

Public Policy Update

MLTC Steering Committee Meeting

June 10, 2022

State Funding Update

Green Budget

The Green Budget Coalition advocated for the five increases outlined below. The House adopted two of our coalition’s recommendations, and the Senate adopted all five! The FY23 budget is now in a Conference Committee, and we are advocating for the highest funding amount for each.

	Line Item	FY22	FY23 Green Budget	Governor’s FY23 Budget	House FY23 Budget	Senate FY23 Budget
Div. of Ecological Restoration	2300-0101	\$3,250,000	\$4,000,000	\$3,166,639	\$4,000,000	\$4,300,000****
Dept. of Env. Protection Admin.	2200-0100	\$33,434,358	\$45,000,000	\$36,230,930	\$41,230,930**	\$45,400,000*****
Dept. of Conservation & Rec., Parks and Rec	2810-0100	\$50,500,000	\$83,000,000	\$73,521,706*	\$78,721,707	\$85,021,706
EEA Climate	2000-0101	\$2,213,999	\$5,000,000	\$3,725,952	\$5,125,000***	\$5,000,000
EEA Environmental Justice	2000-0102	Not its own line item in FY22	\$1,300,000	\$330,000	\$1,333,014	\$1,332,014

* Includes retained revenue, so the FY23 Green Budget ask was revised to be \$10M over this number.

** includes \$30k in earmarks

*** includes \$425k in earmarks

**** includes \$300k in earmarks

***** includes 400k in earmarks

ARPA 2.0

Our coalition sent a letter to the Ways and Means Committee Chairs outlining top priorities for a second tranche of American Rescue Plan Act (ARPA) funding – parks, open space, conservation and environmental infrastructure and ecological restoration. We continue to advocate for significant investment in these areas by the end of the session, either through ARPA and/or through a FY22 Supplemental Budget.

State Legislative Update

The following bills have been selected as legislative priorities by the MLTC Policy Committee. Notable updates are **bolded**:

S.1986/H.2960, *An Act increasing the conservation land tax credit* (Sens. Tarr and Hinds; Reps. Jones and Pignatelli)

- The 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. It would also amend the definition of a "public or private conservation agency" that may receive donations of land and provide a ten-year sunset.
- This is a recommendation of the Resilient Lands Initiative (which has not yet been finalized and published by EEA.)
- Reported favorably by the Joint Committee on Revenue, currently before House Ways and Means.
- **We pursued a FY23 budget amendment, which was adopted by the House but not the Senate. We are currently advocating for the FY23 budget Conference Committee to include the House language in the compromise budget. Please be on the lookout for action items related to this.**

S.524/H.851, *An Act preserving open space in the Commonwealth* (Sen. Eldridge; Rep. Balsler)

- Also known as the Public Lands Protection Act (PLPA), this bill would prevent loss of constitutionally protected Article 97 lands by requiring replacement land, as well as notification to EEA prior to filing legislation to dispose of land. The legislation codifies EEA's current "no net loss" policy.
- This is a recommendation of the Resilient Lands Initiative.
- **PLPA was engrossed (passed) by both the House and Senate. There is a compromise bill being negotiated by House and Senate leadership outside of a conference committee. There is a provision under consideration that could permit, under certain circumstances, funds to be set aside for future land protection in lieu of replacement land (that is set aside at the time the conversion is approved.) MLTC is leading an effort to work out this provision in the House and Senate.**

S.603/H.4744, *An Act establishing a Massachusetts flood risk protection program* (Sen. Pacheco; Rep. Peake)

- The original bill required the state to create a new Flood Risk Protection Program (FRPP) to eliminate risk of flooding by acquiring homes, small businesses, and nonprofit properties from interested owners and helping them relocate. The rewritten bill would instead create a multi-stakeholder, ad hoc FRPP commission to examine the feasibility of a statewide buyout program. The commission would be co-led by the environmental secretary and MEMA director and include legislative and administrative officials and a range of experts. The bill directs the commission to rely on the best available climate data and models and examine current and future flood risk to property statewide with a focus on low-income homeowners and tenants. The commission would meet between March and December 2023 and is charged with producing recommendations and submitting draft legislation to the legislature. There are no specific funds appropriated for this commission.
- The redrafted bill was reported favorably from the Joint Committee on Environment, Natural Resources and Agriculture to the Joint Committee on Rules, and then reported favorably from Rules to House Ways and Means.
- **Advocates are exploring opportunities to move this through other legislative vehicles, like the upcoming Economic Development package.**

H.2977, *An Act relative to the classification and taxation of urban public access land* (Rep. LeBoeuf)

- This bill would add a new chapter 61C entitled, Classification and Taxation of Urban Public Access Land. The bill incentivizes the protection of urban open space by reducing the acreage of land eligible for the Chapter 61 tax program to 5,000 square feet for land that is retained as defined open space or recreational resource open to the public. It also sets out parameters for valuation and changes of use.
- This is a recommendation of the Resilient Lands Initiative.
- This bill was sent to study.

S.1875/H.2831, *An Act to reform payments in lieu of taxes for state-owned land* (Sen. Hinds; Rep. Blais)

- This bill would change the way PILOT program payments for state-owned lands are calculated for municipalities, based on recommendations in the State Auditor's December 2020 [PILOT Report](#). The goal is to increase and equitably distribute of PILOT funds to make sure the formula no longer disadvantages smaller, rural communities.
- Reported favorably by the Joint Committee on Revenue and now before Senate and House Ways and Means.

S.560, *An Act Establishing the Office of Outdoor Recreation* (Sen. Hinds)

- This bill would create a new office focused on outdoor recreation (OREC) within EEA to support, promote and market outdoor recreational activities available throughout the state. The office would coordinate with other secretariats and nonprofit and business partners, stimulate economic development, and improve the quality of life, health, and well-being of residents and visitors to the Commonwealth.
- Reported favorably by ENRA and now before Senate Ways and Means.
- **An amendment for \$200k to create an OREC filed as an FY23 budget amendment in the Senate; however, it was not adopted.**

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)

- This bill proposes comprehensive improvements to the way the state manages mosquitoes. It establishes a new Mosquito Management Office and new Mosquito Management Board within EEA and creates a system where pesticide use is allowed only for disease control under ecologically based management plans. It also creates streamlined notice and opt out requirements and bans pesticides containing PFAS.
- This bill was sent to study. However, related legislation is likely to be filed or inserted as an amendment in another bill, as the state's authority to conduct mosquito control without local approval expires at the end of 2022.
- For more, see background on the Mosquito Control Task Force below.

S.2147 / H.3306, *An Act to Improve Outdoor Lighting, Conserve Energy, and Increase Dark-Sky Visibility* (Sen. Creem; Rep. Garbally)

- This bill would promote energy-efficient lighting practices by requiring municipal- and state-funded projects to adopt standards for exterior lighting that meet best standards for human and wildlife habitat, require the Mass. Department of Transportation to update its criteria for road lighting, and require the Mass. Department of Public Utilities to establish incentives for energy efficient street lighting.
- Reported favorably by the Joint Committee on Telecommunications, Utilities and Energy and now before Senate Ways and Means.

State Administrative Update

FY23 Capital Spending Plan

The Commonwealth's [FY23 Capital Investment Plan](#) was released in May. The amounts listed below will be funded by state bonds, and specific allocations will be determined soon. EEA will spend an additional \$5M in ARPA funds on "Community Investment Programs."

- **Community Investment Programs. \$36 million over two years (level funding).** \$18M was originally budgeted for FY22, and the Administration will spend an additional \$10M on work contracted for FY23 in FY22. \$8 million in capital funding, plus about \$5M from ARPA, is budgeted for expenditure on new projects in FY23. The following programs are covered under this item: LAND, PARC, Gateway City Parks, Drinking Water Supply Protection, Small Communities, Conservation Districts, and Mohawk Trail Woodlands Partnership.
- **Agency Land Protection: \$11 million.** To be divided between DCR, DFG, and DAR for acquisition of land by the agencies.
- **Landscape Partnership & Conservation Partnership: \$3.25 million.** While the listed amount for Land Protection Grant Programs is \$2.75M, about \$500K in contracted FY23 expenses will be paid in FY22.
- **Cranberry Bog Restoration. \$2 million.** This new program, which is under development in cooperation with the Division of Ecological Restoration, will strategically acquire cranberry bogs and associated upland to facilitate their restoration.
- **Land Deferred Maintenance: \$2.5 million.** For stewardship of already conserved land, e.g., invasive species removal, prescribed burns, signage, surveys, etc.
- **Land Use Planning Grants: \$0.** EEA has already selected, and will soon announce, a slate of projects to be completed over the course of FY23. All funding for these new grants, totaling about \$1.25 million, will be provided in FY22.

Mosquito Control Task Force

The Mosquito Control for the 21st Century Task Force finalized its [recommendations](#). 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. Now that the Task Force's work is complete, it's up the Legislature to put these recommendations into effect.

In the meantime, EEA's program for [municipal opt-outs](#) was revised in a way that makes it much more difficult for communities to avoid spraying ordered by the state. The state's authority to conduct spraying 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.

MA Clean Energy and Climate Plan

EEA plans to release its final 2025/2030 Clean Energy and Climate Plan (CECP) this year. CECP provides details on the actions the Commonwealth will undertake through the next decade to ensure the 2025 and 2030 emissions reductions and limits are met. The CECP's development is informed by the 2050 Decarbonization Roadmap and the CECP's strategies and policies will put the Commonwealth on a pathway to achieve net zero greenhouse gas emissions by 2050.

The state's climate council (Implementation Advisory Committee) provided policy recommendations to inform the CECP. The IAC includes five working groups which provided [a memo](#) on principles, cross-sector recommendations and integrated climate justice priorities. The policy recommendations of the Land use and Nature-Based Solutions Working Group (LU/NBS.) The LU/NBS Working Group members include staff from EEA, The Nature Conservancy (Chair), The Trustees, MLTC, Mass Audubon, Appalachian Mountain Club, Conservation Law Foundation, and the Metropolitan Area Planning Council. The group is focused on a framework of protect, manage, and restore Natural and Working Lands, which play an important role in achieving Net Zero goals by sequestering and storing natural carbon. The LU/NBS Working Group policy recommendations include avoid forest conversion, protect, and restore wetlands, reforest natural and urban areas, no net loss, increase carbon on natural and working lands, and foster nature-based solutions for new and redevelopment. The comment period on the CECP closed April 30. More information on the IAC/CECP process [here](#). Recent public comments should be posted soon.

Solar Energy Siting

The Legislature is acting once again on climate change! A conference committee is reconciling differences between the House and Senate versions of clean energy and climate change bills ([H.4524/S.2842](#)). We applaud last year's enactment of a major climate change law, which sets targets for Net Zero, and this year's effort is focused on implementation of policies and programs to achieve those targets. The legislature has until July 31 to enact the bill before the session wraps up.

The Nature Conservancy, Mass Audubon, Appalachian Mountain Club, The Trustees, Mass Association of Conservation Commissions, Mass Land Trust Coalition, and Wareham Land Trust provided comments on environmentally preferable siting and operation of land-based solar energy systems to the six conference committee members. We are asking the conference committee to include language that would require the Department of Energy Resources (DOER) to make recommendations to the legislature for a successor program to the Commonwealth's Solar Massachusetts Renewable Target (SMART) Program, including:

- Integrating and aligning the state's climate, energy, and environmental goals.
- Refining the SMART Program for clarity and focus, including:
 - Establishing clear and predictable eligibility requirements to determine which projects qualify for incentives.
 - Removing barriers to siting projects in the built environment and underserved communities.
 - Avoiding or minimizing impacts to natural and working lands and waters.
 - Aligning the process and timing of the successor program recommendations with the DOER [Technical Potential of Solar](#) study – which we persuaded DOER to undertake. The study is underway and includes stakeholder input to guide the recommendations.

We still await the MA Supreme Judicial Court decision on a case (SJC-13195) that will determine “whether allowing solar energy facilities in certain areas of a municipality but prohibiting them in other areas is permissible or whether it constitutes unreasonable regulation” under M.G.L. Ch. 40A S.3.

Federal Policy Update

President Biden's FY23 Budget Request

The Administration's budget request would fund the Land and Water Conservation Fund at \$900 million. It also includes \$882 million for NRCS Conservation Technical Assistance which would help address NRCS staff capacity and provide resources for partners who help landowners implement conservation practices. This would be a \$100 million increase from FY22 funding. It would allocate \$83.4 million to the Fish and Wildlife Service Partners for Fish and Wildlife and Coastal Programs and invest \$45 billion across federal agencies to tackle climate change. Budget decisions lie with Congress and rarely are Administration budget requests reflected in final appropriations bills.

Abusive Syndicated Conservation Transactions

The abuse of conservation continues to pose a risk to the conservation easement tax incentive and conservation easements in general; and the IRS arguments in tax courts can undermine legitimate conservation donations. These problems underscore the importance of passing the Charitable Conservation Easement Program Integrity Act (S. 2256 / H.R. 4164). The bill will generate significant revenue and stop tax cheats from stealing billions a year in the name of conservation. On March 28 the Biden Administration released its fiscal year 2023 proposed budget request. The Department of Treasury's proposed request underscores the commitment to halting abusive syndicated conservation transactions. Its estimates that halting the abuse will generate \$18 billion in revenue. The inclusion of the request in the proposed Budget indicates the Administration's support for congressional action to pass the act. Currently, no members of the Massachusetts delegation are signed onto this important bill, and LTA hopes land trusts will urge the delegation to cosponsor.

Recovering America's Wildlife Act and Syndicated Easements

There have been conversations over the past several weeks about linking the Charitable Conservation Easement Program Integrity Act to pay for the Recovering America's Wildlife Act (RAWA; H.2773/S.2372). The \$1.397 billion RAWA bill would fund local and state efforts to help wildlife at risk and could be the most significant investment in wildlife conservation in decades. Linking these two bills could increase their chances of success in the Senate. Advocates are working to line up this opportunity, which is expected to move quickly.

Farm Bill

LTA's [2023 Farm Bill recommendations](#) are available. The LTA Farm Bill Working Group will receive input from the Hill, U.S. Department of Agriculture and the Natural Resources Conservation Service and other partners and may refine those recommendations going forward. (If you would like to join the group, please contact Nikki Nesbary at nesbary@lta.org.) Senators Stabenow and Ranking Member Boozman began hearings and share that Farm Bill negotiations will continue to be bipartisan. Senator Boozman set a goal of passing the 2023 Farm Bill out of the Senate with more votes than the 87 bipartisan votes that passed the 2018 Farm Bill. House and Senate Agriculture Committee staff expect flat funding. As part of this message, LTA is encouraging folks to "be creative" and identify ways to leverage federal resources through things such as partnerships and matching funds.

Agricultural Conservation Easement Program

LTA continues to monitor implementation of the ACEP program and seek ways to streamline participation for land trusts. As part of our ongoing partnership with the NRSC, LTA convened the second Agricultural Land Easement Summit in May in Jacksonville, FL with 35 land trust practitioners from across the country to strengthen communication and build trust between the NRCS and the land trust community; and develop ideas and solutions to address remaining sticking points in the program process. LTA continues to collect project examples showing the benefits of ACEP and the high demand for the program. Share your ACEP project success stories [here](#). If you have examples of projects that went unfunded or were unsubmitted due to limited program resources, submit your example [here](#). Visit LTA's Action Center to learn more: <https://www.landtrustalliance.org/ale/overview>.

30x30

The *America the Beautiful Initiative* continues to roll out. In April, the Administration announced the \$1 billion America the Beautiful Challenge, a call to action to the private sector to fund conservation through a new grant program. Much of the funding comes from the Infrastructure Investment and Jobs Act passed last year. NFWF will administer the grant program, and in May released a RFP for \$85 million in conservation funding. Land Trusts can partner with state governments to apply for the grants. LTA is working on a webinar and will be sure to let MA land trusts know once scheduled. LTA also needs help identifying landowners willing to share their conservation success stories to highlight the importance of private voluntary conservation efforts in reaching 30x30. Please send your stories to policy@lta.org. For more on 30x30 and how land trusts can help, please see [landtrustalliance.org/30x30](https://www.landtrustalliance.org/30x30) and this new toolkit <https://www.landtrustalliance.org/30x30toolkit>.

Energy Infrastructure

LTA continues to educate decision-makers about the importance of safeguarding existing conservation investments when siting energy infrastructure. That means directing energy infrastructure away from conservation, silvicultural and agricultural sites as well as landscapes with high carbon sequestration potential. In May, LTA participated in a stakeholder listening session on Army Corps of Engineers nationwide permit 12, a streamlined permit that allows for expedited approval for oil and natural gas pipelines. LTA expressed concerns about the environmental impact of this and other similar nationwide permits and encourages the Corps to include a more robust stakeholder outreach process in reviewing future permits. LTA was also asked to participate on the Land Use Technical Review Committee for the Department of Energy's National Transmission Planning Study. The best way to stay apprised of this issue and to engage in a dialogue with your colleagues is by joining the Energy and Climate Working group (contact Chelsea Welch at cwelch@lta.org).

Advocacy Days

From May 9-12, the Land Trust Alliance held its first in-person Advocacy Days since 2019. This annual fly-in provided attendees with the opportunity to hear from distinguished speakers and to celebrate LTA's 40th anniversary and recognize congressional champions fighting to halt the abuse of conservation donations. Attendees also met with members of Congress and staff and joined LTA for meetings with senior agency officials. Over **100** diverse land trusts leaders from **31** states including Massachusetts either logged on to their computers to participate in the Advocacy Days trainings or joined us in Washington, D.C. to advocate in-person. Colin Novick (Executive Director of Greater Worcester Land Trust) and Ray Lyons (an attorney who works with New England Forestry Foundation and other conservation organizations) represented Massachusetts and New England in Washington D.C. They held meetings with Representative Jim McGovern and staff from offices of Senator Ed Markey and House Ways and Means Chair Richard Neal, as well as senior officials from the US Forest Service and US Department of Agriculture.