



The Council for Northeast Historical Archaeology

November 7, 2011

Senator Kenneth J. Donnelly
Representative Peter V. Kocot
Chairmen, Joint Committee on State Administration and Regulatory Oversight

Dear Senator Donnelly and Representative Kocot,

On behalf of the Executive Board of the Council for Northeast Historical Archaeology and all of our members, I wish to express our deep concern with proposed legislation that would remove critical protection from archaeological and historical sites in the Commonwealth of Massachusetts. Specifically, the proposed bill, S. 02053, will eliminate key protections for archaeological and historical resources in the Commonwealth that are not on the State Register of Historic Places. The proposed narrowing of state regulations and the elimination or restriction of state oversight for construction or renovation projects that involve state or federal funding, permitting, or direct involvement of a state or federal agency imperils the Commonwealth's historical and archaeological sites and resources. Further, this proposal undermines the legislated function of the Massachusetts Historical Commission as the permitting and oversight authority for mandated archaeological survey within the Commonwealth and as steward and manager of irreplaceable cultural resources. Finally, the loss of protection for archaeological and historical resources in the Commonwealth will have an adverse economic impact in Massachusetts through its effects on the heritage tourism industry.

The proposed bill, S. 02053, would limit mandated state development review and oversight to only those archaeological and historical sites listed on the State Register of Historic Places and will consequently undermine the authority and effectiveness of all previous reviews and recommendations for mitigation issued by the MHC for historical and archaeological sites that have been evaluated and inventoried through the review process but are not on the State Register. Passage of S. 02053 will disproportionately affect archaeological sites in the Commonwealth for a number of reasons. First, few archaeological sites are nominated for the State Register. There is little incentive for property owners to file for Register status. Existing tax credits benefit owners who are seeking to restore or rehabilitate extant structures, not owners of sites with below-ground archaeological resources. The number of archaeological and historical sites on the State Register of Historic Places (60,000 sites; see <http://www.sec.state.ma.us/mhc/mhcstreg/streg.htm>) represents barely one third of all sites in the MHC's inventory (200,000 archaeological and historical sites combined; see Massachusetts State Historic Preservation Plan 2011-2015 [2011]; <http://www.sec.state.ma.us/mhc/>). Under the current proposal, an estimated 140,000 sites (historic buildings, structures, cemeteries, and archaeological sites) will lose protections afforded to them through state oversight and review because they are listed in the MHC's inventory of sites but are not on the State Register of Historic Places. Crucially, some 8000 Native American archaeological sites and 4600 historical-period archaeological sites in

Massachusetts will effectively be removed from the oversight of the MHC if this bill is passed. Of equal concern, S. 02053 will undercut the review process through which potential dangers to as yet undiscovered archaeological sites are mitigated. If passed, this legislation will undermine the MHC's authority and the Commonwealth's mandated responsibility to protect cultural resources; further, it will place responsibility for site protection or mitigation in the hands of owners and builders, and it will leave residents of the Commonwealth in the unfortunate position of relying upon the good intentions of owners and developers for the protection of irreplaceable cultural resources and heritage sites that belong collectively to all of the Commonwealth's residents.

The proposed legislation has negative, broad-reaching impact for many of the Commonwealth's citizens, and we ask that you consider the following:

- S. 02053 will disproportionately affect Native American sites because so few are identified or preserved. It requires applied technical effort to locate prehistoric archaeological sites and list them the State and National Registers;
- S. 02053 will have a devastating effect on archaeological sites that are not listed at the state and national levels because there is not yet enough information about them to do so;
- S. 02053 reduces the power of local historical societies and towns that have listed sites as locally important but have not yet completed the application process at the state and/or federal levels. Massachusetts prides itself on the importance of local town government, so it is important that communities be allowed to recognize, advocate for, and protect locally significant sites when they deem it necessary;
- S. 02053 will undermine the intent of existing federal and state legislation that makes federal and/or state funding, licensing, or permitting, or state or federal agency involvement the trigger for site review; the National Historic Preservation Act of 1966 and Massachusetts General Laws Chapter 9, sections 26-27C, are written specifically to include sites that are *not* on the State or National registers;
- Given the role of the Commonwealth in reviewing development, issuing permits, and collecting fees, there is sufficient justification for continued state regulatory influence;
- While the State Register of Historic Places is important, it does not list all of the places of historical importance to the residents of the Commonwealth.

The proposed changes in S. 02053 will also have a detrimental impact to the economy. The Commonwealth's archaeological and historical resources are the basis for a growing and vital heritage tourism industry, one that already generates significant revenues for local and state economies across the country. Heritage tourism contributes jobs, raises income levels, increases tax revenue, and contributes to overall economic wellbeing. In Massachusetts, spending related to heritage tourism in 2002 was estimated to be 2.5 billion dollars (*Economic Impacts of Historic Preservation in Massachusetts*, http://www.sec.state.ma.us/mhc/mhcpdf/Economic_Impacts_2002.pdf). This is not an insignificant contribution, especially in light of the current recession. The Commonwealth's commitment to the protection of its resources, or its failure to do so, will impact the vacation and recreational plans of residents and out-of-state visitors, as well as those of participants in the many educational, historical, and museum programs that are built upon access to and enjoyment of those resources.

The Council for Northeast Historical Archaeology (CNEHA) is a non-profit educational organization with over 400 members in the eastern United States and Canada. Our membership comprises professional archaeologists, historians, educators, and cultural resource specialists. The sole purpose of the Council is to stimulate and encourage the collection, preservation, advancement, and dissemination of knowledge gained through the study and practice of historical archaeology. The Council specifically encourages fieldwork, collections research, conservation, education, and public outreach. This organization was founded in 1966 by professional and avocational archaeologists and historians who were alarmed by the destruction and loss of historical and archaeological resources in the Northeast. The Council evolved out of an awareness of the need to preserve and protect the historical archaeological record and to share that past with others. It is that awareness that compels us to now express our deepest concern for the future of archaeological and historical resources in the Commonwealth, and our conviction that the protection of these important resources is jeopardized by the proposed legislative changes.

We understand that many in the Commonwealth of Massachusetts are confronted with difficulties as a result of a poor economy, while others question the role of government and the need for government regulation. Those acting on behalf of the Commonwealth must be far-sighted enough, however, to see that the state's legislated role as steward and protector of *all* its many resources must not be sacrificed. S. 02053 is a misguided attempt to streamline the development review process; the proposal is short-sighted and will not only eliminate essential protections for the Commonwealth's precious cultural resources but also adversely affect a powerful economic engine in the form of heritage tourism. Massachusetts residents would be better served by increased efficiency and coordination in the development review process, not by legislation that effectively abrogates the Commonwealth's responsibility to protect irreplaceable historical, archaeological, and cultural resources for its citizens. We ask that the committee carefully weigh the effects of this proposed legislation, with full understanding of the risks to the Commonwealth's heritage resources and to its already fragile economy. In short, we ask you to bring a thoughtful and responsible approach to the issue at hand. We urge you to vote against S. 02053.

Thank you for your time and consideration.

Sincerely,

Dr. Karen Metheny
Chair, Council for Northeast Historical Archaeology