



Legislative Affairs
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2003: SEASON OF CHANGE

A SPECIAL REPORT FOR THE MEMBERS OF THE MASS AUDUBON ACTION NETWORK
Christopher Hardy, Mass Audubon's Director of Legislative Affairs

When I wore my new polka dot bow tie to observe the inauguration of Mitt Romney at the State House on January 2, 2003, Speaker of the House of Representatives Thomas Finneran ribbed me in the hallway, "Are we going to war today, Chris?" The polka dot bow tie was made famous by British Prime Minister Winston Churchill, a keen observer of politics and war. On these two subjects, Churchill said many notable things, but one of my favorites is, "The human story does not always unfold like a mathematical calculation on the principle that two and two makes four." How could anyone have foreseen the prescience of Churchill's observation on that first day of the 2003 legislative session?

During the first hundred days, the Commonwealth continued to experience its worst fiscal crisis in more than half a century. Debate on Beacon Hill also centered on the most sweeping state government reorganization plan in more than three decades.

FY2004 BUDGET: THE PERFECT STORM UNLEASHED

Governor Romney and the 183rd General Court inherited a continuous sharp decline in tax revenues and slowing economy, which were triggered by the burst of the high technology bubble, corporate accounting scandals, and terrorist attacks. Commenting on the dramatic change in the state's fiscal fortunes, the Massachusetts Taxpayers Foundation warned in its January 2001 report *The Perfect Storm*: "What will be required...is spending discipline at least as stringent as that of the mid-1990s, and perhaps more reminiscent of the fiscal constraints of the early 1990s."

In February 2003, the Foundation followed up in its report *The Perfect Storm...Unleashed*: "Given available revenues, the Commonwealth cannot afford the level of spending to sustain the programs and services that have formed its core for the last decade or more. Clearly, wrenching choices lie ahead."

The mismatch between tax revenues and exploding health care costs forced state legislators to make over \$3 billion in spending cuts between 2001-2004. Critical environmental programs, which are 'discretionary' in the parlance of public spending needs, suffered some of the sharpest budget cuts.



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Program	FY2001	Fy2002	FY2003	FY2004
All environmental programs (overall EOE budget)	\$245.1 million	\$231.5 million	\$183.2 million	\$176.7 million
Natural Heritage & Endangered Species Program	\$776,226	\$739,330	\$652,130	Moved off-budget as trust account (approx. \$250,000)
Riverways Program	\$434,719	\$401,147	\$399,880	\$290,293
State Forests and Parks System- main operational account	\$25,677,383	\$22,366,638	\$20,542,416	\$18,264,818
Department of Environmental Protection- main operational account	\$31,820,112	\$30,483,537	\$28,830,810	\$28,140,275
MassGIS-Office of Geographic Information Systems	\$455,677	\$414,801	\$385,378	\$278,791
Blue Hills Trailside Museum	\$317,500	\$175,00	\$150,000	\$219,750

ENDANGERED SPECIES PROGRAM IS NOW ITSELF ENDANGERED

Since 1978, the Division of Fisheries & Wildlife's Natural Heritage and Endangered Species Program has worked to gather, manage, and distribute information about the Commonwealth's rare plant and animal species and their habitats, as well as other features of the state's biological diversity. In past years, the Program has received funding from three sources: 36%- Natural Heritage and Endangered Species Fund; 22%- Inland Fisheries and Game Fund; 42%- General Fund. But now the Program is itself endangered.

The FY2004 budget eliminated the line item and all general fund support for the Program. Instead, the Natural Heritage and Endangered Species Fund has been moved off budget as a quasi-trust account, not subject to legislative appropriation. The Natural Heritage and Endangered Species Fund collects voluntary donations from over 30,000 tax filers annually-now the main source of revenue for the Program. But private donations are insufficient to sustain the Program for the long term, as the total amount collected through voluntary donations averages 250,000.

Mass Audubon encourages all conservationists to promote the tax check-off on state income tax forms to fund the Natural Heritage and Endangered Species Program. In addition, we urge the legislature to pass an FY2004 deficiency appropriation of



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\$250,000 to match voluntary contributions and restore public trust in the Commonwealth's commitment towards endangered species recovery.

STATE GOVERNMENT REORGANIZATION

Reorganization of state environmental agencies is not a task to be taken lightly. Before committing to any reorganization measure, legislators and executive branch officials must consider the implications of their decisions for decades to come.

While we supported Governor Romney's call for coordination of housing, transportation, and environmental functions within the Executive Branch, Mass Audubon strongly opposed the creation of an Executive Office of Commonwealth Development. As it is now, the Environmental Affairs Secretariat is a cabinet level agency enjoying the benefits of direct access to the Governor, line item funding, and peer discussion and debate with equal cabinet ranking executive offices. The Administration's plan would have reduced Environmental Affairs from an executive branch office to a mid-level department within the state's bureaucracy. Mass Audubon believes the Secretariat's position and status should not be diminished but acknowledged by the Governor as an executive office worthy of its present cabinet rank within state government.

We were further concerned that a future super-Secretary of Commonwealth Development may not have the background and demonstrated environmental commitment of a Doug Foy, who has fought tirelessly for environmental protection over the past twenty-five years, but may in fact have a very different agenda contrary to the intents and purposes of the present statutory requirements of the Executive Office of Environmental Affairs. Given the Commonwealth's enormous and expensive challenges to stimulate affordable housing production and maintain aging transportation networks, we were concerned that environmental protection would remain a vital force under the proposed management structure only so long as the super-Secretary has a strong personal interest.



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GOVERNOR'S PROPOSED REORGANIZATION	MASS AUDUBON RECOMMENDATION	FINAL RESULT
Establish a super-cabinet Executive Office of Commonwealth Development with oversight over mid-level Department of Environment	Establish a Council for a Sustainable Commonwealth to coordinate environmental protection with development functions	Commonwealth Development Coordinating Council established
Transfer Chapter 91 licensing from DEP to CZM	Maintain Chapter 91 licensing at DEP	Chapter 91 licensing maintained at DEP
Maintain environmental law enforcement at DFWELE	Transfer environmental law enforcement to EOEA	Environmental Law Enforcement transferred to EOEA
Consolidate all land protection programs into a single program at Department of Environment	Maintain individual agency land protection programs	Individual agency land protection programs maintained
Transfer urban parkways to MassHighways	Maintain urban parkways at Department of Conservation and Recreation	Urban parkways maintained at Department of Conservation and Recreation
Transfer Bureau of Forestry to Division of Agricultural Resources	Maintain Bureau of Forestry at Department of Conservation and Recreation	Bureau of Forestry maintained at Department of Conservation and Recreation

CONCLUSION

We are grateful to the General Court for embracing several of our recommendations to achieve credible and realistic improvements of state environmental agencies that preserve the gains of the past and enhance future coordination to protect our natural resources—without establishing a new bureaucracy that would supercede and diminish the position of environmental affairs in state government.

As an organization who has advocated for the protection of wildlife and habitat for more than 100 years, Mass Audubon is especially pleased that the legislature passed the following two new conservation laws which we drafted ourselves:



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Chapter 26 of the Acts of 2003

SECTION 79. Said chapter 21, as so appearing, is hereby amended by striking out section 2F and inserting in place thereof the following section:—

Section 2F. The directors of the divisions of state parks and recreation and urban parks and recreation shall work in cooperation with the director of the division of fisheries and wildlife within the department of fish and game to establish coordinated management guidelines for sustainable forestry practices on public forest lands within the departments of conservation and recreation and on private forest lands. Said guidelines for public forest lands shall include agreements on equipment, personnel transfers, operational costs, and assignment of specific management responsibilities.

The commissioner of conservation and recreation shall submit management plans to the stewardship council for the council's adoption with respect to all reservations, parks, and forests under the management of the department, regardless of whether such reservations, parks, or forests lie within the urban parks district or outside the urban parks district. Said management plans shall include guidelines for the operation and land stewardship of the aforementioned reservations, parks and forests, shall provide for the protection and stewardship of natural and cultural resources and shall ensure consistency between recreation, resource protection, and sustainable forest management. The commissioner shall seek and consider public input in the development of management plans, and shall make draft plans available for a public review and comment period through notice in the Environmental Monitor. Within thirty days of the adoption of such management plans, as amended from time to time, the commissioner shall file a copy of such plans as adopted by the council with the state secretary and the joint committee on natural resources and agriculture of the general court.

The commissioner of conservation and recreation shall be responsible for implementing said management plans, with due regard for the above requirement.



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SECTION 627. The secretary shall coordinate the delivery of services of the departments and divisions under his or her control to ensure the protection of air, water, land, and other natural resources of the commonwealth and to provide support for the acquisition, management, utilization, and conservation of habitat for native flora and fauna. The secretary shall continue to assure the health and viability of the commonwealth's biodiversity for future generations. To effectuate the aforementioned policies, the secretary shall ensure the following: (1) Provide assistance to the departments and divisions under his or her control, including the administration of funds to cities and towns, for the acquisition of interests in land for conservation purposes; (2) Develop partnerships with private, non-profit and other entities that will augment the commonwealth's stewardship and acquisition of such lands; (3) Monitor and enforce all conservation restrictions held by the commonwealth; (4) Enforce all laws and regulations promulgated for the protection of watersheds, lakes, ponds, rivers, streams, coastal and inland wetlands; (5) Develop natural resource management plans for all state forests, reservation, and wildlife management areas; (6) Ensure that sustainable forestry management practices are employed on all state-owned lands, and that such practices are coordinated with private forestland management practices to achieve landscape-scale goals; (7) Promote the sustainable economic development of the private agricultural and forestry resources of the commonwealth; (8) Promote research and monitoring to establish ecological benchmarks for assessing the health and viability of the commonwealth's biodiversity.

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