



Massachusetts Association of Conservation Commissions

protecting wetlands, open space and biological diversity through education and advocacy

Testimony Opposing H.730

An Act providing for more efficient wetlands protection by avoiding unnecessary duplication in local wetlands ordinances or bylaws

Joint Committee on Environment, Natural Resources and Agriculture

November 6, 2013

Thank you Senate Chair Pacheco and House Chair Gobi and members of the Joint Committee on Environment, Natural Resources and Agriculture for this opportunity to testify in opposition to H.698, an *Act providing for more efficient wetlands protection by avoiding unnecessary duplication in local wetlands ordinances or bylaws*.

My name is Eugene Benson. I am the Executive Director of the Massachusetts Association of Conservation Commissions (MACC) and I speak on behalf of MACC.

MACC represents more than 2,100 conservation commissioners throughout Massachusetts who are responsible for protecting the natural resources of their communities under the Conservation Act (G.L. c.40, § 8c) and for administering and enforcing the Wetlands Protection Act (G.L. c.131, § 40). We work to protect wetlands, open space, and biological diversity across Massachusetts through education and advocacy and support of local Conservation Commissions. We advocate for strong science-based laws, regulations, and policies. We have been doing this work for more than fifty-two years.

MACC opposes the passage of H.730 for the following reasons:

- The bill would effectively invalidate all wetlands by-laws and ordinances adopted by more than 200 Massachusetts municipalities and would make it practically impossible for additional communities to enact wetlands by-laws and ordinances. It would require prior approval by the Department of Environmental Protection (DEP) of all local wetlands by-laws and ordinances under onerous and subjective regulatory standards.
- The Supreme Judicial Court, in *Lovequist v. Conservation Commission of the Town of Dennis*, 379 Mass. 7 (1979), upheld the authority of municipalities to enact and enforce local wetlands protection laws. The SJC recognized that the Massachusetts Wetlands Protection Act represents a minimum standard only and that allowing stricter local laws is consistent with the Wetlands Protection Act.
- DEP does not have adequate staff or resources to review more than 200 local wetlands by-laws and ordinances that are currently in place, much less any new ones that may be adopted in the future. The bill would deplete DEP resources or paralyze DEP's wetlands protection program and seriously delay or prevent municipalities from exercising their current authority to protect their local natural resources.

- The standards the bill would require DEP to apply are vague and confusing and would require employment of numerous consultants or diversion of many state and local resources to try to apply the standards to each provision of more than 200 local wetlands laws. It would inevitably result in litigation and appeals.
- The Massachusetts Wetlands Protection Act and regulations constitute minimum requirements. It is generally recognized that there are deficiencies in the law and its regulations. That is an important reason why more than 200 municipalities have adopted local wetlands by-laws and ordinances.

MACC strongly opposes this legislation. The bill would overturn more than 30 years of smart and shared environmental protection of our wetland resources, increase state and local government costs, and disrupt a proven and successful program.

We urge the Committee to give H.730 an unfavorable report, as it did for a similar bill in a previous session.

Please contact me at 617-489-3930 or eugene.benson@maccweb.org to follow up.

Thank you.