



Massachusetts Association of Conservation Commissions

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

Testimony in Support of H.1864

An Act Relative to the Effective Enforcement of Municipal Ordinances and Bylaws

Joint Committee on Municipalities and Regional Government

November 12, 2015

Thank you Senate Chair L'Italien and House Chair O'Day and members of the Joint Committee on Municipalities and Regional Government for this opportunity to testify in favor of H.1864, an *Act Relative to the Effective Enforcement of Municipal Ordinances and 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.

Last session this identical bill, then S.944, received a favorable report from this committee, and was voted on favorably by the Senate Ways and Means Committee and the Senate, and by the House Ways and Means Committee. It was in the House Committee on Third Reading when the session ended. If it had been reported out by that committee, we believe it would have been passed by the House and enacted into law. We ask that you report it out favorably soon so that it has a chance this session to be enacted into law.

MACC is the professional association of conservation commissions. Each municipality in Massachusetts has a conservation commission, authorized by state law and part of municipal government. Conservation commissions protect the natural resources of their communities under the Conservation Commission Act (G.L. c.40, § 8c) and administer and enforce the Massachusetts Wetlands Protection Act (G.L. c.131, § 40) and local wetlands bylaws and ordinances.

MACC works to protect wetlands, open space, and biological diversity through education, advocacy, and support of conservation commissions. We advocate for strong science-based laws, regulations, and policies. We have been doing this work for more than fifty-three years.

We strongly support *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 that it has the ability to assess and collect. Instead it must first assess a penalty. If the violator does not pay, the local government must bring an 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 goes 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 urge you to report the bill out favorably.

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

Thank you.