

By Mr. Marini of Hanson, petition of Francis L. Marini, Ronald W. Gauch, Mary S. Rogeness, George N. Peterson, Jr., Bradley H. Jones Jr., and David H. Tuttle relative to establishing an open space land acquisition program in the Commonwealth. Taxation.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO THE ESTABLISHMENT OF THE MASSACHUSETTS OPEN SPACE LAND ACQUISITION 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. For the purpose of this act, the following words  
2 shall have the following meanings: —

3 “Land Bank Fund”, town or city land bank funds established  
4 pursuant to section 5.

5 “Town or city open space committee” or “town or city com-  
6 mittee”, an agency, board, department, commission or committee  
7 appointed, designated or established by the board of selectmen or  
8 city council, to carry out the provisions of this act relative to  
9 acquiring open space. Nothing herein shall prohibit a town or city  
10 from appointing or designating a local nonprofit land trust or con-  
11 servation organization as said town or city committee.

1 SECTION 2. There is hereby established a Massachusetts Open  
2 Space Land Acquisition Program for the purpose of acquiring land  
3 and interests in land for the protection of public drinking water  
4 supplies, open space, and conservation land, the creation of  
5 walking and bicycling trails, and the creation of recreational  
6 areas.

1 SECTION 3. Any real property interest in open space pur-  
2 chased with land bank funds shall be retained in natural, scenic, or  
3 open condition and shall be bound by a permanent deed restriction

4 limiting the use of the interest to the purpose for which it was  
5 acquired. Said deed restriction shall run with the land and shall be  
6 enforceable by the town or city open space committee. Real prop-  
7 erty interests may consist of any of the following: (a) land to pro-  
8 tect existing and future well fields, aquifers and recharge areas;  
9 (b) agricultural lands; (c) forest land; (d) fresh and salt water  
10 marshes and other wetlands; (e) ocean and pond frontage,  
11 beaches, dunes and other coastal lands; (f) land to protect scenic  
12 vistas; (g) land for natural or wildlife preserve; (h) land and ease-  
13 ments for trails; and (i) land for recreational use. Notwithstanding  
14 the foregoing, town or city's may make improvements to promote  
15 recreation that are not inconsistent with such use.

1 SECTION 4. The board of selectmen or city council in each  
2 town or city of the Commonwealth, excluding those communities  
3 located in Barnstable County, shall appoint a town or city open  
4 space committee to carry out the purposes of this act. Town com-  
5 mittee or city council members shall serve without compensation.  
6 Said committee shall recommend to the town meeting or city  
7 council, acquisition of specified land areas which qualify as land  
8 bank purchases in accordance with the purposes set forth in  
9 section 3.

10 Said committee shall also recommend acquisitions of interests  
11 in real property and other expenditures consistent with section 3  
12 to the town meeting or city council. In considering the recommen-  
13 dations of any such acquisition, town committees or city councils  
14 shall use as a guideline local and regional open space plans,  
15 master plans, and local comprehensive plans, if any. Real property  
16 interests acquired by a town or city under this act shall be owned  
17 and managed by said town or city; provided, however, that the  
18 board of selectmen or city council, whichever is appropriate, may  
19 delegate management of such property to a nonprofit organization  
20 created under chapter 180 or chapter 203 of the General Laws, or,  
21 in the case of interests to acquire sites for future wellhead devel-  
22 opment, by a water company, a water district, a water supply dis-  
23 trict, or a fire district.

1 SECTION 5. Notwithstanding the provisions of section 53 of  
2 chapter 44 of the General Laws or any other general or special law

3 to the contrary, a town or city, excluding those communities  
4 located in Barnstable County, which votes to participate in the  
5 Massachusetts Open Space Land Acquisition Program shall estab-  
6 lish a separate account to be known as the Land Bank Fund for the  
7 purposes set forth in section 3. Such account shall be maintained  
8 by the treasurer, and the following monies shall be deposited into  
9 said account: (i) all monies collected from the additional excise  
10 under section 6 or bond proceeds in anticipation of revenue pur-  
11 suant to section 7; and (ii) any funds received from the common-  
12 wealth or any other source for such purposes; provided, however,  
13 that funds received from the commonwealth pursuant to  
14 section 10 shall provide a 50 per cent match only to those monies  
15 collected from the additional excise under section 6. The treasurer  
16 may invest the funds in such separate account in the manner  
17 authorized by sections 55 and 55A of said chapter 44. Any interest  
18 earned thereon shall be credited to and become part of such sepa-  
19 rate account.

20 A town or city may use land bank funds, in whole or in part, as  
21 matching funds for the purpose of providing a match under the  
22 land conservation program created under section 11 of chapter  
23 132A of the General Laws, under section 8 or under any other  
24 state or federal open space acquisition program consistent with the  
25 purposes of this act. The availability of funds under this act shall  
26 not affect the eligibility of any town or city to receive funds under  
27 said section 11 of said chapter 132A or to receive funds from any  
28 state or federal open space acquisition program. Not more than 3  
29 per cent of said funds may be used for maintenance and improve-  
30 ment to property purchased with land bank funds.

1 SECTION 6. Notwithstanding the provisions of chapter 59 of  
2 the General Laws or any other general or special law to the con-  
3 trary, any town or city, excluding those communities located in  
4 Barnstable County, which votes to participate in the  
5 Massachusetts Open Space Land Acquisition Program, in accor-  
6 dance with the provisions of this act, shall impose an additional  
7 excise on real property in an amount equal to 3 per cent of the real  
8 estate tax levy against said property. Said additional excise shall  
9 initiate with the next fiscal year for real estate tax bills following  
10 the vote of the town or city to participate in said program. The

11 amount of said additional excise shall not be included in any cal-  
12 culation of total taxes assessed for purposes of section 21C of  
13 chapter 59 of the General Laws. All exemptions and abatements  
14 of real property tax authorized by said chapter 59 or any other law  
15 for which a taxpayer qualifies is eligible shall not be affected by  
16 this act.

1 SECTION 7. Any town or city, excluding those communities  
2 located in Barnstable County, which votes to participate in the  
3 Massachusetts Open Space Land Acquisition Program, may issue,  
4 from time to time, general obligation bonds or notes in anticipa-  
5 tion of revenues to be received pursuant to section 6. Bonds or  
6 notes so issued may be at such rates of interest as shall be neces-  
7 sary and shall be repaid as soon after such revenues are collected  
8 as is expedient. Town or city's which choose to issue bonds pur-  
9 suant to this section shall make every effort to limit the adminis-  
10 trative costs of so issuing bonds by cooperating among each other  
11 using methods including, but not limited to, common issuance of  
12 bonds or common retention of bond counsel.

1 SECTION 8. There is hereby established in the executive office  
2 of environmental affairs, a program to provide for matching funds  
3 to be awarded to the participating town or city's for open space  
4 acquisition, watershed protection, recreational uses and related  
5 activities to protect the natural and recreational resources of the  
6 Commonwealth. To be eligible to participate in such grant pro-  
7 gram, a town or city, excluding those communities located in  
8 Barnstable County, must have voted to participate in the  
9 Massachusetts Open Space Land Acquisition Program in accord-  
10 dance with the provisions of this act. Annually on July 15, the  
11 secretary shall grant to each town or city, excluding those commu-  
12 nities located in Barnstable County, that votes to participate in  
13 said program, an amount from the Massachusetts Land  
14 Preservation Fund established in section 10. Said amount shall be  
15 50 per cent of the amount the comptroller certifies has been col-  
16 lected in the preceding fiscal year by such town or city from the  
17 additional excise under section 6.

1 SECTION 9. The state secretary shall cause the following ques-  
2 tion to be placed on the official ballot to be used in each of the  
3 town or city's comprising the Commonwealth, excluding those  
4 communities located in Barnstable County, at the biennial state  
5 election to be held in the year 1999:— "Shall an act passed by the  
6 general court in the year 1999 entitled 'An Act Relative to the  
7 Establishment of the Massachusetts Open Space Land Acquisition  
8 Program', to acquire open space and conservation land, provide  
9 bicycling and walking trails, enhance opportunities for recreation  
10 and protect public drinking water supplies, and to be funded by an  
11 additional excise on real property, but not affecting existing abate-  
12 ments and exemptions, and expiring on January 1, 2020, be  
13 accepted?" If a majority of votes cast in a town or city in answer  
14 to said question is in the affirmative, then this act shall take full  
15 effect in such town or city.

16 If a majority of votes cast in a town or city at said election in  
17 answer to said question is in the negative, then said town or city  
18 shall not participate in the Massachusetts Open Space Land  
19 Acquisition Program. If a majority of votes cast in a town or city  
20 at said election in answer to said question is in the affirmative,  
21 then said town or city shall participate in the Massachusetts Open  
22 Space Land Acquisition Program.

23 After the first two years following the effective date of this act  
24 and every two years thereafter, a town or city may, by a majority  
25 vote of those voting in the annual town or city election choose to  
26 participate in the Massachusetts Open Space Land Acquisition  
27 Program. Said program shall be effective at the beginning of the  
28 next fiscal year in any town or city which so chooses to partici-  
29 pate pursuant to this section.

1 SECTION 10. There shall be established and set up on the  
2 books of the Commonwealth a separate fund known as the  
3 Massachusetts Land Preservation Fund to be administered by the  
4 secretary of environmental affairs for the purpose of providing  
5 matching grants to municipalities in the Commonwealth that  
6 acquire land for open space and aquifer protection. Said fund shall  
7 be established as an expendable trust and not subject to appropria-  
8 tions. There shall be credited to said fund: all amounts received  
9 pursuant to section 11, section 12, section 13, and section 14

10 including, but not limited to, fines, penalties and any returned  
11 funds and interest thereon; any grant, gift, or other contribution  
12 explicitly made to said fund; and any income derived from the  
13 investment of amounts credited to said fund.

1 SECTION 11. The registrar of motor vehicles shall make avail-  
2 able to owners of private passenger motor vehicles registered in  
3 the Commonwealth, distinctive number plates which shall display  
4 on the face of said plate a design representing open space preser-  
5 vation. Such design shall be selected through a contest to be  
6 judged by the secretary of environmental affairs. Before selecting  
7 a contest winner, the secretary shall consult with the registrar of  
8 motor vehicles. There shall be a twenty-five dollar fee in addition  
9 to the established registration fee for passenger motor vehicles.  
10 Within thirty days after receipt of said fee, the portion of the fee  
11 remaining after the deduction of costs directly attributable to  
12 issuing said plate shall be transferred to the Massachusetts Land  
13 Preservation Fund.

1 SECTION 12. The commissioner of the department of environ-  
2 mental management, commencing July first, nineteen hundred and  
3 ninety-nine, shall increase fees charged for entrance to state parks  
4 in accordance with the following: for residents of the common-  
5 wealth, aged sixty-five or older, the fee shall be increased by fifty  
6 cents; for residents of the commonwealth under the age of sixty-  
7 five, the fee shall be increased by one dollar; for non-residents of  
8 the commonwealth, the fee shall be increased by two dollars.  
9 Within thirty days after receipt of said fee, the portion of the fee  
10 shall be transferred to the Massachusetts Land Preservation Fund.

1 SECTION 13. There shall be an assessment of two dollars on  
2 each deed transaction performed by the registry of deeds, pro-  
3 vided for under Section 1, Chapter 39 of the 1996 Official Edition  
4 and further amended by Section 11 of Chapter 300 of the Acts of  
5 1998. Said assessment shall be collected by the secretary of state  
6 and, within thirty-days of receipt, is directed to transfer such  
7 funds to the Massachusetts Land Preservation Fund.

1 SECTION 14. Under the provision of Chapter 62 of the 1996  
2 Official Edition, every individual who files a separate return may  
3 voluntarily contribute one dollar to be paid over to the  
4 Massachusetts Land Preservation Fund. In case of a joint return of  
5 husband and wife, each spouse may voluntarily contribute one  
6 dollar to said fund. A credit in the full amount shall be allowed  
7 against the tax imposed by chapter 62. The state treasurer shall  
8 deposit any monies collected under this provision to the  
9 Massachusetts Land Preservation Fund.

10 The comptroller is hereby authorized and directed to transfer  
11 the amounts stated in Section 11, Section 12, Section 13, and  
12 Section 14 to the Massachusetts Land Preservation Fund. Said  
13 amount shall be available for the disbursement until June  
14 30, 2020.

1 SECTION 15. Any acquisition for which a municipality seeks  
2 grants from said fund shall meet eligibility criteria established by  
3 said secretary. Said secretary shall annually on July 15 disburse  
4 from said fund 50 per cent of the amount the comptroller certifies  
5 has been collected in the preceding fiscal year by each such town  
6 or city from the additional excise under section 6.

7 Said eligibility criteria shall include, but need not be limited to,  
8 the requirement that any such acquisition shall confer a significant  
9 environmental benefit, shall be retained in natural, scenic or open  
10 condition, and shall be bound by a permanent deed restriction that  
11 runs with the land, which limits the use of the interest to the pur-  
12 pose for which it was acquired. Said eligibility criteria shall limit  
13 matching grants from said fund to only those properties approved  
14 for acquisition by a municipality after September 1, 2000.  
15 Matching grants shall only be permitted to be used for acquisi-  
16 tions consisting of interests in real property consisting of the uses  
17 contained in section 3.

1 SECTION 16. Sections 9 and 10 of this act shall take effect  
2 upon its passage. The remaining provisions of this act shall take  
3 effect upon its approval by a majority of all votes cast in each  
4 town or city pursuant to said section 9.

1 SECTION 17. This act shall expire on January 1, 2020.

