

SENATE No. 2603

The Commonwealth of Massachusetts

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

SENATE, July 16, 2018

The committee on State Administration and Regulatory Oversight, to whom was referred the petition (accompanied by bill, Senate, No. 2593) of Viriato M. deMacedo and David T. Vieira for legislation to authorize the Division of Capital Asset Management and Maintenance to grant easements to NSTAR electric company d/b/a Eversource Energy in return for NSTAR releasing or modifying easements for the benefit of the Commonwealth,- reports the accompanying bill (Senate, No. 2603).

For the committee,
Walter F. Timilty

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An Act authorizing the Division of Capital Asset Management and Maintenance to grant easements to NSTAR electric company d/b/a Eversource Energy in return for NSTAR releasing or modifying easements for the benefit of the Commonwealth..

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 the division of
3 capital asset management and maintenance, in consultation with the department of fish and
4 game, may convey or modify permanent and perpetual easements over, under and through
5 portions of property owned by the commonwealth under the care, control and use of the division
6 of fisheries and wildlife in the department of fish and game located in the town of Bourne
7 Massachusetts, to NSTAR Electric Company d/b/a Eversource Energy, a Massachusetts
8 corporation, its successors and assigns, solely for the purposes of clearing and keep cleared of
9 trees, structures and buildings and the right to construct, maintain, access, operate, replace,
10 repair, patrol, abandon and remove underground and overhead electric transmission and
11 distribution lines and equipment and poles, structures, conduits or other appurtenances and
12 fixtures along with the construction and maintenance of substation fixtures and appurtenant
13 facilities for the transmission of electricity, subject to the provisions of section 3 through 5 and to

14 such reasonable additional terms and conditions consistent with this act as the commissioner of
15 the division of capital asset management and maintenance, in consultation with the department of
16 fish and game, may prescribe.

17 The portions of land, over, under and through which the easements shall be granted or
18 modified are more particularly described as a portion of land located at 726 Sandwich Road in
19 Bourne, Massachusetts consisting of 146,101.39+/- square feet or 3.521 acres more or less
20 shown on a Plan of Land dated May 7, 2018 titled “BOURNE SUBSTATION PROPOSED
21 EASEMENT MODIFICATION, BOURNE MASSACHUSETTS” shown as parcels A, B, C, D,
22 E, F, G and H and recorded in the Barnstable District registry of deeds in Plan Book 675, Page
23 70 which plan is on file with the department of fish and game. Modifications to the easement
24 descriptions in said plan may be made in order to conform to the requirements of a decision by
25 the department of public utilities and with a final land survey, as accepted by the departments
26 and the division of capital asset management and maintenance, prior to any conveyance to carry
27 out this act. The final survey shall be recorded in the Barnstable District registry of deeds.

28 SECTION 2. The fair market value of the easements described in section 1 and the land
29 in section 5, or the value in use as proposed, shall be based on independent professional
30 appraisals, as commissioned by the commissioner of the division of capital asset management
31 and maintenance. NSTAR Electric Company d/b/a Eversource Energy shall compensate the
32 commonwealth in an amount greater than or equal to the full and fair market value, or the value
33 in use of the easements as proposed, whichever is greater, as determined by the independent
34 appraisals. NSTAR Electric Company d/b/a Eversource Energy shall assume all costs associated
35 with any engineering, surveys, appraisals, deed preparation and other expenses deemed
36 necessary by the commissioner of the division of capital asset management and maintenance to

37 execute the conveyances authorized by this act. All money paid to the Commonwealth by
38 NSTAR Electric Company as a result of the conveyance authorized by section 1 shall be
39 deposited in the general fund.

40 The commissioner of the division of capital asset management and maintenance shall
41 submit the appraisals and a report thereon to the inspector general for review and comment. The
42 inspector general shall review and approve the appraisals and the review shall include an
43 examination of the methodology utilized for the appraisals. The inspector general shall prepare a
44 report of the review and file the report with the commissioner of the division of capital asset
45 management and maintenance, and the commissioner shall submit copies of the appraisals, the
46 report thereon and the inspector general's review and approval and comments, if any, to the
47 house and senate committees on ways and means and the senate and house chairs of the joint
48 committee on state administration prior to the execution of the conveyances authorized by this
49 act.

50 SECTION 3. Notwithstanding any general or special law to the contrary, on the effective
51 date of this act, the division of fisheries and wildlife in the department of fish and game may
52 grant a temporary license, not to exceed 5 years, to NSTAR Electric Company, d/b/a Eversource
53 Energy in order to provide NSTAR Electric Company d/b/a Eversource Energy with immediate
54 and complete access to, control of and liability and responsibility for the easements described in
55 section 1 shall for the purposes of this act until the conveyances authorized by this act take
56 effect.

57 SECTION 4. No instrument conveying by or on behalf of the commonwealth an
58 easement described in section 1 shall be valid unless such instrument provides that the easement

59 shall be used solely for the purposes described in this act. The easement instrument shall include
60 a provision that shall state that in the event that the easement ceases to be used by NSTAR
61 Electric Company d/b/a/ Eversource Energy, or its successors or assigns, for the purposes
62 described in this act, the easement shall revert to the commonwealth under the care, control and
63 use by the division of fisheries and wildlife in the department of fish and game, upon the terms
64 and conditions that the commissioner of the division of capital asset management and
65 maintenance may determine. If the easement reverts to the commonwealth, any further
66 disposition of the easement shall be subject to sections 32 to 37, inclusive, of chapter 7C of the
67 General Laws and the prior approval of the general court.

68 The terms of the easement shall require that for the installation, maintenance and repair
69 of transmission lines in the easement area, the easement holder shall restore the surface condition
70 to the equivalent or better condition as determined by the division of fisheries and wildlife in the
71 department of fish and game.

72 SECTION 5. To ensure a no-net-loss of lands protected for natural resource purposes and
73 as a condition of the conveyance authorized in section 1, NSTAR Electric Company d/b/a/
74 Eversource Energy shall in addition to any compensation from NSTAR Electric Company d/b/a/
75 Eversource Energy to the Commonwealth required pursuant to section 2, compensate the
76 commonwealth for the easements described in this act through the release or modification of the
77 easements now owned by NSTAR Electric Company d/b/a Eversource Energy over
78 commonwealth property located at 726 Sandwich Road Borne Massachusetts more particularly
79 described as Parcel L on a plan dated May 7, 2018 titled "BOURNE SUBSTATION
80 PROPOSED EASEMENT MODIFICATION BOURNE, MASSACHUSETTS, and recorded in
81 the Barnstable District registry of deeds in Plan Book 675, Page 70, with such release or

82 modification of these easements specified in the plan, which is on file with the department of fish
83 and game. The easement interest therein to be released by NSTAR Electric Company d/b/a
84 Eversource Energy consists of 262,869 +/- square feet or 6.035 acres more or less and is shown
85 as parcel L on the plan. Upon the release of the easement by NSTAR Electric Company d/b/a
86 Eversource Energy, parcel L shall be permanently held and managed for conservation and fish
87 and wildlife purposes by the division of fisheries and wildlife in the department of fish and
88 game. If the appraised value of the easement interests therein released or modified pursuant to
89 this section shall be determined to be greater than the appraised value of the easement described
90 in section 1, the commonwealth shall have no obligation to pay the difference.