

November 1, 2019

The Honorable Anne Gobi
Chair, Joint Committee on ENRA
State House, 24 Beacon St., Room 513
Boston, MA 02133

The Honorable Smitty Pignatelli
Chair, Joint Committee on ENRA
State House, 24 Beacon St., Room 473F
Boston, MA 02133

Dear Chairpersons Gobi, Pignatelli, and members of the committee:

On behalf of Conservation Law Foundation (“CLF”), The Nature Conservancy (“TNC”), Mass Audubon, Massachusetts Rivers Alliance, Environmental League of Massachusetts (“ELM”), and Boston Harbor Now we write to express deep concern with S.430, an Act relative Coastal Resiliency Projects which would exempt coastal resiliency projects from critical environmental protections.

We appreciate that S.430 seeks to streamline permitting for coastal resiliency projects to make them easier to pursue and implement. However, this bill, as currently drafted, would create new problems and would hinder our shared goal of increasing the resiliency of the coastline in a comprehensive and equitable way to protect ecosystem services, critical infrastructure, and residents of the Commonwealth.

This bill is problematic for multiple reasons:

The bill proposes an overly-broad definition for coastal resiliency projects. This definition could be interpreted to consider roads, buildings, and other structures as “coastal resiliency projects” thereby granting them exemptions from the Wetlands Protection Act and Environmental Impact Reports under the Massachusetts Environmental Policy Act (“MEPA”). This could allow a broad swath of projects to be eligible for exemption under critical state environmental laws without the necessary analysis around cumulative impacts for wetlands, ecosystems, abutters, and communities. In effect, this legislation would create loopholes to existing environmental protections without necessarily increasing resilience.

The examples of coastal resiliency projects listed are almost exclusively hard-engineered measures including seawalls, bulkheads, and retaining walls. The failure of this bill to include a process for considering or prioritizing nature-based solutions is inconsistent with state policy, including the state climate adaptation strategy.

The legislation provides no consideration for the location of proposed coastal resiliency projects or existing environmental conditions. Coastal resiliency projects in urban areas may necessitate a different approach than suburban or rural areas. For example, in an area like Cape Cod, coastal fortifications may protect the homes directly behind them, but they compromise the natural integrity of the beach and hasten erosion, potentially threatening unprotected properties nearby.

Also, the bill does not distinguish based on the scale of coastal resiliency projects or ownership. This bill would allow individual homeowners and property owners to reinforce their properties, potentially at the expense of their neighbors and greater ecosystem services, to protect a private investment. Projects undertaken by state and local governments and those designed to provide neighborhood-wide or district-wide protections are often more valuable and advantageous than a piecemeal approach of individual seawalls and bulkheads.

Moreover, walling off our coastline with stone and concrete could decrease our ability to be resilient in the face of climate change as it can inhibit the normal functioning of our natural resources. It would also allow for coastal fortification to protect new development in currently undeveloped areas. This is contrary to the Commonwealth's goals to facilitate responsible and reasonable development.

This bill could unintentionally set up a regime for an unequal distribution of benefits. In particular, residents who are disproportionately impacted by the effects of climate change, including historically marginalized communities, have fewer resources or political access to protect their neighborhoods, the ecosystem, or natural resources. Massachusetts residents need mechanisms that promote more equitable distribution of resources for climate resilience in the Commonwealth, not legislation that helps cement inequity.

Finally, we believe there are alternatives to this bill that should be pursued that could provide solutions to permitting for coastal resiliency projects to make them easier to pursue and implement. First, the Massachusetts Hazard Mitigation and Climate Adaptation Plan (SHMCAP) released in fall of 2018 recommends making changes to coastal regulations and policies that would incorporate the latest climate science and remove barriers to using nature-based solutions. Our organizations provided constructive input on SHMCAP and plan to participate in regulatory processes. Second, we are open to the idea of amending statute to achieve our goals.

Thank you for your consideration and recommend that you do not vote S.430 out of committee.

Sincerely,

Deanna Moran
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Conservation Law Foundation

Steve Long
Director of Government Relations
The Nature Conservancy

Nancy Goodman
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