

**HOUSE . . . . . No. 2152**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

***William M. Straus***

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to a cranberry wetland mitigation bank.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*William M. Straus*

*10th Bristol*

*Keiko M. Orrall*

*12th Bristol*

**HOUSE . . . . . No. 2152**

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By Mr. Straus of Mattapoisett, a petition (accompanied by bill, House, No. 2152) of William M. Straus and Keiko M. Orrall relative to the establishment of a cranberry wetland mitigation banking program for the purposes of off-site mitigation of public or private projects subject to the wetlands protection act. Environment, Natural Resources and Agriculture.

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**The Commonwealth of Massachusetts**

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**In the One Hundred and Ninetieth General Court  
(2017-2018)**  
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An Act relative to a cranberry wetland mitigation bank.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1           SECTION 1. Notwithstanding any general or special law to the contrary, the Executive  
2 Office of Energy and Environmental Affairs shall establish a cranberry wetland mitigation  
3 banking program for the purposes of off-site mitigation of public or private projects subject to  
4 the wetlands protection act, General Laws chapter 131 Section 40, requiring variances or orders  
5 of conditions.

6           For the purposes of this section, the following words shall have the following meanings  
7 unless the context clearly requires otherwise:

8           “Credit”, a unit of trade representing the increase in the ecological value of the site, as  
9 measured by acreage, functions or some other assessment method.

10           “Pilot Cranberry Wetlands Bank” or “bank”, the development of a single wetlands bank  
11 through a public/private partnership in two or more watersheds for the assessing the

12 effectiveness of wetlands banking as a regulatory tool to mitigate environmental impacts  
13 associated with construction activities.

14 Credits from the pilot cranberry wetland mitigation bank for off-site mitigation shall only  
15 be available for project mitigation after all regulatory requirements for avoiding, minimizing and  
16 mitigating impacts on site to the greatest extent practicable have been met. Off-site mitigation  
17 sites shall be located on cranberry bogs in active production in the two chosen watersheds. These  
18 sites from previously filled or drained bogs shall be the priority for off-site mitigation. Local  
19 Conservation Commissions located in the chosen watersheds under the authority of General Law  
20 chapter 131 section 40 and in agreement with project proponents may send projects requiring  
21 mitigation to the receiving bank.

22 Within 30 days after the effective date of this act, the Executive Office of Energy and  
23 Environmental Affairs shall issue a request for proposals for the selection of a contractor with  
24 experience in cranberry agriculture, knowledge of grower base and potential cranberry acreage  
25 available for mitigation and knowledge of the wetlands protection act to assist in the design,  
26 approval, creation, ownership and management and long term ecological monitoring of a  
27 cranberry wetlands restoration bank in the two chosen watersheds.

28 Within 90 days of issuing the request for proposals, the Executive Office of Energy and  
29 Environmental Affairs shall select a banking contractor. This request for proposals and selection  
30 of a contractor shall not be subject to chapter 30B of the General Laws.

31 Bank financing and sale of bank credits shall be subject to an agreement developed  
32 between the executive office of energy and environmental affairs and the selected contractor,  
33 subject to the review and approval of the inspector general.

34           The Executive Office of Energy and Environmental Affairs shall file a joint report  
35 assessing the process of establishing the pilot cranberry wetlands mitigation bank, describing the  
36 transactions and projects affected by the bank, and the effectiveness of the bank in protecting  
37 wetlands while enabling projects requiring mitigation to progress with the joint committee on  
38 environment, natural resources and agriculture within 1 year of the creation of the pilot cranberry  
39 wetlands bank and for each year thereafter, for 5 years. The report shall include information on  
40 the amount, acreage, location and types of wetlands restored and credits issued or traded, and list  
41 of all projects utilizing bank credits at the time the report is prepared. This provision shall sunset  
42 unless extended by the legislature 5 years from date of passage.