

HOUSE No. 4803

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 24, 2018.

The committee on State Administration and Regulatory Oversight to whom was referred the petition (accompanied by bill, House, No. 4775) of Michael J. Moran and Kevin G. Honan for legislation to authorize the commissioner of Capital Asset Management and Maintenance to grant an easement at the Chestnut Hill Reservation located in the Brighton section of the city of Boston, reports recommending that the accompanying bill (House, No. 4803) ought to pass.

For the committee,

JENNIFER E. BENSON.

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**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act authorizing a surface and sub-surface easement at the Chestnut Hill Reservation located in the Brighton section of the City of Boston.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to establish forthwith a transfer in an interest of property in the city of Boston, 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 37, inclusive, of chapter 7C of the General
2 Laws or any other general or special law to the contrary, the commissioner of capital asset
3 management and maintenance, in consultation with the department of the conservation and
4 recreation, may grant to Boston Gas Company, hereinafter referred to in this act as the
5 “company”, a permanent surface and sub-surface easement and right-of-way for the purpose of
6 installing, operating, and maintaining a natural gas main and regulator station and any necessary
7 appurtenances thereto, above and below ground. The easement shall be located on portions of a
8 parcel of state-owned land in the city of Boston bounded by Beacon street, Chestnut Hill avenue,
9 Commonwealth avenue, other land now and formerly of the city of Boston and land owned by
10 the commonwealth, described in a deed recorded on April 5, 1960 in the Suffolk county registry

11 of deeds in book 7474, page 391 and shown on a plan of land entitled “Commonwealth of
12 Massachusetts – Metropolitan District Commission – Parks Division – BOSTON (BRIGHTON
13 DISTRICT) – Plan of Land to be Conveyed to the Metropolitan District Commission”, dated
14 December 2, 1959.

15 SECTION 2. The easement shall be exclusive except:(i) as to the surface/above-grade
16 portion of the easement area, which shall be used for such recreational purposes as the
17 commissioner of capital asset management and maintenance, in consultation with the
18 commissioner of conservation and recreation, may reasonably determine to be appropriate for the
19 benefit of the citizens of the commonwealth in accordance with this act; and (ii) as to the
20 subsurface/below-grade portion of the easement area, the commonwealth may install, operate
21 and maintain utility infrastructure necessary to service facilities of the commonwealth in the
22 vicinity of the easement area. The foregoing incursions into and uses of the subsurface portion of
23 the easement area, as set forth in clause (ii), shall be subject to compliance with the company's
24 clearance standards existing as of the effective date of this act, including the requirement that
25 subsurface utility infrastructure installed parallel to the company's facilities shall maintain a
26 minimum 3-foot separation from the company's facilities, and any subsurface utility
27 infrastructure installed above or below the company's facilities shall maintain a minimum 1-foot
28 separation from the company's facilities.

29 SECTION 3. The exact boundaries of the easement shall be determined by the
30 commissioner of capital asset management and maintenance, in consultation with the
31 commissioner of conservation and recreation, after completion of a survey. The easement shall
32 be subject to such additional terms and conditions as the commissioner of capital asset
33 management and maintenance, in consultation with the commissioner of conservation and

34 recreation, may prescribe, to ensure that environmental impacts associated with the use of the
35 parcel described in section 1 are addressed and that the conveyance results in a net benefit to the
36 park system operated by the department of conservation and recreation. No instrument executed
37 pursuant to this act shall be valid unless it provides that the easement shall only be used for the
38 purposes described in section 1. The instrument shall include a reversionary clause that
39 stipulates the easement shall revert to the commonwealth and be assigned to the care, custody
40 and control of the department of conservation and recreation, upon such terms and conditions as
41 the commissioner of capital asset management and maintenance may determine, if the property
42 ceases to be used for the express purposes authorized in this act. Notwithstanding section 7 of
43 chapter 184A or any other general or special law to the contrary, the commonwealth's
44 reversionary interest in the easement under this section shall be permanent. If any interest
45 reverts to the commonwealth, any further disposition shall be subject to sections 32 to 37,
46 inclusive, of chapter 7C of the General Laws and the prior approval of the general court.

47 SECTION 4. The consideration for the easement authorized in subsection (a) shall be an
48 amount equal to the full and fair market value or the value in use, whichever is greater, of the
49 easement as determined by an independent appraisal commissioned by the commissioner of
50 capital asset management and maintenance and shall be deposited in the Conservation Trust,
51 established by section 1 of chapter 132A of the General Laws, and used by the department of
52 conservation and recreation for purposes of advancing the recreational and conservation interests
53 of the commonwealth.

54 SECTION 5. Notwithstanding any general or special law to the contrary, the inspector
55 general shall review and approve any appraisals required pursuant to section 4. An appraisal for
56 the full and fair market value of the easement shall be prepared in accordance with usual and

57 customary professional appraisal practices by a qualified appraiser commissioned by the
58 commissioner of capital asset management and maintenance. The inspector general shall prepare
59 a report of his review of the methodology utilized for the appraisal and shall file the report with
60 the commissioner of capital asset management and maintenance, the house and senate
61 committees on ways and means and the joint committee on state administration and regulatory
62 oversight. The commissioner of capital asset management and maintenance shall, 30 days before
63 the grant of an easement authorized by this act, or a subsequent amendment thereto, submit the
64 proposed easement and a report thereon to the inspector general for his review and comment.
65 The inspector general shall issue his review and comment within 15 days after receipt of the
66 proposed easement. The commissioner shall submit the proposed easement, and the reports and
67 the comments of the inspector general, if any, to the house and senate committees on ways and
68 means and the joint committee on state administration and regulatory oversight at least 15 days
69 before the execution of the easement.

70 SECTION 6. The conveyance of the easement pursuant to section 1 shall be conditional
71 upon the company mitigating the environmental impact of the easement on the park. To ensure a
72 no-net-loss of lands protected for conservation purposes, in addition to the consideration due
73 under section 4, mitigation shall consist of: (1) improvements by the company to an existing
74 parking area; (2) the design and implementation by the company of a landscape plan for the
75 immediate easement area, which plan shall be subject to the review and approval of the
76 commissioner of the division of capital asset management and maintenance, in consultation with
77 the commissioner of the department of conservation and recreation; and (3) a \$25,000 payment
78 into the Chestnut Hill Reservation Improvement Fund established in section 7.

79 SECTION 7. (a) There is hereby established and set up on the books of the
80 commonwealth a separate fund, to be known as the Chestnut Hill Reservation Improvement
81 Fund to be administered by the commissioner of conservation and recreation, without prior
82 appropriation, for the purpose of making improvements to the Chestnut Hill Reservation that
83 advance the recreational and conservation uses of the reservation. The fund shall be credited
84 with: the payment required pursuant to section 6; gifts, grants and other private contributions
85 designated to be credited to the fund; all other amounts credited or transferred to the fund from
86 any other fund or source; and interest earned on any monies within the fund. Any balance in
87 the fund at the end of the fiscal year shall not revert to the General Fund and shall remain
88 available for expenditure in subsequent fiscal years; provided, however, that any unexpended
89 balance in the fund on December 30, 2020 shall revert to the General Fund.

90 (b) All improvements to the Chestnut Hill Reservation made through expenditures from
91 the fund shall be agreed upon by the commissioner of conservation and recreation and the
92 Friends of the Chestnut Hill Reservation.

93 (c) For purposes of this section, the Chestnut Hill Reservation shall consist of: (1) the
94 parcel described in section 1; and (2) the abutting state-owned parcel managed by the department
95 of conservation and recreation identified as parcel 2102472000 by the assessing department of
96 the city of Boston.

97 SECTION 8. Notwithstanding any general or special law to the contrary, the company
98 shall be responsible for all costs and expenses including, but not limited to, actual costs incurred
99 in connection with any engineering, surveys, appraisals and easement preparation related to the
100 easement authorized in this act.

101 SECTION 9. Section 7 is hereby repealed.

102 SECTION 10. Section 9 shall take effect on December 31, 2020.