

**HOUSE . . . . . No. 3905**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Michael A. Costello*

*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 passage of the accompanying:

An Act authorizing the granting of easements at Northern Essex Community College in Haverhill.

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Michael A. Costello*

*1st Essex*

*Kathleen O'Connor Ives*

*First Essex*

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By Mr. Costello of Newburyport, a petition (subject to Joint Rule 12) of Michael A. Costello and Kathleen O'Connor Ives for legislation to authorize the commissioner of the Division of Capital Asset Management and Maintenance to grant easements and lease agreements to certain land and property in the city of Haverhill. State Administration and Regulatory Oversight.

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The Commonwealth of Massachusetts

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**In the Year Two Thousand Fourteen**

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An Act authorizing the granting of easements at Northern Essex Community College in Haverhill.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to grant forthwith certain easements over portions of the Northern Essex Community College campus in Haverhill to Opportunity Works, Inc., therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*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, as used in this  
2 act the following terms shall, unless the context clearly requires otherwise, have the following  
3 meanings:-

4 "College", Northern essex community college.

5 "College campus", northern essex community college's campus located in the city of  
6 Haverhill.

7 "Commissioner", the commissioner of the division of capital asset management and  
8 maintenance.

9 "Division", the division of capital asset management and maintenance.

10 "Opportunity Works", Opportunity Works, Inc., a Massachusetts not-for-profit  
11 corporation formerly known as Greater Newburyport Opportunities, Inc., and its tenants,  
12 licensees, successors and assigns,

13 “Opportunity Works property”, the parcel of land known and numbered as 667 Kenoza  
14 street in Haverhill, located adjacent to the campus of the college.

15 “President”, the president of Northern Essex Community College

16 SECTION 2. (a) Notwithstanding any general or special law to the contrary, but subject  
17 to section 38 of chapter 7C of the General Laws, the commissioner, on behalf of and in  
18 consultation with the president, may grant easements over portions of the college campus to  
19 Opportunity Works as follows:

20 (i) for the purposes of constructing, maintaining, repairing and replacing a driveway  
21 and parking lot within the area marked as “proposed access, parking and utility easement” as  
22 shown on a plan entitled “Opportunity Works site layout plan” on file with the division;

23 (ii) for the purposes of installing, maintaining, repairing and replacing underground  
24 electrical lines within the area marked as “20’ wide utility easement” as shown on a plan entitled  
25 “easement plan” on file with the division;

26 (iii) for the purposes of installing, maintaining, repairing and replacing sewer lines to  
27 connect the Opportunity Works property with existing sewer lines on the college campus within  
28 the area marked as “utility easement” as shown on a plan entitled “easement plan” on file with  
29 the division; and

30 (iv) to use roads now or hereafter located on the campus for vehicular and pedestrian  
31 access and egress to the Opportunity Works property.

32 (b) The exact boundaries of the easements described in subsection (a) shall be  
33 determined by the commissioner, in consultation with the president, after completion of an  
34 independent professional appraisal and survey; provided, however, that any deed conveying said  
35 parcel shall contain the restrictions required pursuant to subsection (c). The consideration for the  
36 easement shall be the right of the college to access and utilize the above referenced underground  
37 electrical and sewer lines, the right to enter into leases of space in any building now or hereafter  
38 located on the Opportunity Works property pursuant to section 3 and the right of first refusal  
39 established pursuant to section 5.

40 (c) The grants of easement or other agreements pertaining to the easements described in  
41 subsection (a) shall include, without limitation, the following conditions:

42 (i) a reservation, in perpetuity, for the college to use the driveway and parking lot  
43 described in clause (i) of subsection (a);

44 (ii) a reservation, in perpetuity, for the college to connect to the underground  
45 electrical lines in the easement described in clause (ii) of subsection (a) for the purposes of  
46 providing lighting for the college’s athletic fields and other facilities; and

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48 (iii) language requiring that Opportunity Works: (a) construct the driveway and  
49 parking lot identified in clause (i) of subsection (a) in a good and workmanlike manner; (b)  
50 install the utilities identified in clause (ii) of subsection (a) in a good and workmanlike manner;  
51 (c) repair and repave any road areas disturbed or damaged as a result of the installation or  
52 maintenance, repair or replacement of the parking lot or utility lines; (d) utilize the easement  
53 solely for the purposes set forth in subsection (a) as determined by the commissioner.

54 (d) Opportunity works shall not convey, assign or otherwise transfer their rights to the  
55 easements specified in this act without the express written approval of the commissioner and the  
56 president. If the easements cease to be used or are used for any purposes, other than those  
57 specified in this act, the commissioner may, after notice and an opportunity to cure, terminate  
58 one or more of the easements, and such other terms and conditions as the commissioner, in  
59 consultation with the president of the college, deems appropriate.

60 (e) The easements shall be granted without warranties or representations by the  
61 commonwealth.

62 SECTION 3. Notwithstanding any other general or special law to the contrary, but  
63 subject to section 38 of said chapter 7C, the commissioner, on behalf of and in consultation with  
64 the president of the college, may enter into one or more leases of space in any building now or  
65 hereafter located on the Opportunity Works property on such terms and conditions as the  
66 commissioner, in consultation with the president of the college, deems appropriate.

67 SECTION 4. Notwithstanding any general or special law to the contrary, the provisions  
68 of sections 43 to 57, inclusive, of chapter 7C and sections 44A to 44J, inclusive, of chapter 149  
69 of the General Laws, and any other general or special law relating to the advertising, bidding or  
70 award of contracts, or to the procurement of services or to the construction and design of  
71 improvements on commonwealth property shall not be applicable to construction undertaken by  
72 Opportunity Works within the easements described in section 2 or to build out any space leased  
73 by the college pursuant to section 3, except that the design of and plans and specifications for  
74 any such improvements to be constructed by the lessee shall be subject to the review and  
75 approval of the commissioner and the president of the college.

76 SECTION 5. Notwithstanding any general or special law to the contrary, but subject to  
77 section 38 of said chapter 7C, the commissioner, on behalf of the college, shall have the right of  
78 first refusal to purchase, lease or otherwise acquire an interest in the Opportunity Works property  
79 in the event that Opportunity Works intends to sell, lease, convey or otherwise transfer all or any  
80 portion of the Opportunity Works property. If Opportunity Works intends to sell, lease, convey  
81 or otherwise transfer all or any portion of the Opportunity Works property Opportunity Works  
82 shall provide written notice of such intent to the commissioner and the president of the college.  
83 Such notice shall include, without limitation, a description of the portion of the Opportunity

84 Works property which Opportunity Works intends to sell, lease, convey or otherwise transfer.  
85 The commissioner, in consultation with the president of the college, shall have not less than 90  
86 days to notify Opportunity Works that the commissioner intends to acquire the property for a  
87 purchase price to be determined by independent appraisal. If the commissioner does so notify  
88 Opportunity Works that the commonwealth intends to acquire the property, the commissioner  
89 shall have not less than 90 days from the date of its notice to complete the purchase.

90 SECTION 6. Notwithstanding any general or special law to the contrary, Opportunity  
91 Works

92 shall be responsible for all costs and expenses, including but not limited to, costs  
93 associated with any engineering, surveys, appraisals, and deed preparation related to the transfers  
94 and conveyances authorized pursuant to this act as such costs may be determined by the  
95 commissioner. Upon conveyance of the easements, Opportunity Works shall be solely  
96 responsible for all costs, liabilities and expenses of any nature and kind for the development,  
97 maintenance, use and operation of the easements.