

SENATE No. 3106

Message from His Excellency the Governor (pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts) returning with recommendation of amendment the engrossed Bill authorizing the town of Nantucket to convey certain parcels of land acquired for conservation or recreational purposes (Senate, No. 3090)

The Commonwealth of Massachusetts



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LIEUTENANT GOVERNOR

August 10, 2022

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 Senate Bill No. 3090, “An Act authorizing the town of Nantucket to convey certain parcels of land acquired for conservation or recreation purposes” (“S.3090” or “Bill”). I would note that S.3090 was admitted to the legislature on July 28th of this year, less than 4 days before the end of the legislature's formal session. Given the abbreviated timeline, the bill was not subject to the normal scrutiny of the legislative process as might normally occur.

S.3090 would authorize the town of Nantucket to transfer, sell, or otherwise dispose of parcels of land that were acquired for conservation or recreational purposes and are protected under Article 97 of the Constitution of the Commonwealth of Massachusetts to accommodate a local roadway project or other purposes for a project that already occurred. The Bill authorizes the town to transfer the land under any terms and conditions that the select board deems appropriate.

The Bill does not ensure mitigation or compensation for removing this land from Article 97 and therefore violates the “No Net Loss Policy” established by the Executive Office of Energy and Environmental Affairs to protect against the loss of public lands due to conversion to

other purposes. The policy requires that any transfer of public lands must be mitigated by dedicating or acquiring replacement land for Article 97 purposes. As the Bill does not require mitigation, it does not comply with this policy and could result in a net decrease in the land in the commonwealth protected under Article 97.

For the reasons stated above, I recommend that Bill S.3090 be struck in its entirety and replaced with the following:-

SECTION 1. Notwithstanding any general or special law to the contrary, the town of Nantucket may transfer, sell, convey or otherwise dispose of all or portions of certain parcels of land located in the town from the conservation commission of the town of Nantucket to the select board of the town, for roadway or other municipal purposes. The parcels are shown as lots 35 to 38, inclusive, in block 31 on a plan of registered land recorded in the Nantucket county registry of deeds as plan 2408-M. The parcels were acquired by the town for conservation and recreation purposes by a deed recorded in said registry of deeds and registered as certificate number 22356 and are currently under the care, custody, management and control of the conservation commission and shown on a map entitled “2022 Annual Town Meeting Warrant Article 95 Home Rule Petition: Real Estate Conveyance A Portion of Ames Avenue” dated January 2022 and filed in the office of the town clerk.

SECTION 2. The disposition of the parcels authorized in section 1 shall be on such terms and conditions as the select board deems appropriate; provided, however, that as a condition of any disposition of land pursuant to section 1, and to ensure no net loss of land subject to Article 97 of the amendments to the constitution of the Commonwealth, the town of Nantucket shall convey to the care, custody and control of the conservation commission, and dedicate for conservation and recreation purposes pursuant to Article 97, land of equal or greater acreage, natural resource value, and fair market value or value in use, whichever is greater, as the land so disposed.

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

Respectfully submitted,

Charles D. Baker,
Governor