

SENATE No. 2820

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

SENATE, April 7, 2022.

The committee on Senate Ways and Means to whom was referred the House Bill preserving open space in the Commonwealth (House, No. 851); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2820.

For the committee,
Michael J. Rodrigues

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Second General Court
(2021-2022)**

1 SECTION 1. Chapter 3 of the General Laws is hereby amended by inserting after section
2 5 the following section:-

3 Section 5A. (a) In order to change the use or otherwise dispose of land or an easement
4 taken or acquired pursuant to Article XCVII of the Amendments to the Constitution of the
5 Commonwealth or designated in perpetuity for an Article XCVII purpose, a public entity
6 including the commonwealth, any agency, authority, board, bureau, commission, committee,
7 council, county, department, division, institution, municipality, officer, quasi-public agency,
8 public instrumentality or any subdivision thereof shall: (i) perform an alternatives analysis
9 demonstrating all other options to avoid Article XCVII disposition have been explored and no
10 feasible or substantially equivalent alternative exists and notify the public and the secretary of
11 energy and environmental affairs; (ii) identify replacement land, not already taken, acquired or
12 dedicated for an Article XCVII purpose that is of: (A) equal or greater natural resource value, as
13 determined by the secretary of energy and environmental affairs, acreage and fair market value;
14 and (B) comparable location; and (iii) dedicate the replacement land identified pursuant to clause
15 (ii) in perpetuity for the same Article XCVII purpose. Upon request of a public entity seeking to
16 change the use or otherwise dispose of land or an easement taken or acquired pursuant to Article
17 XCVII of the Amendments to the Constitution of the Commonwealth or designated in perpetuity

18 for an Article XCVII purpose, the secretary of energy and environmental affairs may: (i) permit
19 the provision of funding dedicated to all costs of acquiring replacement land where: (A) it is not
20 feasible to provide replacement land; (B) the interests protected by Article XCVII are better
21 served; (C) an environmental justice population is not adversely impacted; (D) and there is a
22 commitment to provide replacement land within 12 months of the commencement of the use for
23 another purpose or disposition; (ii) waive or modify the appraisal requirement if the cost of the
24 appraisal is greater than one-half of the value of the property interest to be transferred based on
25 assessor or other public records; and (iii) waive the replacement land requirement pursuant to
26 clauses (ii) and (iii) of the first sentence if the disposition is a transfer between public entities as
27 described in this subsection and does not involve any other change, including, but not limited to,
28 a change allowing the land to be used for other purposes.

29 (b) A petition to the general court to authorize changing the use or otherwise disposing of
30 land or an easement taken or acquired pursuant to Article XCVII of the Amendments to the
31 Constitution of the Commonwealth or designated in perpetuity for an Article XCVII purpose
32 shall be accompanied by: (i) the alternatives analysis conducted pursuant to subsection (a); and
33 (ii) a description of the land to be dedicated pursuant to said subsection (a) or a copy of a waiver
34 granted pursuant to said subsection (a).

35 SECTION 2. The secretary of energy and environmental affairs shall promulgate
36 regulations to implement subsection (a) of section 5A of chapter 3 of the General Laws within 1
37 year after effective date of this act.