

HOUSE No. 4329

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph F. Wagner

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the conveyance of an easement in the city of Chicopee.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Joseph F. Wagner</i>	<i>8th Hampden</i>
<i>Eric P. Lesser</i>	<i>First Hampden and Hampshire</i>
<i>Thomas M. Petrolati</i>	<i>7th Hampden</i>

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By Mr. Wagner of Chicopee, a petition (subject to Joint Rule 12) of Joseph F. Wagner, Eric P. Lesser and Thomas M. Petrolati (with the approval of the mayor and city council) that the commissioner of Capital Asset Management and Maintenance be authorized to grant certain easements in the city of Chicopee. State Administration and Regulatory Oversight. [Local Approval Received.]

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to the conveyance of an easement in the city of Chicopee.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to authorize the conveyance of easements to the City of Chicopee, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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. (a) Notwithstanding sections 33 to 37, inclusive, of chapter 7C of the
2 General Laws or any other general or special law to the contrary, the commissioner of capital
3 asset management and maintenance, in consultation with the commissioner of conservation and
4 recreation shall grant a permanent subsurface easement through 2 parcels of land currently under
5 the care and control of the department of conservation, and recreation and held for conservation
6 and recreation purposes, to the city of Chicopee for the installation, maintenance, repair and
7 replacement of a redundant water transmission distribution system subject to the requirements of
8 this act and to such additional terms and conditions consistent with this act as the commissioner
9 of capital asset management and maintenance may prescribe in consultation with the

10 commissioner of conservation and recreation. The permanent easement shall be approximately
11 50 feet in width and contain an area of 210,626 square feet or 4.835 acres, more or less. The
12 permanent easement shall run under and through the parcels identified as parcel PE-7 and parcel
13 PE-8 on a plan entitled “Plan of Land in Chicopee, MA, Prepared For City of Chicopee,
14 Easement Plan, Redundant Water Transmission Main”, dated December 8, 2015 and prepared by
15 Sherman & Frydryk, LLC, Land Surveying and Engineering; being a portion of the land
16 described in a deed recorded with the Hampden county registry of deeds at book 2796, page 295.
17 The city of Chicopee shall prepare a survey of the easement sufficient for recording at the
18 Hampden county registry of deeds. Prior to finalizing the transaction or making the conveyance
19 required by this section, the division of capital asset management and maintenance may, in
20 consultation with the city of Chicopee, make minor modifications to the area and survey
21 document in order to carry out this act. The commissioner of capital asset management and
22 maintenance, in consultation with the commissioner of conservation and recreation shall also
23 grant to the city of Chicopee any temporary easements, licenses or permits necessary for the city
24 to access the permanent subsurface easement granted in accordance with this section, and to
25 otherwise install and maintain, repair or replace its redundant water transmission distribution
26 system, from time to time, without any further compensation or consideration from the city.

27 (b) An independent appraisal of the fair market value and value in use of the easement
28 described in subsection (a) shall be prepared in accordance with the usual and customary
29 professional appraisal practices by a qualified appraiser commissioned by the commissioner of
30 capital asset management and maintenance. Consideration for the grant of the easement shall be
31 the full and fair market value or the value in proposed use of the easement, whichever is greater,
32 as determined by the commissioner of capital asset management and calculated with regard to its

33 full development potential as assembled with other lands owned or otherwise controlled by the
34 grantee. The commissioner of capital asset management and maintenance shall submit any
35 appraisals to the inspector general for review and comment. The inspector general shall review
36 and approve any such appraisals and the review shall include an examination of the methodology
37 utilized for the appraisal. The inspector general shall prepare a report of such review and file the
38 report with the commissioner of capital asset management and maintenance for submission by
39 the commissioner to the house and senate committees on ways and means and the joint
40 committee on state administration and regulatory oversight. The commissioner shall submit
41 copies of the appraisals and the inspector general's review and approval and comments, if any, to
42 the house and senate committees on ways and means and the joint committee on state
43 administration and regulatory oversight at least 15 days prior to the execution of any documents
44 effecting the transfer described in subsection (a).

45 (c)(1) To ensure a no-net-loss of lands protected for natural resources purposes, the city
46 of Chicopee, as grantee, shall compensate the commonwealth for the interest in land described in
47 subsection (a) through a transfer to the department of conservation and recreation of land or an
48 interest therein, or funding for the acquisition of land or an interest therein equal to the value of
49 the land described in said subsection (a) as such value is determined pursuant to subsection (b).
50 The fair market value of the land described in paragraph (2), and any other land or interest
51 therein proposed to be conveyed by the city to the department, shall be included within the
52 appraisal prepared pursuant to said subsection (b). The land, interest in land or funding shall be
53 acceptable to the department of conservation and recreation and any land or interest therein
54 conveyed to the department shall be permanently held and managed for conversation and

55 recreation purposes by the department. The department shall appropriately record such
56 restriction with the Hampden county registry of deeds.

57 Should the appraised value of any proposed land or interest in land be determined to be
58 greater than the appraised value of the interest in land described in subsection (a), the
59 commonwealth shall have no obligation to pay the difference to the grantee. All payments to the
60 commonwealth as a result of the conveyances or grants authorized by this act shall be deposited
61 in the Conservation Trust established in section 1 of chapter 132A of the General Laws.

62 (2) In furtherance of the requirements of paragraph (1) the city of Chicopee may transfer
63 a portion of a parcel of land, or a lesser interest in a portion of such parcel, to the department of
64 conservation and recreation, identified as parcel A on a plan of land entitled “Exhibit ‘C’,
65 Proposed Mitigation Parcel, Redundant Water Transmission Main Project, Contract No. 1,
66 Chicopee, Massachusetts,” dated January 7, 2016, and prepared by by Tighe & Bond, Inc.; being
67 a portion of the land identified in a tax taking recorded with the Hampden county registry of
68 deeds at book 1682, page 195.

69 (d) The city of Chicopee shall assume all costs associated with engineering, surveys,
70 appraisals, deed preparation and other expenses deemed necessary by the commissioner of
71 capital asset management and maintenance to execute the conveyances authorized in this section.

72 (e) No instrument executed pursuant to this section shall be valid unless it provides that
73 the easement granted to the city of Chicopee shall be used solely for the purposes described in
74 this section. The instrument effecting the transfer authorized in subsection (a) shall include a
75 reversionary clause that stipulates the property shall revert to the commonwealth and be assigned
76 to the care, custody and control of the department of conversation and recreation, upon such

77 terms and conditions as the commissioner of capital asset management and maintenance may
78 determine, if the property ceases to be used for the express purposes authorized in this section. If
79 any interest reverts to the commonwealth, any further disposition shall be subject to sections 33
80 to 37, inclusive, of chapter 7C of the General laws and the prior approval of the general court.

81 SECTION 2. The city of Chicopee may use a portion of city owned land for the
82 installation, maintenance, operation, repair and replacement of a redundant water transmission
83 distribution system, which shall include a 30 inch redundant water transmission line, in order to
84 provide the residents of the city of Chicopee with a back-up water supply. The portion of city
85 owned land affected by the change in use contains 89,771 square feet or 2.061 acres, more or
86 less, identified as:

87 (1) parcel PE-8A, on a plan of land entitled “Plan of Land in Chicopee, MA, Prepared
88 For City of Chicopee, Easement Plan, Redundant Water Transmission Main”, dated December 8,
89 2015, and prepared by Sherman & Frydryk, LLC, Land Surveying and Engineering, being part of
90 the property commonly known as Williams Park and described in a deed recorded with the
91 Hampden county registry of deeds at book 11530, page 166; and

92 (2) parcels PE-9 and PE-16, on said plan, being part of the property commonly
93 known as Chicopee Memorial Golf Course and described in a deed recorded with the Hampden
94 county registry of deeds at book 3117, page 406.

95 The change in use shall not affect the continued use of such parcels by the parks and
96 recreation commission of the city of Chicopee or the golf commission of the city of Chicopee for
97 city park and municipal golf course purposes, respectively, or any rights of said parks and
98 recreation commission or said golf commission not adverse to the rights granted by this section.

99 In the event of any future sale, transfer, conveyance or disposal of the property identified
100 in this section, the city of Chicopee shall maintain a permanent easement in the property as
101 necessary for the continued maintenance, repair and replacement of its redundant water
102 transmission distribution system and any related purposes. The city shall execute and record
103 such easement with the Hampden county registry of deeds prior to or in conjunction with any
104 such future conveyance.

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