

HOUSE No. 3553

The Commonwealth of Massachusetts

PRESENTED BY:

Chris Walsh

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 vegetation management plans.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Chris Walsh</i>	<i>6th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Michelle M. DuBois</i>	<i>10th Plymouth</i>
<i>Daniel A. Wolf</i>	<i>Cape and Islands</i>

HOUSE No. 3553

By Mr. Walsh of Framingham, a petition (subject to Joint Rule 12) of Chris Walsh and others relative to vegetation management plans. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to vegetation management plans.

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. Any public utility, state agency or authority, quasi-public agency or
2 railroad that maintains a right-of-way through a municipality or through property under the
3 control of a water district shall offer a no- spray agreement, with reasonable provisions, for the
4 municipality or water district to consider if it desires. Any such agreement negotiated may
5 include but is not limited to the responsibilities of the parties, the allocation of costs and the
6 rights and remedies of the parties in the event of default and may apply to all or any part of the
7 right-of-way within the municipality or over which a water district has authority. Any agreement
8 reached under this section must be negotiated in good faith, written, and signed by all parties. As
9 part of the no-spray agreement the municipality or water district may either perform the
10 vegetation control work to standards as provided in the agreement or contract with the public
11 utility or others to conduct the work.

12 If the municipality or water district and the entity seeking to control the vegetation are
13 unable to come to an agreement regarding a no-spray approach to vegetation management within

14 60 days of beginning discussions, the disputed issues shall be decided by arbitration using an
15 arbitrator mutually agreed to by the parties. If the parties are unable to agree to an arbitrator
16 within 15 days, each party shall choose one arbitrator each and those selected arbitrators shall,
17 within 15 days of being selected, agree upon a third arbitrator. The panel of three arbitrators shall
18 then determine the disputed issues within 15 days from the date the third arbitrator agrees to
19 participate. Nothing in this section shall prevent the parties from using an organization such as
20 the American Arbitration Association or a similar entity.

21 If a reasonable no-spray agreement is offered to a municipality and an agreement is not
22 reached within 90 days after the date of the offer, the public utility, state agency or authority,
23 quasi-public agency or railroad, at its own option may apply pesticides, approved by the
24 Massachusetts Department of Agriculture, in its right-of-way or use other methods to control the
25 vegetation. If the municipality or water district agrees to perform vegetation control work but
26 does not perform it by the agreed upon date or another date reasonably negotiated as the result of
27 weather or other unforeseen events causing delay, the public utility, state agency or authority,
28 quasi-public agency or railroad, after 90 days written notice to the municipality or water district,
29 at its own option may apply approved herbicides in its right of way or use other methods to
30 control the vegetation.

31 It is the intent of this section that an alternative right-of-way maintenance procedure
32 without the use of pesticides is made available to municipalities and water districts. This section
33 does not affect a municipality's right to enact by-laws or ordinances nor the public utilities to
34 maintain its right-of-way clear of unwanted vegetation in the absence of a no-spray agreement.

35 SECTION 2. Any public utility, state agency or authority, quasi-public agency or railroad
36 that maintains a maintains a right of way through a municipality or through property under the
37 control of a water district shall be required to file with any affected municipality or water district,
38 vegetation management plans. Said plans shall include landscape management provisions which
39 require the use of native species plants and shall consider local terrain including soil conditions
40 and visual impacts. Affected municipalities and water districts shall have 30 days to comment on
41 said plans.

42 Vegetation management plans shall be reviewed every four years and prior to
43 approval the affected municipality or water district shall hold a public hearing in the affected
44 local municipality.

45 Any public utility, state agency or authority, quasi-public agency or railroads shall
46 provide sixty days' notice to affected abutters of the right of way of actions to be performed
47 pursuant to the vegetation management plan approved pursuant to this section. This notice shall
48 also be sent to municipal officials of affected communities including but not limited to elected
49 officials, selectmen, planning board members, and conservation commission members and to
50 water district officials. Any public utility, state agency or authority, quasi-public agency or
51 railroad shall be exempt from requirements of this paragraph in preparation for an imminent
52 emergency event, but must inform municipal administrations and water districts of any eminent
53 work.

54 In the course of maintaining the right of ways, including easements covering private and
55 public property, each public utility, state agency or authority, quasi-public agency or railroad
56 shall restore deleteriously affected vegetation in the form of replanting of trees and other

57 vegetation and shall complete stump grindings wherever trees have been cut to the stump such
58 that the company partially restores the pre-vegetation management activity property value of the
59 affected property owners.