HOUSE DOCKET, NO. 2124 FILED ON: 1/20/2011

HOUSE . . . . . No. 2008

The Commonwealth of Massachusetts

PRESENTED BY:

Peter V. Kocot

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 passage of the accompanying:

An Act to provide public input into changes to public lands and buildings located thereon.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Peter V. Kocot	*1st Hampshire*
Martha M. Walz	*8th Suffolk*
Alice K. Wolf	*25th Middlesex*
Michael O. Moore	☐ *[District]* ☐
John W. Scibak	*2nd Hampshire*
Thomas M. Stanley	*9th Middlesex*
Geraldine M. Creedon	*11th Plymouth*
Susan C. Fargo	☐ *[District]* ☐
Cleon H. Turner	*1st Barnstable*

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HOUSE . . . . . No. 2008

By Mr. Kocot of Northampton, a petition (accompanied by bill, House, No. 2008) of Peter V. Kocot and others for legislation to provide public notice and input to plans for significant physical alterations to state parks and other public natural resource lands. Environment, Natural Resources and Agriculture.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *758* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act to provide public input into changes to public lands and buildings located thereon.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The General Laws of the Commonwealth of Massachusetts are hereby amended by inserting after chapter 132B the following chapter:

Chapter 132C. PUBLIC NOTICE AND INPUT FOR CHANGES IN CERTAIN PUBLIC LANDS AND BUILDINGS

Section 1. Purpose

The purpose of this chapter is to provide for public notice and input to plans for significant physical alterations to state parks and other public natural resource lands.

Section 2. Definitions

Unless the context clearly requires otherwise, when used in this chapter, the following words and phrases shall have the following meanings:—"Abutter," owner of any property within one half mile from the closest boundary of an affected district.

"Affected district," state land district in which the regulated activity is to occur.

"Regulated activity," any of the following, other than routine maintenance and removal of dead trees or trees that pose an imminent threat to the safety of persons:

a. Removal of more than one half a contiguous acre of trees, brush, or any plant material.

b. Expansion or creation of paved areas or the placement of permeable, semi-permeable or non-permeable materials.

c. Removal of more than 10 trees each of more than 8” diameter, measured 4.5 feet above the ground, within any contiguous area of five acres or less of any shape, provided that the area is no less than ten feet across at its narrowest point.

d. Removal of more than 50 trees each of more than 8” diameter, measured 4.5 feet above the ground, in any state land district.

e. Construction or expansion of any structure, including, but not limited to, any building, storage facility, tower, or shelter, covering an area in excess of 24 square feet on, above, or below any land or water.

f. Clearing, grading, or construction for access roads or other facilities or areas in connection with any of the above.

"State agency," commonwealth of Massachusetts or any department or agency thereof or any board, authority, or public entity created thereby, not including municipalities and towns.

"State land district" any land area owned or under the control a state agency, including but not limited to state parks, forests, reserves, recreation areas, parkways, watershed areas, or beaches.

Section 3. Public hearing

No state agency may perform, authorize, grant a permit for, or otherwise enable any regulated activity on a state land district unless said agency has held, no less than 30 days prior to commencement of any part of the regulated activity, one or more public hearings on the proposed regulated activity at a time or times and location or locations convenient to the abutters of the affected district. Where more than one state agency is involved the agencies may hold a joint hearing or hearings. The Executive Office of Environmental Affairs shall promulgate rules and regulations for said public hearings.

Section 4. Public notice

The Executive Office of Environmental Affairs shall promulgate rules and regulations as necessary to effect the requirements set forth herein.

45 No public hearing under section 3 may be held nor shall be valid unless preceded by the
46 public notices described in this section and listed below. Each notice shall state the purpose,
47 general description, affected district, timing, and likely duration of the proposed regulated
48 activity; the location (including a map or sketch of the general area showing location of the
49 proposed regulated activity) in sufficient detail and clarity that public citizens can find the site of
50 the proposed regulated activity; the date, time, and place of the public hearing; the subject matter
51 of the hearing; the nature of the action or relief requested, if any; the place where the full plan of
52 the proposed regulated activity and any application may be inspected; the case or other
53 identification number, if any, of the application or proposed regulated activity; the place where
54 written comments may be directed; the phone number or numbers of the state agency or agencies
55 contact person or persons where further information may be obtained. Where the regulated
56 activity involves cutting or removal of any tree more than 8" diameter, measured 4.5 feet above
57 the ground, the public notice shall indicate the type and size of tree, the notice shall be made
58 during the months of June, July, or August, and the notice shall be posted upon the tree as well as
59 at the locations listed below. The state agency or agencies holding the hearing shall put in place
60 all postings and public notification panels no less than 30 days prior to the hearing and shall
61 maintain said postings and panels continuously in legible and readable form, including
62 replacement thereof as necessary, until the time of the hearing.

63 Posting in two or more public places in each town or municipality within which any or all
64 of the affected district is located, regardless of whether the physical site of the regulated activity
65 is within the town or municipality.

66 Publication in a newspaper of general circulation in each town or municipality covered
67 by section 4, paragraph a, once in each of two successive weeks, the first publication to be not
68 less than seven days before the day of the hearing.

69 Posting of the proposed regulated activity on the website of the Executive Office of
70 Environmental Affairs.

71 Posting in a prominent place at the building or facility in the affected district most
72 frequented by the public, or, if there is no such appropriate building or facility, at the nearest
73 state or public building or facility to the location where the proposed regulated activity is to
74 occur.

75 In the case of state parks, forests, and recreation areas, and other state land districts
76 frequented by the public, posting on appropriate public notification boards maintained on the
77 premises.

78 Installation of public notification panel or panels at all public entrances, including roads,
79 sidewalks, pathways, and trail heads, to the affected district, and along parkways or other roads
80 adjacent to the affected district at intervals of no less than one mile. Panels shall be securely

81 mounted, clearly visible from the relevant public way, and contain a heading legible and readable
82 from the relevant public way, proclaiming the subject matter of the notice.

83 Certified mail or hand delivery to each abutter of record on file with the assessors of the
84 relevant municipality or town.

85 Section 5. Injunctive relief

86 If a state agency commences or permits the commencement of a regulated activity
87 without having complied with sections 3 and 4 in all particulars, any citizen, corporation,
88 association, town, or municipality residing, incorporated, organized, or chartered, as the case
89 may be, in Massachusetts shall be entitled, upon presentation of evidence of the state agency's
90 failure to so comply to a court of competent jurisdiction, to injunctive relief and a cease and
91 desist order against said state agency from said court.