

Public Policy Update
MLTC Steering Committee Meeting
September 23, 2020
Presented by Linda Orel, Policy Director, The Trustees

Great American Outdoors Act is now law!

The Great American Outdoors Act (GAOA) is now law, guaranteeing \$900 million in Land and Water Conservation Funds (LWCF) every year and providing over \$9 billion in deferred maintenance on federally owned lands and historic and cultural assets over the next 5 years. LWCF is funded by a small portion of offshore drilling leases. Over the 55 years of the program, LWCF was subject to congressional appropriations, and billions were diverted for non-conservation purposes. Going forward, LWCF will no longer be subject to appropriation. Massachusetts is expected to receive an increase in LWCF stateside investments, which can be used by state agencies, cities and towns to protect lands and waters, create urban parks, and build outdoor recreational facilities.

Thanks to land trusts' advocacy, GAOA passed the U.S. Senate (73-25) and the U.S. House of Representatives (310-107) with strong bipartisan support and was signed into law by the President on August 4th. Let's celebrate the biggest conservation win in a generation!

State Legislation

State Operating Budget Woes

In July, the state passed a \$16.5 billion three-month interim budget for Fiscal Year 2021 (FY21). Lawmakers plan to issue a full-year spending plan in October. The final FY21 operating budget depends on whether Congress will agree to provide financial aid to states (which is not looking promising, at least at this time). While the Green Budget Coalition continues to check in with policymakers about our FY21 priorities, due to significant reductions in state revenue and a commitment to fund Local Aid at levels consistent with FY20, the coalition is focused primarily on preventing disproportionate cuts to environmental agencies (as happened after the 2008 recession).

Pending State Climate Policy

In January, the state Senate passed the Next Gen Climate bill and in July, the House passed the 2050 Roadmap bill. Both bills establish goals for reaching "Net Zero" greenhouse gas emissions by 2050 (of 1990 emission levels). The two bills set interim emissions targets and advance other multi-sector emissions reductions efforts. Provisions around land-based carbon – a critical sector – were adopted by both the Senate and House. Natural Climate Solutions (NCS) are actions to protect, restore, and better manage land-based natural resources to remove GHG from the atmosphere, and they are vital to reach the state's Net Zero goals. With the implementation of available land use practices today, NCS in Massachusetts have the potential to remove and reduce an additional 1-2 million metric tons of greenhouse emissions per year by 2030. The NCS language directs the Executive Office of Energy and Environmental Affairs to measure the carbon stored by and released from land-based natural resources; set numeric goals for increasing the carbon stored by the land; and create a plan to reach those goals via state policies and funding. The House also included a new and important Environmental Justice provision, which includes long-awaited protections for EJ communities suffering from pollution and climate impacts.

The two chambers are currently working through their respective bill's differences in a climate conference committee. Once the bills are reconciled, the NCS policy will become part of the state's powerful Global Warming Solutions Act. We expect final legislation to be enacted by both branches of the Legislature and signed by Governor Baker later this fall. Representative Joan Meschino, who authored and championed passage of the 2050 Roadmap bill in the House, will provide a legislative update during the MLTC meeting.

Pending State Economic Development Legislation

Advocates were successful in working with both the House and Senate to include climate resilience, including nature-based solutions, as an eligible project type for two grant and technical assistance programs created in the new economic development bill. The bills are currently be reconciled in Conference Committee. Partners are pushing for the Committee to adopt the Healthy Soils policy that made it into the Senate's version of the bill and to make some technical changes regarding the definitions of Natural Resources Protection Zoning and Transfer of Development Rights.

Hope for the Public Lands Protection Act?

The coalition advocating for the Public Lands Protection Act (PLPA) has condensed the original bill down to one paragraph in hopes that it will move this session. The PLPA would codify the current state policy that there be no net loss of lands, or easements, protected under Article 97 of the Massachusetts Constitution. Any replacement land must be of comparable acreage, location, fair market value, and natural resource value. This bill will allow for waivers from the replacement land requirement if the disposition involves only transfer of legal control between public entities. In late July, House leadership indicated an interest in PLPA, and partners, including MassLand, sent a letter of support for the new language to House Ways and Means Chair Michlewitz in early September.

Mosquito Control Emergency Legislation Becomes Law

In July, a new law passed that is designed to revamp the state's approach to mosquito management, spurred by the filing of emergency legislation meant to address a projected, increased risk of mosquito-borne diseases, including West Nile Virus and Eastern Equine Encephalitis. Advocates pushed against indiscriminate spraying of toxic insecticide sprays that target adult mosquitoes and successfully improved the legislation by requiring transparency around making public health determinations, 48 hours public notice before mosquito spraying, and a process to allow people and communities to opt-out of spraying. The new law sunsets any new state powers after two years, and establishes a Mosquito Control Task Force, which has already started to meet.

General Legislative Update

The legislature has agreed to extend their formal session; however, it remains unclear what bills, besides the state operating budget and those under reconciliation in conference committee, will move forward. Advocates continue to look for opportunities to advance legislation (like the CLTC) this session, though it seems unlikely.

Priorities for 2021-2022 Legislative Session

The next two-year legislative session in Massachusetts begins in January 2021. We expect multiple bills to be filed that will potentially impact land trusts. Below is an initial list – this is not comprehensive or final.

- Conservation land tax credit: This bill would raise the annual cap from \$2 to \$5 million over three years; amend the definition of a "public or private conservation agency" that may receive donations of land; and provide a ten-year sunset.
- Protecting pollinators: This legislation would prohibit the use of neonicotinoid pesticides to any person other than a certified applicator. It also requires certain notifications regarding the danger of neonicotinoids.
- Establishing a new Office of Outdoor Recreation: This bill would establish a new office within EEA to promote and market outdoor recreational activities statewide, support economic development in Massachusetts, and improve the quality of life, health and well-being of the state's residents. 16 states have such offices.
- Public Land Protection Act: If this bill does not pass this fall, then we are confident it will be considered next session. For details, please see above.
- Flood Risk Recovery Program: Several partners are in the process of drafting original, comprehensive legislation, also known as "buyback" or "buyout" policy. A new program would allow nonprofit partners, state agencies and cities and towns to work together to use existing bond funds to purchase inland and coastal properties that suffer chronic storm damage or are threatened by major climate change impacts.

We also expect these topics to come up next year for consideration:

- Environmental/Climate Justice: Next steps will depend on whether the EJ language is included in the final climate bill, or not, this session. EJ considerations will be critical for environmental legislation.
- No Net Loss of Forests/Carbon/Ecosystem Services: The idea of “No Net Loss” has come up in a range of conservations, including the Resilient Lands Initiative, but what such a policy might look like is still being discussed.
- Forest cutting: There was a bill this session to limit forest harvesting on state lands. It was amended to create a commission - depending on whether that moves, we may see legislation filed about this again.
- PILOT payments: This session saw several bills to address equity in PILOT payments. If none of them pass, this will likely come up again.
- Funding for Climate Resiliency: Despite several proposals for funding this session, it does not seem likely that there will be any new funding sources created. Partners are having conversations now about potential funding sources, and we expect at least one proposal to be filed next session.

Administration

SMART Solar Regulations are finalized

The Department of Energy Resources recently improved and increased state incentives that promote solar development under the state’s Emergency Regulations for the Solar Massachusetts Renewable Target (SMART) program, while protecting pristine natural resources. DOER doubled SMART program capacity from 1600 MW to 3200 MW and increased state solar incentives for projects on developed areas, such as, rooftops, brownfields, and parking lots, while limiting the use of state financial incentives for solar development proposed in Priority Habitat, Core Habitat and Critical Natural Landscapes. Going forward, state incentives will support pending solar projects in these natural areas, but incentives will not be available for future projects.

Municipal Vulnerability Preparedness (MVP) Program

With the recent grant announcement, 89% of MA communities are now enrolled in the MVP program. \$11.1 million was awarded to communities for planning and action grants. For more on the project funded, see EEA’s press release [here](#).

Mohawk Trail Woodlands Partnership

EEA just announced \$225,000 in grant funding to eight municipalities and a regional economic development organization to support forest stewardship and conservation, trail improvements, and nature-based tourism in the Mohawk Trail Woodlands Partnership region. More [here](#).

Federal Policy

Charitable Conservation Easement Program Integrity Act (H.1992 and S.170)

On August 25, the Senate Finance Committee released its [final report](#) on the investigation into abuse of charitable tax laws through syndicated conservation easement transactions. The report found that the “...transactions [are] designed to provide tax deductions to high-income taxpayers by way of (1) inflated appraisals of undeveloped land through (2) partnership entities that appear to serve no non-tax business purpose for existing other than the provision of tax deductions.”

The Charitable Conservation Easement Program Integrity Act of 2019 (S. 170/H.R. 1992) is one of the most important approaches to curbing these abuses. The legislation would limit the amount that could be deducted within the first three years of ownership to no more than 2.5 times the amount initially invested in the property. It’s estimated that this legislation would generate \$6.6 billion in additional revenue between FY19 and FY22.

Conservation groups across the country are working to get House and Senate co-sponsors for this legislation. Please contact your Reps! (Rep. McGovern is the only MA member to co-sponsor.)

Recovering America's Wildlife Act (HR.3742)

The House of Representatives adopted the Recovering America's Wildlife Act as an amendment to the Moving Forward Act (the House's \$1.5 trillion transportation and infrastructure package), which was passed by the House in July. The bill would dedicate roughly \$1.4 billion to the Wildlife Conservation Restoration Program for proactive, voluntary efforts led by the states, territories and tribal nations to prevent vulnerable wildlife from becoming endangered. Fact sheets from the National Wildlife Federation is available [here](#) and from Alliance for America's Fish and Wildlife [here](#).

Stimulus Efforts

Despite continued conversations around stimulus efforts, at this point, we do not expect to see any significant action anytime soon.