible bill to win final votes this session!

In 1972, Massachusetts voters approved Article 97 of the state constitution to provide greater protection for open space lands such as parks, conservation areas, forests and watershed lands. Disposing of or changing the use of such municipal or state land requires a favorable two-thirds vote of each branch of the legislature.

To increase the level of review given to such legislative action, this bill improves the process by ensuring that any proposed disposition of open space land covered by Article 97 would be subject to the following requirements:

❖ No Net Loss

- Requires that replacement land of comparable acreage, value, location, and natural resource value be provided for each disposition.
- Codifies current state policy that there should be no net loss of lands or easements protected under Article 97 (*see bill text below for a waiver process proposed in the Senate version*).

❖ Alternative Analysis

- Codifies current policy that alternatives to a proposed disposition be examined in advance.

❖ Transparency

- Requires prior notification to the public and the Executive Office of Energy and Environmental Affairs.

Benefits of Public Parks and Conservation Land

- Reduce climate change by storing CO2 in trees and soil
- Assist with climate change adaptation by buffering against floods and other natural disasters
- Provide clean air
- Protect drinking water supplies
- Support agriculture, forestry, wildlife biodiversity and habitat, recreation, and tourism
- Promote physical and mental health as people get outside and into nature
- Provide in this time of COVID shutdown places for people to get outdoors and find recreation.

Comparison of H.851-PLPA and S. 2820

NOTE: Yellow highlights show new language added in S.2820.
Shown in ~~strikethrough~~ is language from H.851 that was deleted in S.2820.

SECTION 1. Chapter 3 of the General Laws is hereby amended by inserting after section 5 the following section:-

Section 5A. (a) In order to change the use or otherwise dispose of land or an easement taken or acquired pursuant to Article XCVII of the Amendments to the Constitution of the Commonwealth or designated in perpetuity for an Article XCVII purpose, a public entity including the commonwealth, any agency, authority, board, bureau, commission, committee, council, county, department, division, institution, municipality, officer, quasi-public agency, public instrumentality or any subdivision thereof shall: (i) ~~perform~~ **conduct** an alternatives analysis demonstrating all other options to avoid or minimize Article XCVII disposition have been explored and no feasible or substantially equivalent alternative exists; ~~and B submit the analysis to the secretary of energy and environmental affairs and make the analysis public and notify the public and the secretary of energy and environmental affairs;~~ (ii) identify replacement land ~~or an interest in land,~~ not already ~~subject to said~~ **taken, acquired or dedicated for an Article XCVII purpose** that is of: (A) equal or greater natural resource value, as determined by the secretary of energy and environmental affairs, and acreage and monetary ~~fair market value;~~ **as determined by an appraisal of the fair market value or value in use, whichever is greater;** and (B) comparable location; and (iii) ~~take, acquire or~~ **dedicate** the replacement land identified pursuant to clause (ii) in perpetuity for the same Article XCVII purpose. Upon request of a public entity seeking to ~~change the use for another purpose or otherwise dispose of land or an easement or other real property interest subject to said Article XCVII,~~ ~~taken or acquired pursuant to Article XCVII of the Amendments to the Constitution of the Commonwealth or designated in perpetuity for an Article XCVII purpose,~~ the secretary of energy and environmental affairs may: (i) permit the provision of funding dedicated to all costs of acquiring replacement land ~~or an interest land,~~ **or a combination of replacement land or an interest in land and funding,** where: (A) ~~it is not feasible to provide replacement land;~~ (B) ~~the interests protected by Article XCVII are better served;~~ (C) ~~an environmental justice population is not adversely impacted;~~ (D) ~~and there is a commitment to provide replacement land within 12 months of the commencement of the use for another purpose or disposition;~~ (ii) ~~waive or modify the appraisal requirement if the cost of the appraisal is greater than one-half of the value of the property interest to be transferred based on assessor or other public records;~~ and (iii) ~~waive the replacement land requirement pursuant to clauses (ii) and (iii) of the first sentence if the disposition is a transfer between public entities as described in this subsection and does not involve any other change, including, but not limited to, a change allowing the land to be used for other purposes.~~ **(A) the alternatives analysis required by clause (i) of the first sentence has been submitted to the secretary and made public;** (B) ~~the secretary determines, after consideration of the analysis, that it is not feasible to provide replacement land or an interest in land meeting all of the criteria in clause (ii) of the first sentence, the interests protected by said Article XCVII are better served and an environmental justice population is not adversely impacted;~~ and (C) ~~the funding is placed in an account dedicated solely for the acquisition of land for Article XCVII purposes and expended within 3 years;~~ (ii) ~~waive or modify the appraisal requirement if the cost of the appraisal is greater than one-half of the value of the property interest to be transferred based on assessor or other public records;~~ and (iii) ~~waive or modify the replacement land requirement pursuant to clauses (ii) and (iii) of the first sentence if: (A) the disposition involves only the transfer of legal control between public entities as described in this subsection and does not involve any other change, including, but not limited to, a change allowing the land to be used for another purpose; or (B) the transfer is of a parcel of insignificant natural resource and recreation value that is less than 2,500 square feet in area and the transfer serves a significant public interest."~~

(b) A petition to the general court to authorize ~~changing the use or otherwise disposing of land or an easement taken or acquired pursuant to Article XCVII of the Amendments to the Constitution of the Commonwealth or designated in perpetuity for an Article XCVII purpose~~ **the use for another purpose or other disposition of land, an easement or another real property interest subject to said Article XCVII** shall be accompanied by: (i) the alternatives analysis conducted pursuant to subsection (a); and ~~(ii) a description of the land to be dedicated pursuant to said subsection (a) or a copy of a waiver granted pursuant to said subsection (a).~~

~~(ii) a description of the replacement land or interest in land and funding to be dedicated pursuant to said subsection (a), if not waived pursuant to said subsection (a); (iii) a copy of the appraisal required by said subsection (a), if not waived pursuant to said subsection (a); and (iv) a copy of any waiver or modification granted pursuant to said subsection (a)~~

SECTION 2. The secretary of energy and environmental affairs shall promulgate regulations to implement subsection (a) of section 5A of chapter 3 of the General Laws within **18 months** ~~4-year~~ after effective date of this act.

This legislation is supported by a broad coalition of environmental organizations and municipal officials and boards.

Supporting Organizations

Appalachian Mountain Club • Arborway Coalition • Association to Preserve Cape Cod • Berkshire Environmental Action Team • Berkshire Natural Resources Council • Boston Climate Action Network • Brookline GreenSpace Alliance • Buzzard's Bay Coalition • Charles River Conservancy • Charles River Watershed Association • Clean Water Action • Connecticut River Conservancy • Conservation Law Foundation • Emerald Necklace Conservancy • Environment Massachusetts • Environmental League of Massachusetts • Essex County Trail Association • Friends of Harold Parker State Park • Friends of Peru State Forest • Friends of Robinson State Park • Friends of the Blue Hills • Friends of the Burlington Landlocked Forest • Friends of the Middlesex Fells Reservation • Friends of the Public Garden • Gateways Farm • Green Berkshires • Gun Owners' Action League • Housatonic River Initiative • Jones River Watershed Association • Mass Audubon • Massachusetts Association of Conservation Commissions • Massachusetts Conservation Voters • Massachusetts Land Trust Coalition • Massachusetts Rivers Alliance • Massachusetts Rivers Alliance • Massachusetts Society of Municipal Conservation Professionals • Merrimack River Watershed Council • Metropolitan Area Planning Council • Nashua River Watershed Association • Native Plant Trust • New England Forestry Foundation • North Quabbin Regional Landscape Partnership • Sierra Club Massachusetts Chapter • Soule Homestead Education Center • Southeastern Massachusetts Pine Barrens Alliance • Southwest Corridor Park Management Advisory Committee • Sustainability Committee of Weston • Taunton River Watershed Alliance, Inc. • The Compact of Cape Cod Conservation Trusts, Inc. • The Esplanade Association • The Nature Conservancy • Wellington Farm

Supporting Municipal Officials and Elected Boards

Gerly Adrien (Everett City Councilor) • Caroline Bays (Watertown City Councilor) • Zac Bears (Medford City Councilor) • Dennis Carlone (Cambridge City Councilor) • Victoria Danberg (Newton City Councilor) • Caren Dunn (Waltham City Councilor) • Lisa Feltner (Watertown City Councilor) • Mark Forest (Yarmouth Selectman) • Paul Heroux (Attleboro Mayor) • Bill Humphrey (Newton City Councilor) • Alex Jarrett (Northampton City Councilor) • Brian LaPierre (Lynn City Councilor) • Alison Leary (Newton City Councilor) • Nicole Morell (Medford City Councilor) • Emily Norton (Newton City Councilor) • Ryan O'Malley (Malden City Councilor) • Orlando Pacheco (Lancaster Town Administrator) • Brian Palmucci (Quincy City Councilor) • Anthony Palomba (Watertown City Councilor) • Samantha Perlman (Marlborough City Councilor) • Jivan Sobrinho-Wheeler (Cambridge City Councilor) • Somerville City Council • Adam Steiner (Framingham City Councilor) • Cesar Stewart-Morales (Framingham City Councilor) • Thomas Sullivan (Haverhill City Councilor) • Laura Wagner (Marlborough City Councilor) • Wellesley Natural Resources Commission • Weston Planning Board • Weston Select Board • Bill White (Somerville City Councilor) • Winchester Select Board

Supporting Conservation Commissions

Andover • Arlington • Ashland • Berlin • Beverly • Boxford • Brewster • Brookline • Burlington • Carlisle • Carver • Chicopee • Concord • Conway • Danvers • Douglas • Dudley • Essex • Foxborough • Franklin • Gloucester • Hadley • Harvard • Haverhill • Hingham • Holden • Holliston • Hopkinton • Huntington • Ipswich • Kingston • Lawrence • Lee • Leverett • Lexington • Lincoln • Longmeadow Medfield • Mendon • Newton • Norfolk • North Andover • Norton • Norwell • Palmer • Peabody • Pepperell • Plymouth • Provincetown • Rehoboth • Rockport • Rowley • Saugus • Sherborn • Somerville • Southwick • Stoneham • Stow • Sturbridge Templeton • Topsfield • Wendell • Wenham • West Brookfield • Weston • Winchester • Winthrop • Worcester • Wrentham

Supporting Land Trusts

Barnstable Land Trust • East Quabbin Land Trust • Greenbelt - Essex County's Land Trust • Franklin Land Trust • Groton Conservation Trust • The Kestrel Trust • Lincoln Land Conservation Trust • Massachusetts Land Trust Coalition • Mount Grace Land Conservation Trust • Newton Conservators • North County Land Trust • Richmond Land Trust • Sheffield Land Trust • Sudbury Valley Trustees • The Trustees of Reservations • The Trust for Public Land • Wachusett Greenways • Waltham Land Trust • White Oak Land Conservation Society • Westport Land Trust • Wildlands Trust