

SENATE No. 2226

Senate April 13, 2016 -- Offered by Senator Anne M. Gobi

The Commonwealth of Massachusetts



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

1 *Whereas*, there is pending before the General Court a bill, printed as House No. 753,
2 entitled “An Act preserving public trust rights in land affected by ocean erosion” (the “bill”), a
3 copy of which is attached to this order; and

4 *Whereas*, on March 10, 2016, the bill was reported favorably out of the joint committee
5 on Environment, Natural Resources and Agriculture and was referred to the Senate committee on
6 Rules; and

7 *Whereas*, the bill inserts a new provision in Section 35 of Chapter 91 of the General
8 Laws, providing that where natural processes have caused the landward or lateral movement of a
9 barrier beach into an area that was previously occupied by the bottom of any Great Pond or onto
10 any other public land, the portion of the barrier beach relocated into the former bottom of the
11 Great Pond or onto other public land shall be and remain in public ownership; and

12 *Whereas*, grave doubt exists whether the bill, if enacted, would comply with Article X of
13 the Declaration of Rights of the Constitution of the Commonwealth and the Fourteenth
14 Amendment to the Constitution of the United States; and

15 *Whereas*, some decision must be made on the current bill prior to the end of this
16 legislative session on July, 31, 2016; therefore be it

17 Ordered, that the opinions of the Honorable Justices of the Supreme Judicial Court be required
18 on the following important question of law:

19 Does House No. 753, if enacted, comply with Article X of the Declaration of Rights of
20 the Constitution of the Commonwealth and the Fourteenth Amendment to the Constitution of the
21 United States?