

HOUSE No. 4441

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 27, 2016.

The committee on State Administration and Regulatory Oversight to whom was referred the petition (accompanied by bill, House, No. 4329) of Joseph F. Wagner, Eric P. Lesser and Thomas M. Petrolati (with the approval of the mayor and city council) that the commissioner of Capital Asset Management and Maintenance be authorized to grant certain easements in the city of Chicopee, reports recommending that the accompanying bill (House, No. 4441) ought to pass [Local Approval Received].

For the committee,

PETER V. KOCOT.

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

An Act relative to the conveyance of an easement in the city of Chicopee.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize the conveyance of easements to the City of Chicopee, 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. (a) Notwithstanding sections 33 to 37, inclusive, of chapter 7C of the
2 General Laws or any other general or special law to the contrary, the commissioner of capital
3 asset management and maintenance, in consultation with the commissioner of conservation and
4 recreation may grant a permanent subsurface easement through 2 parcels of land currently under
5 the care and control of the department of conservation, and recreation and held for conservation
6 and recreation purposes, to the city of Chicopee for the installation, maintenance, repair and
7 replacement of a redundant water transmission distribution system subject to the requirements of
8 this act and to such additional terms and conditions consistent with this act as the commissioner
9 of capital asset management and maintenance may prescribe in consultation with the
10 commissioner of conservation and recreation. The permanent easement shall be approximately
11 50 feet in width and contain an area of 210,626 square feet or 4.835 acres, more or less. The
12 permanent easement shall run under and through the parcels identified as parcel PE-7 and parcel

13 PE-8 on a plan entitled “Plan of Land in Chicopee, MA, Prepared For City of Chicopee,
14 Easement Plan, Redundant Water Transmission Main”, dated December 8, 2015 and prepared by
15 Sherman & Frydryk, LLC, Land Surveying and Engineering; being a portion of the land
16 described in a deed recorded with the Hampden county registry of deeds at book 2796, page 295.
17 The city of Chicopee shall prepare a survey of the easement sufficient for recording at the
18 Hampden county registry of deeds. Prior to finalizing the transaction or making the conveyance
19 required by this section, the division of capital asset management and maintenance may, in
20 consultation with the city of Chicopee, make minor modifications to the area and survey
21 document in order to carry out this act.

22 (b) An independent appraisal of the fair market value and value in use of the easement
23 described in subsection (a) shall be prepared in accordance with the usual and customary
24 professional appraisal practices by a qualified appraiser commissioned by the commissioner of
25 capital asset management and maintenance. Consideration for the grant of the easement shall be
26 the full and fair market value or the value in proposed use of the easement, whichever is greater,
27 as determined by the commissioner of capital asset management and calculated with regard to its
28 full development potential as assembled with other lands owned or otherwise controlled by the
29 grantee. The commissioner of capital asset management and maintenance shall submit any
30 appraisals to the inspector general for review and comment. The inspector general shall review
31 and approve any such appraisals and the review shall include an examination of the methodology
32 utilized for the appraisal. The inspector general shall prepare a report of such review and file the
33 report with the commissioner of capital asset management and maintenance for submission by
34 the commissioner to the house and senate committees on ways and means and the joint
35 committee on state administration and regulatory oversight. The commissioner shall submit

36 copies of the appraisals and the inspector general's review and approval and comments, if any, to
37 the house and senate committees on ways and means and the joint committee on state
38 administration and regulatory oversight at least 15 days prior to the execution of any documents
39 effecting the transfer described in subsection (a).

40 (c)(1) To ensure a no-net-loss of lands protected for natural resources purposes, the city
41 of Chicopee, as grantee, shall compensate the commonwealth for the interest in land described in
42 subsection (a) through a conveyance to the commonwealth, under the care and control of the
43 department, of land or an interest therein, or funding for the acquisition of land or an interest
44 therein greater than or equal to the value of the land described in said subsection (a) as such
45 value is determined pursuant to subsection (b). The fair market value of the land described in
46 paragraph (2), and any other land or interest therein proposed to be conveyed by the city to the
47 department, shall be included within the appraisal prepared pursuant to said subsection (b). The
48 land, interest in land or funding shall be acceptable to the department of conservation and
49 recreation and any land or interest therein conveyed to the commonwealth shall be under the care
50 and control of the department and held for conversation and recreation purposes

51 Should the appraised value of any proposed land or interest in land be determined to be
52 greater than the appraised value of the interest in land described in subsection (a), the
53 commonwealth shall have no obligation to pay the difference to the grantee. All payments to the
54 commonwealth as a result of the conveyances or grants authorized by this act shall be deposited
55 in the Conservation Trust established in section 1 of chapter 132A of the General Laws.

56 (2) In furtherance of the requirements of paragraph (1) the city of Chicopee may convey a
57 portion of a parcel of land, or a lesser interest in a portion of such parcel, to the commonwealth,

58 under the care and control of the department, identified as parcel A on a plan of land entitled
59 “Exhibit ‘C’, Proposed Mitigation Parcel, Redundant Water Transmission Main Project, Contract
60 No. 1, Chicopee, Massachusetts,” dated January 7, 2016, and prepared by by Tighe & Bond,
61 Inc.; being a portion of the land identified in a tax taking recorded with the Hampden county
62 registry of deeds at book 1682, page 195.

63 (d) The city of Chicopee shall assume all costs associated with engineering, surveys,
64 appraisals, deed preparation and other expenses deemed necessary by the commissioner of
65 capital asset management and maintenance to execute the conveyances authorized in this section.

66 (e) No instrument executed pursuant to this section shall be valid unless it provides that
67 the easement granted to the city of Chicopee shall be used solely for the purposes described in
68 this section. The instrument effecting the transfer authorized in subsection (a) shall include a
69 reversionary clause that stipulates the property shall revert to the commonwealth and be assigned
70 to the care, custody and control of the department of conversation and recreation, upon such
71 terms and conditions as the commissioner of capital asset management and maintenance may
72 determine, if the property ceases to be used for the express purposes authorized in this section. If
73 any interest reverts to the commonwealth, any further disposition shall be subject to sections 33
74 to 37, inclusive, of chapter 7C of the General laws and the prior approval of the general court.

75 SECTION 2. The city of Chicopee may use a portion of city owned land for the
76 installation, maintenance, operation, repair and replacement of a redundant water transmission
77 distribution system, which shall include a 30 inch redundant water transmission line, in order to
78 provide the residents of the city of Chicopee with a back-up water supply. The portion of city

79 owned land affected by the change in use contains 89,771 square feet or 2.061 acres, more or
80 less, identified as:

81 (1) parcel PE-8A, on a plan of land entitled "Plan of Land in Chicopee, MA, Prepared
82 For City of Chicopee, Easement Plan, Redundant Water Transmission Main", dated December 8,
83 2015, and prepared by Sherman & Frydryk, LLC, Land Surveying and Engineering, being part of
84 the property commonly known as Williams Park and described in a deed recorded with the
85 Hampden county registry of deeds at book 11530, page 166; and

86 (2) parcels PE-9 and PE-16, on said plan, being part of the property commonly
87 known as Chicopee Memorial Golf Course and described in a deed recorded with the Hampden
88 county registry of deeds at book 3117, page 406.

89 The change in use shall not affect the continued use of such parcels by the parks and
90 recreation commission of the city of Chicopee or the golf commission of the city of Chicopee for
91 city park and municipal golf course purposes, respectively, or any rights of said parks and
92 recreation commission or said golf commission not adverse to the rights granted by this section.

93 In the event of any future sale, transfer, conveyance or disposal of the property identified
94 in this section, the city of Chicopee shall maintain a permanent easement in the property as
95 necessary for the continued maintenance, repair and replacement of its redundant water
96 transmission distribution system and any related purposes. The city shall execute and record
97 such easement with the Hampden county registry of deeds prior to or in conjunction with any
98 such future conveyance.

99 SECTION 3. This act shall take effect upon its passage.