

HOUSE No. 4993



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August 8, 2024

To the Honorable Senate and House of Representatives,

Pursuant to Article LVI, as amended by Section 3 of Article XC, of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment House Bill No. H.2049, “An Act relative to the Auburn Water District.”

H.2049 would authorize the Auburn Water District to transfer, sell, convey, or otherwise dispose of 59 acres of land in the Town of Auburn determined by the District to be no longer needed for water supply purposes. The Bill authorizes the District to transfer the land subject to G. L. c. 30B, § 16. I agree with the determination made by the Clerks of the House and Senate that this Bill is subject to Article 97 of the Massachusetts Constitution. It appears that much of the 59 acres of land at issue may be protected under Article 97.

The Bill does not ensure mitigation or compensation for removing land from the protections of Article 97 and therefore is inconsistent with the provisions of G. L. c. 3, § 5A and the “No Net Loss” Policy established by the Executive Office of Energy and Environmental Affairs, both of which protect against the loss of public lands due to conversion to other purposes. The law and policy ordinarily require that any transfer of public lands subject to Article 97 be mitigated by dedicating or acquiring replacement land for Article 97 purposes. As the Bill does not identify or require Auburn Water District to dedicate replacement land, or require any other specific mitigation, it does not comply with this law or policy and would result in a net decrease of protected land in the Commonwealth.

The Bill also does not ensure compliance with the Department of Environmental Protection’s (MassDEP) procedures for reviewing proposed dispositions of watershed land. Under G. L. c. 40, § 41 and 310 CMR 22.24, water districts seeking to dispose of land used for

water supply purposes but no longer necessary for public water supply must seek approval from MassDEP, which may be granted following public notification and hearing. Through this important approval process, MassDEP protects public health and welfare by ensuring that the disposition of watershed land will meet minimum drinking water standards and will not adversely impact the quantity or quality of the water supply.

For the reasons stated above, I recommend that H.2049 be struck in its entirety and replaced with the following:-

SECTION 1. Notwithstanding chapter 585 of the acts of 1947, as amended by chapter 150 of the acts of 1981, or section 5A of chapter 3 of the General Laws, but subject to section 16 of chapter 30B of the General Laws, the Auburn water district may transfer, sell, convey or otherwise dispose of all or portions of the property located adjacent to 295 Leicester street in the town of Auburn, which was acquired by the district by deed recorded at the Worcester district registry of deeds in book 25575, page 87, said portion consisting of approximately 59 acres of land located off of the southeastern sideline of Leicester street in the town of Auburn and determined by the district to be not needed for water supply purposes; provided, however, that this section shall not apply to any land or interest in land subject to Article 97 of the amendments to the constitution of the commonwealth and unless all required approvals of the department of environmental protection are obtained pursuant to section 41 of chapter 40 of the general laws and any other applicable law or regulation.

SECTION 2. This act shall take effect upon its passage.

Respectfully submitted,

Maura T. Healey,
Governor