

# **HOUSE . . . . . No. 4363**

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## The Commonwealth of Massachusetts

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HOUSE OF REPRESENTATIVES, July 29, 2014.

The committee on State Administration and Regulatory Oversight to whom was referred the petition (accompanied by bill, House, No. 4345) of Byron Rushing for legislation to authorize the transfer of a certain parcel of land from the Department of Conservation and Recreation to the Boston Redevelopment Authority and the city of Boston, reports recommending that the accompanying bill (House, No. 4363) ought to pass.

For the committee,

PETER V. KOCOT.

**HOUSE . . . . . No. 4363**

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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 transfer of a parcel of land from the Department of Conservation and Recreation to the Boston Redevelopment Authority and the city of Boston.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to allow for the restoration, adaptive reuse and permanent protection of a deteriorated historic building in the Roxbury section of the city of Boston and to promote economic redevelopment and improvement in the community, 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 sections 32 to 38, inclusive, of chapter 7C of the General  
2 Laws or any general or other special law to the contrary, and pursuant to such additional terms  
3 and conditions as the commissioner of capital asset management and maintenance may prescribe,  
4 the division of capital asset management and maintenance, in consultation with the department of  
5 conservation and recreation, may convey by deed and related agreements and instruments to the  
6 Boston Redevelopment Authority a certain parcel state-owned land. The parcel of land is  
7 located along Melnea Cass Boulevard in the Roxbury district of the city of Boston, contains  
8 approximately 38,625 square feet, as shown on the city of Boston Assessors' Maps as Parcel No.  
9 0802426030, and is identified as Parcel SR-25 in an instrument dated May 31, 1989 and  
10 recorded in the Suffolk County Registry of Deeds in Book 15823, Page 218. The parcel is  
11 presently under the care, custody and control of the department of conservation and recreation  
12 and held for conservation and recreation purposes in connection with the Roxbury Heritage State  
13 Park, as hereinafter described in section 2. The parcel may be conveyed to the Boston  
14 Redevelopment Authority for redevelopment purposes, including but not limited to private  
15 development, subject at all times to the conservation and preservation restrictions described in  
16 section 4. The exact location and boundaries of the areas to be transferred shall be determined by  
17 the commissioner of capital asset management and maintenance in consultation with the  
18 department of conservation and recreation.

19 SECTION 2. In furtherance of the commonwealth's policy to ensure a no-net-loss of  
20 lands protected for natural resource purposes, the consideration for the conveyance authorized in  
21 section 1 shall be the full and fair market value of the parcel, as determined by the division of  
22 capital asset management and maintenance based upon an independent professional appraisal,  
23 and subject to Sections 3 and 4 herein. The appraisal required by this section shall be subject to  
24 the review and approval of the inspector general, and such review shall include an examination  
25 of the methodology utilized for the appraisal. Within 60 days after receiving an appraisal, the  
26 inspector general shall prepare a report of his review and file the report with the division of  
27 capital asset management and maintenance. After receiving the inspector general's report and at  
28 least 15 days before the Boston Redevelopment Authority executes any agreement or instrument  
29 for the sale, lease or other disposition of the parcel, the division shall submit the report to the  
30 house and senate committees on ways and means and the house and senate committee on  
31 bonding, capital expenditures and state assets. All consideration received shall be deposited in  
32 the Division of State Parks and Recreation Trust Fund, established by section 34 of chapter 92 of  
33 the General Laws, and expended by the department of conservation and recreation on  
34 improvements to the properties of the Roxbury Heritage State Park owned by the  
35 Commonwealth and under the care and control of the department of conservation and recreation.  
36 For purposes of this act, Roxbury Heritage State Park shall mean: the Dillaway-Thomas House  
37 property and adjacent parcels presently under the care and control of the department of  
38 conservation and recreation, located at 183 Roxbury Street, and any land acquired in the future  
39 by the department expressly for the addition to Roxbury Heritage State Park.

40 SECTION 3. Except as expressly provided otherwise in this act, the Boston  
41 Redevelopment Authority shall be responsible for all costs and expenses including, but not  
42 limited to, costs associated with any engineering, surveys, appraisals, deed preparation related to  
43 the conveyance authorized in this act as those costs may be determined by the division of capital  
44 asset management and maintenance and acceptable to the Boston Redevelopment Authority.  
45 Notwithstanding any general or special law to the contrary, upon conveyance of the parcel by the  
46 Commonwealth, the Boston Redevelopment Authority or its lessee or successor in interest, as the  
47 case may be, shall be solely responsible for all costs, liabilities and expenses of any nature and  
48 kind for the development, maintenance, use and operation of the parcel described in section 1.

49 SECTION 4. The Boston Redevelopment Authority may pay the consideration under  
50 section 2 as follows: (a) \$1.00 at the time of the conveyance; and (b) at the time of any  
51 subsequent sale, mortgage, lease, encumbrance or other disposition of the parcel or any portion  
52 thereof, the full appraised value, less any credits or adjustments agreed to by the parties, to the  
53 division of capital asset management and maintenance, and said amount adjusted for timing of  
54 receipt of payment under any subsequent lease or other conveyance agreements to a successor in  
55 interest shall be deposited into the Division of State Parks and Recreation Trust Fund to be held  
56 and expended in accordance with section 2.

57 SECTION 5. Any development or other improvements on the parcel shall delineate and  
58 preserve the northeast corner of the parcel as public parkland, and which parkland shall not  
59 disturb any archaeology and will include appropriate interpretation of the historic former uses of  
60 the site and serve as a gateway to the Roxbury community. Subject to the approval of the  
61 department of conservation and recreation, the Boston Redevelopment Authority, and the city of  
62 Boston, the commissioner of capital asset management and maintenance, shall delineate the  
63 parkland area with due regard to the issues identified by the department and the city of Boston  
64 from within or arising from the archaeological survey referred to in section 9. In furtherance of  
65 that purpose, as part of the deed or by separate instrument, the division of capital asset  
66 management and maintenance shall retain a perpetual preservation restriction, either under the  
67 care and control of, and subject to the approval of, the department of conservation and recreation  
68 or the massachusetts historical commission, and convey a perpetual conservation restriction to  
69 the city of Boston within the meaning of section 31 and with the benefit of section 32 of chapter  
70 184 of the General Laws. The preservation restriction shall protect the historic and  
71 archaeological resources. The conservation restriction shall be conveyed to the city of Boston,  
72 under the care and control of its conservation commission, and shall include at a minimum that:  
73 the parkland design shall be subject to the approval of the department; the park shall be  
74 constructed, operated, maintained and repaired at the sole cost of the owner of the fee interest or  
75 any lessee; the park shall be subject to the rules and regulations of the City, as approved by the  
76 department of conservation and recreation, and shall be opened to the general public by a date to  
77 be specified in an agreement between the division of capital asset management and maintenance  
78 and the Boston Redevelopment Authority, and approved by the department of conservation and  
79 recreation, prior to the conveyance of the parcel. The conservation and preservation restrictions  
80 shall not be subordinate or junior to any mortgage, lease, lien, condition, covenant, encumbrance,  
81 easement, restriction or any other matter or interest in the land, whether recorded or unrecorded.  
82 The costs of constructing the park, subject to approval by the division of capital asset  
83 management and maintenance and the department, may be credited by the division against the  
84 consideration due under section 4.

85 SECTION 6. Notwithstanding sections 32 to 38, inclusive, of chapter 7C of the General  
86 Laws or any general or special law to the contrary, and pursuant to such additional terms and  
87 conditions as the commissioner of capital asset management and maintenance may prescribe, the  
88 division of capital asset management and maintenance, in consultation with the department of  
89 conservation and recreation, may convey by deed, for no monetary consideration, to the city of  
90 Boston, the state-owned parcel, including the portion of the building thereon, described in  
91 section 7. The parcel is presently under the care, custody and control of the department of  
92 conservation and recreation and held for conservation and recreation purposes in connection with  
93 the Roxbury Heritage State Park. The parcel shall be conveyed to the city of Boston, subject at  
94 all times to the preservation restriction described in section 8. The exact location and boundaries  
95 of the areas to be transferred shall be determined by the commissioner of capital asset  
96 management and maintenance in consultation with the department of conservation and

97 recreation. The commissioner of capital asset management and maintenance shall establish the  
98 value of the property for both the highest and best use of the property as currently encumbered  
99 and for the purposes described in section 8. The commissioner shall place notification in the  
100 central register of the conveyance, the amount of such transaction and the difference between the  
101 calculated value and the price received.”

102 SECTION 7. The parcel referenced in section 6 is: located along Washington Street in  
103 the Roxbury district of the city of Boston; contains approximately 3,781 square feet, shown on  
104 the city of Boston Assessors’ Maps as Parcel No. 0802426010, and identified as Parcel SR-26 in  
105 an instrument transferring care, custody and control of the parcel from the department of public  
106 works to the department of environmental management, dated September 18, 1989, and recorded  
107 in the Suffolk District Registry of Deeds in Book 15823, Page 218.

108 SECTION 8. As part of the deed or by separate instrument for the parcel described in  
109 section 7, the division of capital asset management and maintenance shall retain a perpetual  
110 preservation restriction, within the meaning of section 31 and with the benefit of section 32 of  
111 chapter 184, either under the care and control of, and subject to the approval of, the department  
112 of conservation and recreation or the massachusetts historical commission, to ensure the  
113 restoration and preservation of the historic Owen Nawn Factory building by the city of Boston,  
114 its lessee, or its successors and assigns. The preservation restriction shall apply to the entire  
115 building and all of the land, whether the portion located on land shown on the city of Boston  
116 Assessors’ Maps as Parcel No. 0802426010 or the land shown on the city of Boston Assessors’  
117 Maps as Parcel No. 0802426020. Notwithstanding any general or special law to the contrary,  
118 upon conveyance of the parcel by the Commonwealth, the city of Boston or its lessee or  
119 successor in interest, as the case may be, shall be solely responsible for all costs, liabilities and  
120 expenses of any nature and kind for the development, maintenance, use and operation of the  
121 parcel described in section 6.

122 SECTION 9. In accordance with the requirements of sections 26 to 27C, inclusive, of  
123 chapter 9 of the General Laws, the department of conservation and recreation may undertake and  
124 fund an archaeological survey upon all or a portion of the land described in section 1 and all or a  
125 portion of the adjacent city-owned land shown on the city of Boston Assessors’ Maps as Parcel  
126 No. 0802426040. The disposition of the parcels described in sections 1 and 7 shall not occur  
127 unless the department moves forward with the archaeological survey, and the archaeological  
128 survey is completed to the satisfaction of the department, the Boston Redevelopment Authority  
129 and the city of Boston.