

HOUSE No. 5663

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, August 14, 1969.

The committee on Natural Resources and Agriculture, to whom was referred the interim report of the special commission established (under Chapter 86 of the Resolves of 1966 and most recently revived and continued by Chapter 5 of the Resolves of 1969) to make an investigation and study relative to the construction of bridges, tunnels, causeways, dams and the use of land fill to connect the various islands of the Boston Harbor to each other and to the use and development of lands near the mouth of the Neponset River and on the shores of Dorchester Bay (House, No. 5457), report the accompanying bill (House, No. 5663).

For the committee,

STEVE T. CHMURA.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Sixty-Nine.

AN ACT PROVIDING FOR AN ACCELERATED PROGRAM OF LAND ACQUISITION TO CREATE THE BOSTON HARBOR RECREATION, CONSERVATION, AND DEVELOPMENT PROGRAM.

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. *Declaration of Policy.*—It is hereby declared
2 that the public interest in the islands, shoreline and waters of
3 Boston harbor is in their beneficial use for a variety of
4 purposes; that certain islands, shoreline and conservation
5 lands bordering Boston harbor constitute an unique natural
6 resources of great value to the people of the commonwealth
7 for the purpose of providing increased opportunities for
8 public outdoor recreation close to the heart of a congested
9 urban area, for the purpose of proper conservation and
10 utilization of natural resources, and for the purpose of
11 providing opportunities for development of maximum public
12 benefit; that the public has an interest in the islands,
13 shoreline and waters as the most valuable single resource of
14 the entire metropolitan area; that the harbor is a single body
15 of water that can be used for many purposes but that the
16 harbor operates as a delicate physical mechanism in which
17 changes that affect one part of the harbor may also affect all
18 other parts.

19 It is further declared that, unless affirmative action is
20 taken, these objects will not be realized and these lands will
21 become a blighted open-area and detrimental to the safety,
22 health, morals, welfare or sound growth of the area, because
23 the present uncoordinated, haphazard manner in which the
24 islands, shoreline and waters of Boston harbor are being used
25 threatens the natural resource itself and is therefore inimical
26 to the welfare of both present and future residents of the
27 commonwealth; that while some individual projects may be
28 necessary and desirable for the needs of the entire metropoli-

29 tan area, and while some cities and towns may have prepared
30 detailed master plans for their own harbor lands and waters,
31 the fact remains that no governmental mechanism exists for
32 evaluating individual projects as to their effort on the entire
33 harbor area; that further piecemeal development of the
34 harbor area may place serious restriction on the use of the
35 area, may destroy the irreplaceable feeding and breeding
36 grounds of fish and wildlife in the harbor area, may further
37 adversely affect the quality of harbor waters and even the
38 quality of air in the area, and would therefore be harmful to
39 the needs of the present and future residents of the common-
40 wealth; that it is unduly costly to develop the area soundly
41 through the ordinary operations of private enterprise by
42 reasons of problems of access, by reason of the existence of
43 unsuitable soil or other geologic or physical conditions; by
44 reason of the need for unduly expensive foundations, cause-
45 ways, retaining walls, or unduly expensive measures for water
46 proofing structures or for filling or draining the area, or for
47 the prevention of the flooding thereof or storm damage
48 thereto, or for unduly expensive measures incident to
49 building around or over rights of way and navigational
50 channels in the area, or for otherwise making the area
51 appropriate for sound development; or by reason of obsolete,
52 inappropriate or otherwise faulty platting or subdivision,
53 deterioration of site improvements or facilities, location of
54 public facilities or operations which by reason of abandon-
55 ment, obsolescence, present use or otherwise detract from the
56 optimum use of the area, division of the area by rights of
57 way, diversity of ownership and control among public
58 agencies and private owners, or inadequacy of transportation
59 facilities or other utilities; or by reason of the difficulties of
60 development which will not endanger public welfare by
61 harming the ecological values of benefit to the public, or by
62 reason of tax and special assessment delinquencies; or be-
63 cause there has been a substantial change in business or
64 economic conditions or practices, or an abandonment or
65 cessation of a previous use, or by reason of any combination
66 of the foregoing or other conditions.

67 Therefore, it is hereby declared to be the policy of the

68 commonwealth that certain islands and shoreline in and
69 bordering Boston harbor should be immediately acquired by
70 or transferred to an agency which shall thereafter hold and
71 administer or transfer said lands in accordance with a com-
72 prehensive program to be approved by the legislature which
73 shall provide for the realization of these objectives, prevent
74 the creation or continuation of conditions to the detriment of
75 the public, promote the sound growth of the community in
76 order to eliminate substandard conditions and to prevent
77 their recurrence and to provide opportunities for housing,
78 education and employment. The acquisition of such lands by
79 eminent domain or otherwise, and the planning, clearance,
80 conservation, improvement and rehabilitation of such lands
81 for governmental, recreational, educational, hospital, or other
82 public purposes, including the provisions of streets, parks,
83 recreational areas and other open spaces, are declared to be
84 public uses and purposes for which public money may be
85 expended and the power of eminent domain exercised, and in
86 support of which private property may be regulated by
87 wholesome and reasonable orders, laws and directions.

1 SECTION 2. *Accelerated Acquisition.*—The department of
2 natural resources hereinafter referred to as the acquiring
3 agency, is hereby authorized to acquire the fee or any lesser
4 interest by gift, purchase or eminent domain under the
5 provisions of chapter seventy-nine or chapter eighty A of the
6 General Laws for the purposes of recreation and conservation
7 under a program described in section five, such islands or
8 portions of islands privately owned as are hereinafter named
9 and such other property as may be necessary or expedient
10 therefore: Thompson, Spectacle, Peddocks, Gallops,
11 Bumpkin, Greater Brewster, Middle Brewster, Outer Brew-
12 ster, Calf, Little Calf, Green, Raccoon, Hangman, Grape,
13 Slate, Sheep together with islets, rocks, and flats adjacent
14 thereto, provided that existing private uses not inconsistent
15 with the purposes of this chapter may be permitted to
16 continue subject to periodic review.

17 Said acquiring agency is further authorized to acquire by
18 gift or otherwise without cost to the commonwealth, any

19 island, islet, rocks, flat land or portion thereof in Boston
20 harbor owned by any city or town or agency of the federal
21 government.

1 SECTION 3. *Other Commonwealth Lands.*—The acquiring
2 agency shall designate such lands located in, under or bord-
3 ering Boston harbor south of a line drawn from Castle island
4 to the neck of Deer island which are owned or under the
5 control of any department, commission or agency of the
6 commonwealth and which are not actually being used as the
7 site of a public facility, such as a park, recreation area, road,
8 school, or sewage disposal site, and said land shall thereafter
9 be under the control of the acquiring agency for the purpose
10 of this act.

1 SECTION 4. *Tidelands License.*—No license shall be issued
2 under the provisions of chapter ninety-one for any tidelands
3 bordering on or lands under Boston harbor without express
4 legislative approval after the recommendations of the ac-
5 quiring agency.

1 SECTION 5. *Administration.*—Lands acquired by or trans-
2 ferred to the acquiring agency shall be held and maintained
3 for the purposes of this act under a program of maintenance
4 and improvement pending the completion and approval of a
5 comprehensive plan for the area, and the acquiring agency
6 may expend such sums as may be appropriated therefor.
7 Notwithstanding anything contained in the foregoing
8 sentence, the acquiring agency may expend, with the ap-
9 proval of the aforementioned special commission, such sums
10 as may be provided by section six of this act for the
11 development, redevelopment, construction and improvement
12 of outdoor recreation areas and associated facilities on lands
13 acquired or transferred to it under this act.

1 SECTION 6. *Capital Outlay.*—The acquiring agency is
2 hereby authorized and directed to expend a sum not to exceed
3 ten million dollars to carry out the provisions of sections two,
4 five and eight of this act, including all expenses in connection
5 therewith including planning, engineering, site feasibility

6 tests, surveys, and design. To meet the expenditures neces-
7 sary in carrying out the provisions of this act, the state
8 treasurer shall, upon request of the governor and council,
9 issue and sell at public or private sale bonds of the common-
10 wealth, registered or with interest coupons attached, as he
11 may deem best, to an amount to be specified by the governor
12 and council from time to time, but not exceeding in the
13 aggregate the sum of ten million dollars. All bonds issued by
14 the commonwealth as aforesaid shall be designated on their
15 face, Boston harbor islands Acquisition Act of 1969, and shall
16 be on the serial payment plan for such maximum term of
17 years, not exceeding twenty years, as the governor may
18 recommend to the General Court pursuant to section three of
19 Article LXII of the Amendments to the Constitution of the
20 Commonwealth, the maturities thereof to be so arranged that
21 the amounts payable in the several years of the period of
22 amortization other than the final year shall be as nearly equal
23 as in the opinion of the state treasurer it is practicable to
24 make them. Said bonds shall bear interest semi-annually at
25 such rate as the state treasurer, with the approval of the
26 governor, shall fix. The initial maturities of such bonds shall
27 be payable not later than one year from the date of issue
28 thereof, and the entire issue not later than June thirtieth,
29 nineteen hundred and ninety-nine. Seventy-five per cent of all
30 interest payments and payments on account of principal on
31 such obligations shall be paid from the metropolitan parks
32 district commission funds, to be assessed by methods, fixed by
33 law and the balance shall be paid by the commonwealth.

1 SECTION 7. *Federal Funds.*—The acquiring agency shall
2 have authority to contract with agencies of federal govern-
3 ment for the receipt of funds.

1 SECTION 8. *Planning.*—The acquiring agency together with
2 the special commission created pursuant to chapter eighty-six
3 of the resolves of nineteen hundred and sixty-six, to make an
4 investigation and study relative to the construction of bridges,
5 tunnels, causeways, dams and the use of land fill to connect
6 the various islands of the Boston harbor to each other and to
7 the mainland, and relative to the use and development of

8 lands near the mouth of the Neponset river and on the shores
9 of Dorchester bay, as most recently revived and continued by
10 chapter five of the resolves of nineteen hundred and sixty-
11 nine or its successor agency shall prepare comprehensive
12 plans to carry out the purpose of this act, may engage such
13 consultants as are necessary, and shall submit the results of
14 its investigation, study and planning to the legislature.

1 SECTION 9. *Severability*.—The provisions of this act hereby
2 declared to be severable and if any such provision or the
3 application of such provision to any person or circumstances
4 shall be held to be invalid or unconstitutional, such invalidity
5 or unconstitutionality shall not be construed to affect the
6 validity or constitutionality of any of the remaining pro-
7 visions of said sections or the application of such provision to
8 persons or circumstances other than those as to which it is
9 held invalid. It is hereby declared to be the legislative intent
10 that said sections would have been adopted had such invalid
11 or unconstitutional provisions not been included therein.

1 SECTION 10. *Powers of Other Agencies*.—This act shall not
2 be construed to limit the power or authority of any depart-
3 ment, board or commission of the commonwealth or of any
4 political subdivision thereof or any public authority except
5 where expressly provided otherwise herein; provided, how-
6 ever, that in, under or bordering the Boston harbor there
7 shall be no acquisition of land by any such public agency or
8 instrumentality other than the acquiring agency without the
9 approval of the acquiring agency, and no public land on or
10 bordering said area may be sold, leased or used as a dump or
11 refuse disposal area, and no sand, gravel or soil may be
12 removed therefrom or deposited thereon, and no structure
13 may be built thereon, without the approval of the acquiring
14 agency.

1 SECTION 11. *Definition of Area*.—For the purposes of this
2 act, Boston harbor shall be defined as that portion of the
3 body of water shown on chart 246, 32d ed., Feb. 26, 1968,
4 "Boston Harbor", U.S. Coast and Geodetic Survey, which lies
5 to the west of a line beginning at the tower on Allerton Hill in

6 Hull, thence running to the eastern most point on Outer
7 Brewster Island, thence running to the Graves lighthouse,
8 and which lies to the south of a line beginning at the Graves
9 lighthouse, thence running to the most northwesterly point of
10 Deer Island, thence running to the most northerly point of
11 Spectacle Island, thence running to the monument on the
12 northeasterly shore at Fort Independence, Castle Island,
13 South Boston. This area includes Dorchester Bay, Quincy
14 Bay, Hingham Bay, and Hull Bay and all creeks and rivers
15 emptying therein to the limits of the rise and fall of the tide,
16 and all islands, flats, marshes and shores bordering on said
17 body of water.