



Massachusetts Association of Conservation Commissions

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

Testimony in Favor of S.402

An Act protecting the Natural Resources of the Commonwealth

Joint Committee on Environment, Natural Resources and Agriculture

June 2, 2015

Thank you Senate Chair Gobi and House Chair Schmid and members of The Joint Committee on Environment, Natural Resources and Agriculture for this opportunity to testify in favor of S.402, *An Act protecting the natural resources of the Commonwealth*.

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 in strong support of S.402.

For background, MACC is the professional association of Massachusetts conservation commissions. Each of the 351 cities and towns in Massachusetts has a conservation commission and almost every conservation commission is a dues-paying voting member of MACC. Conservation commissions are the municipal government wetlands, wildlife, and open space boards exercising the Police Power, Home Rule power, and public ownership of conservation, park, and natural resource properties as well as public easements, land restrictions, and other rights. Conservation commissions protect conservation lands and other natural resources in their communities under the Massachusetts Conservation Commission Act (G.L. c.40, § 8c) and administer and enforce the Massachusetts Wetlands Protection Act (G.L. c.131, § 40) and local home-rule municipal wetlands laws and regulations. MACC's mission is to protect Massachusetts natural resources by supporting conservation commissions through education and advocacy. We have been doing that work since 1961. More than 2,100 conservation commissioners are members of MACC.

We urge you to report S.402 favorably. It is one of the top legislative priorities of MACC. We strongly believe there must be prior disclosure and an open and transparent process of determining whether and how to dispose of or change the use of Article 97 lands and there should be no net loss of Article 97 conservation land. Our commonwealth has a finite amount of precious conservation lands, protected for current and future generations. All too often, protected conservation lands have been taken out of protection and converted to other uses without an open process, without a clear showing of necessity, and without any meaningful consideration of replacement land.

Article 97 was a clear statement by the people of the Commonwealth of their right to a clean and healthy environment and for the protection of our valuable open spaces. This legislation does not diminish the ultimate right of the legislature under Article 97 to dispose of land and easements that have been acquired for conservation purposes. It does, however, ensure that

there is a fair and open process with a meaningful consideration of the options before we lose any more valuable conservation lands. It also allows for the waiver of replacement lands in appropriate and limited circumstances. It is essential enacting legislation.

We ask for one minor amendment to S.402. The Executive Office of Energy and Environmental Affairs Article 97 Land Disposition Policy requires a municipality to obtain a “unanimous vote of the municipal conservation commission that the Article 97 land is surplus to municipal, conservation, and open space needs....” S.402, however, in Section 7, lines 122-125, requires only a two-thirds vote in support of the disposition by the conservation commission or other controlling board or commission. We ask that Section 7 of the bill be amended to require that “Any sale, transfer, lease or change in the control of use of any Article 97 land held by a municipality shall be subject to a unanimous vote of the conservation commission in support of disposition with a finding that the land is surplus to municipal, conservation, and open space needs, as well as a two-thirds vote by any other controlling board or commission and then Town Meeting or City Council.” That change would make the law more consistent with current policy and is an important recognition that the Massachusetts Conservation Commission Act gives local conservation commissions an affirmative role to protect their communities’ valuable natural resources.

Thank you for the opportunity to provide this perspective and information.