



Massachusetts Association of Conservation Commissions

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

March 11, 2014

Senator Stanley C. Rosenberg
Majority Leader
State House, Room 333
Boston, MA 02133

Re: S.944, An Act Relative to the Effective Enforcement of Municipal Ordinances and Bylaws

Dear Senator Rosenberg:

Senate 944 is currently at the Senate Committee on Ethics and Rules after having been reported out favorably by the Joint Committee on Municipalities and Regional Government. We urge you to report S.944 favorably out of the Senate Committee on Ethics and Rules. It is important corrective legislation that will assist municipalities and the courts.

The Massachusetts Association of Conservation Commissions (MACC) is a non-profit organization that works to protect wetlands, open space, and biological diversity through education and advocacy and support of local Conservation Commissions throughout Massachusetts. Almost every Conservation Commission in the state is a member of MACC. We advocate for strong science-based laws, regulations, and policies. MACC has been doing this work for more than fifty years.

MACC strongly supports An Act Relative to the Effective Enforcement of Municipal Ordinances and Bylaws. It is a bill that would increase the efficiency and effectiveness of local government and the courts. It would aid local Conservation Commissions in achieving the mandate required of them by state law: to administer the Wetlands Protection Act in their cities and towns.

This bill would fix a problem with an elegant and simple solution. The problem that currently exists is that a Conservation Commission that goes to court for injunctive relief to enforce the Wetlands Protection Act or its local wetlands bylaw or ordinance cannot receive penalties in that action for the violation of the law – penalties it has the ability to assess and collect. Instead it must separately assess a penalty. If the violator does not pay, the local government must bring a separate action in District Court. If the violator does not appear or pay, the only recourse is a criminal complaint.

The solution this bill provides is simple and effective. If a Conservation Commission must go to court for an order to enforce state law or its local bylaw or ordinance on wetland protection, the court would be able to assess the requisite fine in that proceeding. The Conservation Commission would not be required to start a separate process to assess the fine and a separate court proceeding if the fine is not paid. This would consolidate both of those processes. It will save time and expense for municipalities and reduce the burden on courts. This legislation does not increase fines or penalties or broaden when fines or penalties might be assessed or collected. It simply will save municipalities and the court system time and expense.

MACC strongly supports this legislation because it would help the 351 Conservation Commissions effectively and meaningfully implement and enforce the Wetlands Protection Act and wetlands bylaws and ordinances. We are aware of no opposition to the bill. We urge you to report the bill out favorably from committee.

I would be happy to provide additional information.

Thank you.

Sincerely,

A handwritten signature in black ink, appearing to read "Eugene B. Benson". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Eugene B. Benson
Executive Director
Email: eugene.benson@maccweb.org

cc: MACC Advocacy Committee