



MASSACHUSETTS  
LAND TRUST  
COALITION

## Public Policy Update

March 8, 2024

### Healey-Driscoll Administration Updates

#### Conservation Restriction Review Backlog

MLTC continues to field many questions and concerns from member land trusts about delays in review and approval of Conservation Restrictions (CRs) by the Executive Office of Energy and Environmental Affairs (EEA). We have been advocating and strategizing with senior leaders at EEA on this matter for over two years now, most recently in meetings with EEA staff on March 4 and 5<sup>th</sup>. Given the sheer size of the backlog that accumulated during staff transitions, and the high volume of new CRs that continue to come in for review, the problem has been slow to resolve. EEA continues to employ contract reviewers to help with the backlog, and an additional staff person to assist with review is scheduled to start on March 11. As we learned in December 2023, EEA also approved engaging an external law firm to assist with legal review, but as of March 6 the firm had yet to be brought on board.

#### PLPA Implementation

The Executive Office of Energy and Environmental Affairs (EEA) maintains [a website](#) with a great deal of information of importance to any community facing proposed diversion of public parks and conservation land to another use. It includes guidance for how to comply with *An Act conserving open space in the Commonwealth* (commonly referred to as the Public Lands Preservation Act, or 'PLPA'), which took effect on February 17, 2023. The PLPA Guidance and Frequently Asked Questions sections provide important information on what has changed under the new law. In recent weeks, a new [“PLPA Portal”](#) was launched on this webpage that proponents are instructed to use to submit materials for EEA’s review under provisions of the law. We are now anxiously waiting for launch of the “PLPA Tracker”, which will provide public access to information on such submissions, and updates on status of any EEA review or legislative action on the proposals. We are also anxious to review and comment on draft regulations, which are due no later than mid-May, per provisions of the law.

#### Energy Infrastructure Siting Commission

On September 26, 2023, Governor Healey [signed an Executive Order creating the Commission on Clean Energy Infrastructure Siting and Permitting](#) (CEISP) and swore in Commission members, including representatives from TNC, Mass Audubon, and MACC. To meet the emissions limits and Net Zero goals outlined in the Clean Energy and Climate Plans, Massachusetts will need to site a significant amount of new energy infrastructure, including new solar and wind generation, storage, transmission and distribution infrastructure. The CEISP is charged with providing recommendations on legislation, regulations and policies to reform siting and permitting to rapidly deploy ‘clean’ energy generation, storage, and infrastructure to meet energy and climate goals, enhance stakeholder engagement, and avoid impacts on nature and people. The Commission is expected to have recommendations completed by March 31, 2024. **On February 16, 2024, the Commission on Energy Infrastructure Siting and Permitting [released questions for public input](#). The Commission encouraged comments by Friday, March 1, to provide a summary before the Commission’s meeting scheduled for the following week, but will continue to accept comments through March 15.**

### **Comment Period extended for Revised Wetland, Stormwater and Water Quality Regs**

On December 22, 2023, DEP released a [suite of proposed revisions](#) to existing regulations related to wetlands protection, stormwater management, Chapter 91 public access to waterways, and Section 401 Water Quality Certification. Public comments on the draft regulations **are due at 5 pm on April 30, 2024**. DEP encourages electronic submission by email to [dep.wetlands@mass.gov](mailto:dep.wetlands@mass.gov), with "Wetlands-401 Resilience Comments" in the subject line.

### **Administration releases Environmental Justice Strategy**

On February 15, the Executive Office of Energy of Environmental Affairs (EEA) unveiled Massachusetts' first [Environmental Justice \(EJ\) Strategy](#), a roadmap for embedding environmental justice and equity into the programs and policies of EEA and its agencies. It includes universal themes across agencies and offices, such as meaningful community engagement, analysis of project benefits and burdens, language access plans, staff training, and metrics and tracking.

### **Forests as Climate Solutions Report Released**

On January 3, the Healey-Driscoll Administration released its [Report of the Climate Forestry Committee: Recommendations for Climate Oriented Forest Management Guidelines](#). The report aims to inform development of climate-oriented management guidelines for state forest land to help achieve goals of the 2050 Clean Energy and Climate Plan. It includes recommendations to:

- Increase permanent land conservation of unprotected forest lands;
- Enlarge state forest reserves;
- Encourage state agencies to be more specific about the rationale for forest management projects and their carbon and climate implications;
- Reduce MassWildlife's habitat management goals for species dependent on young forests, shrublands, and grasslands to increase carbon storage and sequestration;
- Apply updated Best Management Practices when forests are actively managed; Recognize the importance of natural disturbance (e.g., leaving dead trees on the ground for their biodiversity benefits);
- Launch a publicly available dashboard in 2024 to monitor forest carbon metrics and trends, including where and how wood from Massachusetts forests is being used and the impact on carbon storage of use in long-lived wood products.

In conjunction with release of the report, the Administration [announced allocation of \\$50 million](#) to invest in forest conservation -- including new forest reserves -- and incentives that encourage municipal and private landowners to adopt climate-oriented management approaches.

### **Executive Order on Biodiversity**

On September 21, 2023, Governor Healey signed an [Executive Order](#) directing the state to create new biodiversity conservation goals for 2030, 2040 and 2050, and strategies to meet them. **On February 29, the Massachusetts Department of Fish and Game convened partners, including many land trust representees, for a full-day workshop to weigh in on a vision, goals, strategies and metrics to inform this initiative.**

### **2023-2024 State Legislative Priorities (updates since December 8, 2023 are in bold)**

MLTC supports a limited number of legislative priorities that advance our primary strategic objectives: increasing state investment in land conservation; advancing the work of land trusts; and maximizing the integrity of conservation land and unprotected lands of significant conservation value. In the current two-

year legislative session, Joint Committees **were due to report on bills under their review by February 7, 2024, though extensions were granted in some cases.**

### Top MLTC Priorities

**An Act relative to the conservation land tax credit ([H.2839/S.1940](#), Rep. Jones and Sen. Tarr)** MLTC's top legislative priority this session. A hearing on the bill was held June 6, 2023, before the Joint Committee on Revenue. Linda Orel (The Trustees) coordinated submission of [joint testimony on behalf of 21 organizations](#) and a panel including Robb Johnson, Tara Christian (TNC), Alain Peteroy (Franklin Land Trust) and Jessica Whritenour (The 300 Committee Land Trust) delivered live testimony. This bill would raise the annual cap under the Conservation Land Tax Credit (CLTC), the state income tax credit for donations of conservation land, from \$2 million to \$5 million - phased over three years. The program cap would revert to \$2 million after 10 years. The bill also amends the definition of an eligible "public or private conservation agency" to include all land conservation trusts regardless of their corporate structure. (The current statute inadvertently excludes land trusts that are chartered as charitable trusts rather than non-profit corporations.) Passage is a recommendation of the Resilient Lands Initiative and Forests as Climate Solutions Initiative. **The Joint Committee on Revenue reported this bill favorably.** MLTC continues to work closely with coalition partners including The Trustees and TNC on strategies to move this forward. Stay tuned for our next ask!

### State Operating Budget

**On January 24, Governor Healey released her proposed FY25 operating budget, initiating a multi-step process that will lead to adoption of a final budget in the summer. All environmental agencies fared well in her proposal, which seeks to continue last year's precedent of spending at least one percent of total state revenue on environmental programs. Earlier in January, the Governor announced mid-year cuts to balance the current operating budget in response to an unexpected shortfall in tax collections. The Administration essentially held environmental agencies harmless, though it cut some special project earmarks totaling \$722,500.**

The House Ways & Means Committee will unveil its own FY25 budget proposal on April 10, with debate ensuing the following week. Under Environmental League of Massachusetts (ELM) leadership, a broad coalition of partners is advocating for ["Green Budget Priorities " in the FY25 budget](#). This year the coalition has developed priorities that include a mix of targeted increases for some programs and level funding for others to ensure continued progress toward climate and conservation goals in the current challenging budget environment. The coalition is advocating for increases in funding for the Department of Environmental Protection, DCR State Parks and Recreation, the Department of Public Utilities Administration, the Department of Fish and Game, and DCR Watershed Management. Level funding is requested for the Executive Office of Energy and Environmental Affairs, EEA Climate Adaptation and Preparedness, Office of Environmental Justice, Division of Ecological Restoration, and Natural Heritage and Endangered Species Program.

### Environmental Bond

The Commonwealth issues bonds to fund capital spending on the land acquisition and restoration programs that are critical to our work as well as other environmental projects. According to latest information from the Administration, spending authority from the 2018 Environment and Climate Bond is not yet depleted, so action on the next Bond bill is **unlikely before 2025. In anticipation of the next bill, MLTC has begun working** closely with our conservation partners to advocate for the bill to authorize investments that expand and create new programs in alignment with our priorities.

## Other Bills MLTC Supports

### **An Act relative to uniform partition of heirs property** ([H.1744](#), Rep. Roy., SD 2816, Sen. Payano)

The bill was heard before the Joint Committee on the Judiciary on October 31, 2023, with multiple speakers in favor. Click [here to see testimony](#) submitted by American Farmland Trust. Heirs property is real estate owned by the legal heirs of a previous owner when there is no will. Under state law, multiple heirs take ownership as tenants-in-common, an unstable form of ownership that too often results in the heirs losing the land through a forced partition sale. The bill would institute new process protections for heirs in such situations by requiring that co-tenants receive fair market value in any partition sale, and generally providing that co-tenants have an option to buy. With endorsement by the Uniform Law Commission, provisions of this bill have already been adopted in 22 states and districts. Millions of dollars of inherited wealth have been lost nationally by families who were vulnerable to real-estate speculators, disproportionately impacting low-income property owners without resources for estate planning. Nationally, forced partition sales have been cited as a significant factor in conversion of agricultural property. MLTC joins a coalition including American Farmland Trust, The Northeast Farmers of Color Land Trust, Mount Grace Conservation Land Trust, The New England Land Title Association and the Greater Boston Real Estate Board in favor of this legislation. **The Judiciary Committee failed to report the bill favorably, sending it to study. The coalition continues to meet to discuss strategies for moving forward.**

### **An Act investing in natural and working lands** ([S.448](#), Sen. Comerford)

A hearing on this bill was held October 11, 2023, before the Joint Committee on Environment and Natural Resources. Meeting the natural and working lands goals in the Clean Energy Climate Plan (CECP) will require new tools. This bill would create a local opt-in program under EEA called “Farm and Forest Friendly Communities,” to incentivize municipalities to make land use and planning decisions that reduce loss of farmland and forests. Communities would receive technical and financial assistance and increased payments in lieu of taxes on state-owned land. Consistent with CECP recommendations, this bill would also direct DEP to set a MEPA review threshold for projects that involve certain levels of forest clearing or farmland conversion, and recommend a successor to the SMART solar siting incentive program that would minimize impacts to priority forest and farmland. Read a [summary and bill text here](#). **The Environment and Natural Resources Committee failed to report the bill favorably, sending it to study.**

### **An Act to encourage solar development on buildings and disturbed land** ([H.3225](#), [S.2150](#), Reps. Lindsay Sabadosa & Sean Garballey/Sen. Mark)

A hearing on this bill was held June 20, 2023, before the Joint Committee on Telecommunications, Utilities and Energy. Massachusetts has committed to deploying solar energy that maximizes clean energy generation, avoids impacts on humans and natural communities, and connects efficiently to the grid. This bill would help achieve these goals by encouraging installation of solar panels on buildings and disturbed sites, such as parking lot canopies, brownfields, and roadway cuts. It would require the Department of Energy Resources to make change to existing policies and programs, such as net-metering and SMART, to increase incentives for generation and siting of solar projects in the built environment. Sierra Club is leading the effort on this bill. MLTC signed on to [joint testimony](#) submitted June 23, 2023. **The Telecommunications, Utilities and Energy Committee extended the deadline for reporting on this bill to April 7, 2024.**

### **An Act to create a commission to determine the feasibility of voluntary acquisition of flood risk properties** ([H.876](#), [S.557](#), Rep. Sarah Peake, Sen. Marc Pacheco)

A hearing on this bill was held May 17, 2023, before the Joint Committee on Natural Resources. The Trustees is leading the effort on this bill, and [submitted testimony on behalf of a coalition of 12 organizations](#), including MLTC. This bill would create a new commission to bring together agency officials,

legislative leaders, and expert stakeholders to study the feasibility of a voluntary acquisition program for properties that are subject to risk of catastrophic flood damage --- helping owners and renters move out of harm's way while conserving land and restoring wetlands to increase climate resiliency. The commission would be tasked with making concrete recommendations to lawmakers for how to address this difficult and pressing issue, especially for Massachusetts' most vulnerable residents. Learn more about the bill [here](#). The Healey-Driscoll Administration launched a ResilientCoasts Initiative on November 28, 2023, under which MEMA **has hired** a consultant to conduct a statewide study (including coastal and inland lands at risk of flooding) that will hopefully meet many of the objectives of this bill. **If done well, this study could meet many or all of the objectives of this bill.** Advocates for this bill will encourage administrative officials to ensure the study emphasizes the importance of recommending a pre-disaster statewide property buyout program in their report, and to ensure the study process includes the following: Meeting with stakeholders and experts; prioritizing the needs of EJ communities, low income homeowners, and tenants; ensuring recommendations encourage wetland and flood plain restoration to provide climate resilience benefits and ecosystem services, and providing a deadline for the report to be issued. **The Environment and Natural Resources Committee reported this bill favorably.**

**Outdoor Recreation Act** ([H.757](#), [S.488](#) Rep. Natalie Blais & Sen. Paul Feeney)

A hearing on this bill was held October 11, 2023, before the Joint Committee on Environment and Natural Resources. This bill would create a statewide dedicated fund to ensure the success of the newly created Massachusetts Office of Outdoor Recreation and provide grants for outdoor recreational purposes, with priority given to projects that benefit underserved and Environmental Justice populations. There would be no increase in sales tax, but existing sales tax revenues received by the Commonwealth from the sale of sporting goods would be placed in the Outdoor Recreation Trust Fund for the purposes of conservation, creation, preservation, and restoration of natural resources for recreational use. The Trustees and Charles River Watershed Association are leading the effort on this bill. MLTC signed onto [joint testimony submitted](#) on October 6, 2023. A fact sheet on the bill can be found [here](#). **The Environment and Natural Resources Committee failed to report the bill favorably, sending it to study.**

**An Act to reimburse the George L. Darey Inland Fisheries and Game Fund (S. 499, Sen. Gobi)**

A hearing on this bill was held on November 29 before the Joint Committee on Environment and Natural Resources. The effort is coordinated by The Nature Conservancy and The Trustees, and MLTC signed on to joint testimony from 12 organizations in support. The Division of Fisheries and Wildlife (MassWildlife), which works to conserve and restore critical fish and wildlife habitat and plant species and to deliver education programs, is primarily funded through hunting and fishing license fees deposited in the Inland Fisheries and Game Fund. This legislation would create consistency and reimburse MassWildlife for the loss of revenue associated with providing both discounted (currently reimbursed) and free hunting and fishing licenses. **The Environment and Natural Resources Committee reported this bill favorably.**

## Land Trust Alliance Federal Policy Updates March 8, 2024

### **Congress**

On Feb. 29, the House and Senate passed another continuing resolution (CR) to extend funding for the federal government. The measure extends funding for four agencies, including the U.S. Department of Agriculture, through today, March 8, while all other federal operations are set to expire on March 22.

On March 3, Congress released the first six appropriations bills including Department of the Interior and the Department of Agriculture. The Interior bill includes a \$51 million cut to the Fish and Wildlife Service as well as cuts to the National Park Service and Bureau of Land Management. The Agriculture bill provides a small increase to overall agency funding, but includes slight decrease for the Natural Resources Conservation Service. The bills do not include harmful policy riders or the deep cuts pursued by the House Freedom Caucus and are expected to pass and be signed into law before the March 8 deadline which would avoid shutting down those agencies.

As a reminder, it is crucial that Congress passes and the president signs into law all 12 appropriations bills before April 30 or else a 1% across-the-board reduction to all agencies including the Department of Defense – kicks in per the debt ceiling agreement reached last year between President Biden and then Speaker McCarthy.

### **2023 Farm Bill**

In addition to the ongoing debate over funding the federal government for the remainder of the fiscal year, the House and Senate Agriculture Committees have yet to close the gap on the two major issues that have been holding up passing the next Farm Bill – how to pay for increased reference prices in the commodity title and how to handle Inflation Reduction Act dollars. Therefore, the timing of the next Farm Bill remains unclear. However, both House and Senate Agriculture Committee leadership continue to press for passage of this critical legislation.

While it remains unclear as to when we will see language and subsequent committee markups, the Alliance continues to meet with committee staff to reiterate our priorities. We urge Massachusetts' land trusts to do the same by connecting with their legislators to ensure our [Farm Bill recommendations](#) are incorporated. If you hear back from your elected officials, please let the Alliance know as we are tracking all feedback from members of Congress.

### *Forest Conservation Easement Program Act*

A top Farm Bill priority remains establishing a Forest Conservation Easement Program (FCEP) that would ensure that private forestland remains intact and in production.

As of today, there are still no co-sponsors from Massachusetts, so we urge all Massachusetts land trusts to reach out to their elected official and urge them to co-sponsor H.R. 3424 in the House and S. 2631 in the Senate. Additional information can be found by visiting [www.foresteasement.org](http://www.foresteasement.org).

### **Current Federal Funding Opportunities**

As a reminder the Alliance has launched a site dedicated to providing a listing of all current federal funding opportunities. One of the newest funding opportunities added was the announcement by the Biden-Harris administration of the 2024 request for proposals for the America the Beautiful Challenge.

Now in its third year, the program was launched in support of the Bipartisan Infrastructure Law which “is dedicated to funding landscape-scale conservation and restoration projects that implement existing conservation plans across the nation.” This year the program is expected to award up to \$119 million in grants to communities nationwide.

To access the website and obtain additional information about the America the Beautiful Challenge and other funding opportunities, [click here](#).

### **Join Us at Advocacy Days**

Registration for [2024 Land Trust Alliance Advocacy Days](#) is now open! As of today, we only have three individuals from the Commonwealth registered to attend.

From April 15-18, staff and board members from land trusts have the opportunity to visit Washington to meet with their congressional delegation, attend meetings with key agency staff and network with their fellow land trust leaders. Two weeks prior, on April 5, we will host our annual issue briefing and first timers training virtually.

While there is no registration fee, travel arrangements and hotel accommodations must be paid by participants. Discounted hotel rooms are now available on a first-come, first-served basis through March 31. The Alliance also is proud to offer a limited number of travel stipends. For additional questions, please email [policy@lta.org](mailto:policy@lta.org).

### **Expanded Partnership with Natural Resources Conservation Service**

As previously noted, the Alliance has built a long-standing partnership with the Natural Resources Conservation Service – one that now includes an expanded partnership agreement. In January, we welcomed Justin Merrifield to our team as senior project manager for the NRCS Easement Acquisitions team. This team will be responsible for rolling out assistance for land trusts on NRCS easements. In the next several months, we will be hiring additional staff to focus on the Regional Conservation Partnership Program and Agricultural Land Easement Program. We will continue to keep you updated as our partnership expands.