

# HOUSE . . . . . No. 2999

By Messrs. Ames of Easton and Silva of Gloucester, petition of John S. Ames III and other members of the House for legislation to establish an open land reservation program for the preservation of open spaces. Natural Resources and Agriculture.

## The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Two.

AN ACT ESTABLISHING AN OPEN LAND RESERVATION PROGRAM FOR THE PRESERVATION OF OPEN SPACES, IN PRIVATE OWNERSHIP, THROUGH PAYMENT FOR THE RIGHT OF INTEREST CONVEYED.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 21 of the General Laws is hereby amended by  
2 adding the following nine sections: —

3 *Section 59.* There is hereby established under the Secretary  
4 of Environmental Affairs the Massachusetts lands commission,  
5 hereinafter referred to as the commission, which shall be un-  
6 paid and which shall consist of the commissioner of natural  
7 resources who shall be the designated chairman, the commis-  
8 sioner of community affairs or his designee, the commissioner  
9 of corporations and taxation or his designee, the commissioner  
10 of commerce and development or his designee, the commis-  
11 sioner of public works or his designee, and three persons to be  
12 appointed by the governor. Upon the expiration of the term of  
13 office of an appointive member his successor shall be appointed  
14 for a term of three years. The members of the commission may  
15 be reimbursed for expenses incurred in carrying out their of-  
16 ficial duties. The commission shall meet monthly and at the  
17 call of the chairman, or any three members, and shall consult  
18 on matters relating to the reservation of lands and waters  
19 within the commonwealth in their natural or open state.

20 *Section 60.* The commission shall establish the criteria by  
21 which land may be designated as "classified open land" by  
22 cities and towns within the Commonwealth. In establishing said  
23 criteria, the commission shall consider certain factors, includ-  
24 ing, but not limited to, the following: Land use policies in the  
25 public sector of the commonwealth, including state regional  
26 and local policies; land use policies in the private sector of the  
27 commonwealth, including land development trends and private  
28 environmental protection measures; existing patterns of devel-  
29 opment as evidenced by community growth patterns; efficiency  
30 in local and regional use of land resources; compatibility of  
31 multiple land uses; and the effect of inequities of municipal tax  
32 burdens. The commission shall establish criteria to reflect  
33 among other things an adequate response to the demands  
34 imposed by population migration and growth; commercial and  
35 industrial development needs; agricultural requirements and  
36 recreational and open space needs. The commission shall, in its  
37 deliberations consult with and consider plans of state, metro-  
38 politan, regional, county and municipal planning agencies. The  
39 commission may engage such assistants as it shall deem neces-  
40 sary to carry out the purposes of this section.

41 *Section 61.* Cities and towns within the Commonwealth may  
42 designate land and water areas within their boundaries which  
43 should be retained predominantly in a natural or open state by  
44 reason of the criteria established by the commission. Designa-  
45 tion shall be accomplished in the case of a city by majority  
46 vote of the city council, or board of aldermen with the further  
47 approval of the mayor, and in the case of a town, by majority  
48 vote of a town meeting or by a majority vote of each of the  
49 following agencies: board of selectmen, board of assessors,  
50 planning board, if any, and the conservation commission, if  
51 any. Said designation shall be subject to the final approval of  
52 the commission by majority vote thereof. Any parcel of land  
53 which lies within an area so designated shall become "classified  
54 open land" for the purposes of this section, upon the filing by  
55 the owner or owners thereof with the city or town clerk in  
56 which such parcel is located an instrument in the city or town  
57 for a period of not less than twenty years. Said instrument  
58 shall set forth such rights or interests in such land as will

59 prevent its development for use for any industrial, commercial  
60 or residential purpose, except farming, forestry and outdoor  
61 recreation, on such conditions as the city or town, subject to  
62 commission approval, shall prescribe. Such instrument shall be  
63 recorded in the registry of deeds for district in which the land  
64 lies by the city or town clerk within ten days after receipt  
65 thereof.

66 *Section 62.* Any person, desiring to recommend an area for  
67 consideration under this act may do so under such rules and  
68 regulations as the commission may require. The city or town in  
69 which the land is located shall act on such recommendation in  
70 accordance with the rules and regulations established by the  
71 commission no later than ninety (90) days after its receipt and  
72 shall notify the initiator in writing of its action.

73 *Section 63.* Payment for rights or interests conveyed shall be  
74 made by the city or town in which the land is located to the  
75 owner or owners of record in an amount equal to no more  
76 than fifty percent of the annual real estate tax on said land.  
77 Payments shall be made annually over the life of the con-  
78 veyance.

79 *Section 64.* Upon the petition of the owner of any parcel of  
80 "classified open land" as hereinbefore provided and the pay-  
81 ment or tender of payment by said owner of an amount equal  
82 to payments received, over the whole period during which the  
83 rights or interests have been conveyed, or two-thirds of the  
84 most recent assessed "full fair market" valuation of said  
85 parcel — whichever is greater —, the city or town clerk in which  
86 said parcel is located shall execute and deliver to said owner an  
87 instrument releasing all rights and interests heretofore granted,  
88 and upon said execution and delivery said land shall not remain  
89 classified open land. Any city or town may, in the same  
90 manner by which it approved designation of land, and by  
91 delivering to the owner an instrument releasing all rights and  
92 interests held by the municipality under this section, take such  
93 land out of such classification (a) unconditionally, or (b) upon  
94 terms and conditions as the municipality and owner may agree.

95 *Section 65.* The commission is empowered to adopt rules  
96 and regulations which shall provide procedures for designation,  
97 classification and reclassification, and criteria for designation.

98 Such procedures and criteria shall comply with the purposes set  
99 forth in sections 59 through 67 and shall safeguard the use of  
100 lands for such purposes.

101 *Section 66.* Commission members appointed under section  
102 59 shall be appointed initially for terms of one, two and three  
103 years, respectively and thereafter shall be appointed in accor-  
104 dance with said section.