

# Public Policy Update

## MLTC Steering Committee Meeting

### September 23, 2022

### End state legislative session round up (sort of)

*What do you mean “sort of?”* Despite the Legislature “finishing” its two-year session on July 31<sup>st</sup>, we may still have a chance to get some bills passed if legislators can reach consensus. The Legislature meets year-round in two phases: “formal” sessions, during which contentious issues can be debated for the first 19 months, and “informal” sessions, when it passes routine and local bills or ones on which consensus has been reached.

### Enacted into Law

#### ***FY23 Operating Budget***

The Governor signed a \$52.7 billion budget, which included funding increases for all of the Green Budget Coalition priorities (see table below). In addition, for the second year in a row, language was included to reimburse the Inland Fish and Game Fund for the money lost by offering free licenses to certain demographics (~\$1M). These funds support fish and wildlife habitat protection, management, and restoration, and education and outreach. Unfortunately, an increase to the Conservation Land Tax Credit program’s annual cap was not included in the final budget.

	Line Item	FY22	FY23 Green Budget Ask	Final FY23 Budget
Div. of Ecological Restoration	2300-0101	\$3,250,000	\$4,000,000	\$4,300,000 *
Dept. of Env. Protection Admin.	2200-0100	\$33,434,358	\$45,000,000	\$45,400,000 **
Dept. of Conservation & Rec., Parks and Rec	2810-0100	\$50,500,000	\$83,000,000	\$85,021,706
EEA Climate	2000-0101	\$2,213,999	\$5,000,000	\$5,425,000 ***
EEA Environmental Justice	2000-0102	Not its own line item in FY22	\$1,300,000	\$1,333,014

\* includes \$300k in earmarks; \*\* includes 400k in earmarks; \*\*\*includes \$425k in earmarks

***Climate Change:*** After some back and forth with the legislature, the Governor signed *An Act Driving Clean Energy and Offshore Wind* into law on August 11<sup>th</sup>. The Next Gen climate law passed in 2021 provided the goals and targets for the state to achieve net zero by 2050; this new law provides some of the funding, policies and programs to achieve those goals, particularly around a clean energy transition. The law includes a focus on deploying solar development on agricultural land by establishing a Commission to explore barriers and make recommendations and reforming siting criteria by allowing siting solar projects of unlimited size on farmland enrolled under Chapter 61A. MLTC and partners expressed opposition to these provisions due to their lack of balance of stakeholders and environmentally preferable criteria; however, we are hopeful that there will be future opportunities to resolve conflicts among stakeholders and siting reforms.

## Still in Play

**Public Lands Preservation Act (PLPA):** The PLPA was first introduced more than 20 years ago to strengthen the Commonwealth's long-standing "No Net Loss" policy. That policy calls for public open space protected under Article 97 of the MA Constitution that is converted to a different use be replaced with land of equivalent natural resource value. Despite the bill making it further this session than ever before, the Conference Committee was unable to resolve differences between the House and Senate versions before the formal session deadline. MLTC joined 10 other partners in calling on the Committee to continue working towards an agreement that can pass the Legislature during an informal session this year. The partners are working to support the Committee in crafting a bill that is true to the intent of Article 97, enhances transparency and accountability in the administration of the policy, and, most of all, honors the public demand to protect precious parks and conservation land. See the latest partner letter [here](#).

**Economic Development Bill:** MLTC, along with a coalition of partners, advocated for an economic development bill, which included a tranche of American Rescue Plan Act (ARPA) dollars for conservation, outdoor recreation, restoration, and climate resiliency. Unfortunately, due to a 1980s-era tax rebate law, the Legislature failed to enact a final bill before the end of session. It is expected that the Conference Committee will continue to work on a slimmed down version of this bill. Partners continue to encourage the Committee to maintain funding for conservation and climate priorities and recently sent a [letter](#) to that effect to the Committee.

## State Legislative Update

In addition to the PLPA discussed above, the following other bills were selected as legislative priorities by the MLTC Policy Committee; however, it is very unlikely that they will move forward during the remainder of this session. Partners will be spending this fall conducting a postmortem and determining priorities for the next legislative session. It is likely that some of these bills will be refiled or updated/refiled in the new year.

- S.1986/H.2960, *An Act increasing the conservation land tax credit* (Sens. Tarr and Hinds; Reps. Jones and Pignatelli)
- S.603/H.4744, *An Act establishing a Massachusetts flood risk protection program* (Sen. Pacheco; Rep. Peake)
- H.2977, *An Act relative to the classification and taxation of urban public access land* (Rep. LeBoeuf)
- S.1875/H.2831, *An Act to reform payments in lieu of taxes for state-owned land* (Sen. Hinds; Rep. Blais)
- S.560, *An Act Establishing the Office of Outdoor Recreation* (Sen. Hinds)
- S.556/H.937, *An Act providing for the public health by establishing an ecologically based mosquito management program in the Commonwealth* (Sen. Hinds; Rep. Gouveia)
- S.2147 / H.3306, *An Act to Improve Outdoor Lighting, Conserve Energy, and Increase Dark-Sky Visibility* (Sen. Creem; Rep. Garbally)

## State Administrative Update

**MA Clean Energy and Climate Plan:** The Executive Office of Energy and Environmental Affairs' (EEA) [Clean Energy and Climate Plan for 2025 and 2030](#) (CECP) was released on June 30<sup>th</sup>, outlining specific strategies, policies, and actions to achieve a 33% reduction in greenhouse gas emissions in 2025, a 50% reduction in 2030, and to maximize the Commonwealth's ability to achieve Net Zero in 2050. For the first time the CECP includes

quantifiable goals for the natural and working lands sector and lays out actions to protect, manage, and restore nature both for immediate and future benefits.

At the [August meeting of the Implementation Advisory Committee](#), EEA announced that in September 2022 it is launching a new online dashboard (alpha version) to track key metrics for monitoring implementation progress of the 2025/2030 CECP, including: key metrics on transportation, buildings, electricity, non-energy and industrial sectors, and natural and working lands; links to key resources such as financial incentives and information for residents, municipalities, and businesses to decarbonize and to protect the carbon sequestration capacity of natural and working lands; regularly updated new/revised data and information as available.

EEA is now turning its attention to the 2050 CECP, which will be released by the end of the calendar year. EEA has announced it will conduct public hearings late September through early October on the proposed 2050 emissions limit and the plan and launch a stakeholder process to inform development of the natural and working lands plan.

### ***DCR Landscape Designations Review***

DCR is in the process of reviewing their [2012 DCR Landscape Designations and Management Guidelines](#) as part of a 10-year review and are hosting series of public meetings in August and September to gather feedback on the review assessment, incorporate feedback on evolving climate concerns, and discuss designations for properties acquired since 2012. DCR encourages the public to share additional feedback, with a deadline for receipt of comments by DCR of **September 28, 2022**. Comments may be submitted online at [www.mass.gov/dcr/public-comment](http://www.mass.gov/dcr/public-comment). More information on the designations and the review process are available [here](#) and in [this story map](#).

### ***Mosquito Control Task Force***

As previously reported, the Mosquito Control for the 21<sup>st</sup> Century Task Force finalized its [recommendations earlier this year](#). The Task Force overwhelmingly agreed that Massachusetts' mosquito management system needs to be overhauled, recommending that the legislation that created our current system be repealed and replaced with a more modern approach based on science and with public input. The Task Force also recommends enhancing coordination with wetlands restoration and stormwater systems design, streamlining opt-out that would make it easier for large landowners like land trusts to exclude their properties from routine spraying, and better monitoring the impacts of pesticide use. The [Massquito Coalition](#) will be working to get reform legislation filed next session to put these recommendations into effect.

This year, EEA's program for [municipal opt-outs](#) was revised, making it much more difficult for communities to avoid spraying ordered by the state. Fortunately, the [risk of mosquito-borne disease](#) has been very low this year so the state has not spraying (other than the routine truck based spraying the districts conduct). The state's authority to spray without local approval expires 12/31/22, and advocates are watching for any provision inserted in a bill to extend that authority. Several pesticides used widely in the program are highly toxic to bees, fish, and many other beneficial species. See the [NOFA website](#) for more information on this effort and the reform bill.

### ***Solar Energy Siting***

The Department of Energy Resources is conducting a [Technical Potential of Solar Study](#) at the urging of TNC, Mass Audubon, AMC, MLTC and other organizations. The goal of the study and stakeholdering is to provide a detailed, statewide, hierarchical spatial analysis of solar siting suitability and to make policy recommendations designed to deploy solar to meet our decarbonization goals and to avoid and minimize impacts to important and sensitive natural resources. The study will also include a greenhouse gas analysis and a policy analysis and recommendations. **DOER's public survey on solar siting is now live**, and they have also updated their [website](#) with more information about the study and two upcoming virtual public meeting dates in early October (5<sup>th</sup> and 11<sup>th</sup>).

The MA Supreme Judicial Court issued a [decision](#) on a case (SJC-13195) in Waltham, ruling against the City and finding that municipalities need to be careful to firmly ground any solar siting restrictions in the protection of public health, safety and welfare under the zoning exemption codified in M.G.L. Ch. 40A S.3.

## Looking Ahead

### ***Preparing for the next administration***

This November 8th, a new governor will be elected to lead Massachusetts. We are preparing this fall so that we can hit the ground running in January. MLTC joined 27 other 501(c)(3) charitable organizations focused on energy, environment, and justice to produce a *Massachusetts Climate and Environmental Policy Briefing Book* for educational purposes. The briefing book was provided to all gubernatorial candidates, as well as lieutenant governor and attorney general candidates, and the group briefed interested campaign staff over the summer. The book may be adapted to be a transition document to be provided to the incoming administration after the election.

### ***New Legislators***

We are in the thick of election season, and there is going to be a significant turnover in the legislature. According to State House News, “Five Senate districts and 19 House races have open races this year, enough to guarantee that roughly one in every eight lawmakers sworn in for the 2022-2023 term will be new.” Once the general election is over, it will be a great time to reach out to your new members, congratulate them, and set up meet and greets (like a site visit) to share your work and priorities.

## Federal Policy Update

### **Inflation Reduction Act**

President Biden signed the *Inflation Reduction Act* into law on August 16<sup>th</sup>, taking a historic step forward for climate, clean energy, and conservation. This new law is expected to reduce carbon emissions by roughly 40 percent by 2030, putting the U.S. within reach of its international commitments. It provides \$370 billion for clean energy and climate investments over 10 years, which will not only advance clean energy and reduce emissions but will also support climate adaptation and natural climate solutions work. Of note, the law includes:

- \$700 million for the Forest Legacy Program;
- \$19.85 billion across EQIP, CSP, ACEP, and RCPP;
- \$1.5 billion for the Urban and Community Forestry Assistance program;
- \$450 million in competitive grants for underserved or small private forest landowners to carry out climate mitigation practices and participate in emerging private markets.
- \$2.6 billion for the conservation, restoration, and protection of coastal and marine habitats for climate resiliency; and more.
- \$3 billion to EPA for environmental and climate justice block grants to help reduce greenhouse gas pollution and/or mitigate climate risks in disadvantaged communities.

### **Charitable Conservation Easement Program Integrity Act Amendment**

On June 22nd, the U.S. Senate Finance Committee marked up the Enhancing American Retirement Now Act (EARN Act). As part of the mark up, Sens. Steve Daines of Montana, Chuck Grassley of Iowa and Debbie Stabenow of Michigan filed an amendment to advance the Charitable Conservation Easement Program Integrity Act. Near the conclusion of the hearing, the amendment was voted on and approved by the full committee, 23-5. This is a significant development in our efforts to halt, once and for all, the abuse caused by a few bad actors. However, it is far from being signed into law.

The EARN Act will be combined with the Rise and Shine Act, which passed out of the Senate Health, Education, Labor and Pensions Committee in June and become the Senate version of the SECURE Act. The House passed the SECURE Act earlier this year. Congress is expected to conference the bill and it is possible it will be acted on as part of a larger package during the lame duck session after the November 2022 General Election.