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***Via Electronic Mail to [Jay.Newscome@mahouse.gov](mailto:Jay.Newscome@mahouse.gov) and [Brian.Rosman@masenate.gov](mailto:Brian.Rosman@masenate.gov)***

Senator Joanne Comerford, Chair  
Representative John Mahoney, Chair  
Joint Committee on Public Health  
State House, Room 130  
Boston, MA 02133

Re: ***Opposition to H.4650, An Act to mitigate arbovirus in the Commonwealth***

Dear Chair Comerford, Chair Mahoney, and Members of the Public Health Committee:

Thank you for all your work on behalf of public health across the Commonwealth. We particularly appreciate your efforts to gather input on pending bills under the current difficult circumstances.

Mass Audubon submits the following testimony in opposition to H.4650, *An Act to mitigate arbovirus in the Commonwealth*. The bill is an overreach of power, proposing to exempt the State Reclamation and Mosquito Control Board from every statute and special law, based on a determination by the Department of Public Health (DPH) that there may be a threat of mosquito borne disease somewhere in the state in the next year. This is far too vague a standard to convey such sweeping powers. There is no requirement that the methods employed utilize the best science through Integrated Pest Management (IPM), no measurable trigger thresholds for actions to be taken, no opportunity for input from affected communities or landowners, and no sunset clause for these sweeping powers. Any transparency that might be requested will also be undermined by exempting the Reclamation Board from all laws, including the Open Meeting Law and Public Records Act. A host of other laws protecting human health and the environment also could be overridden or ignored without accountability or disclosure – including the state Pesticide Control Act, Massachusetts Endangered Species Act, and public water supply protection laws and regulations.

Mass Audubon has closely monitored the activities of the Reclamation Board, the mosquito control districts, the Department of Public Health, and other state and local agencies in relation to mosquito control and mosquito-borne diseases for several decades. Mass Audubon supports a scientifically-based mosquito-borne disease management program to protect public health while minimizing environmental and public health risks associated with some forms of mosquito control. We have long recognized that the existing programs for mosquito control in Massachusetts are antiquated and fragmented, and reform is needed ([www.massaudubon.org/our-conservation-work/advocacy/priority-legislation/mosquitoes/position-on-mosquito-control](http://www.massaudubon.org/our-conservation-work/advocacy/priority-legislation/mosquitoes/position-on-mosquito-control)). This bill is not the proper vehicle to achieve needed reforms, and instead would convey unlimited powers to agencies that already are under criticism for their refusal or inability to conduct their programs in a manner consistent with the best available science and the wishes of municipalities and landowners.

Mass Audubon protects more than 38,000 acres of land throughout Massachusetts, saving birds and other wildlife, and making nature accessible to all. Mass Audubon annually files for exemptions of its properties from wide-scale application of pesticides for mosquito control, as these are inconsistent with sound ecological management practices. We have always understood and agreed with exceptions to these exemptions when DPH declares a public health emergency, while opposing the indiscriminate application of pesticides for nuisance control. This bill would eliminate the rights of landowners to have their properties excluded from unwanted applications of toxic chemicals for nuisance control practices that are often ineffective and may even be counterproductive.

Spraying of pesticides to control adult mosquitoes is the least effective and most environmentally damaging method of mosquito control. The Centers for Disease Control and U.S. Environmental Protection Agency support a scientifically-based IPM approach to mosquito control (<https://www.epa.gov/mosquitocontrol/joint-statement-mosquito-control-united-states>). As these agencies state:

*IPM is an ecologically based strategy that relies heavily on natural mortality factors and seeks out control tactics that are compatible with or disrupt these factors as little as possible. IPM uses pesticides, but only after systematic monitoring of pest populations indicates a need. Ideally, an IPM program considers all available control actions, including no action, and evaluates the interaction among various control practices, cultural practices, weather, and habitat structure. This approach thus uses a combination of resource management techniques to control mosquito populations with decisions based on surveillance. Fish and game specialists and natural resources biologists should be involved in planning control measures whenever delicate ecosystems could be impacted by mosquito control practices.*

The state should pursue an ecologically based approach to mosquito control that includes enhancing habitat for mosquito predators (e.g. by removing obsolete dams, upgrading culverts, and restoring fish habitat and degraded wetlands); public education about removing artificial containers of standing water around homes and taking personal protection measures (clothing, mosquito repellent); and encouraging the adoption of Low Impact Development (LID) for all new and redevelopment. LID manages stormwater without creating mosquito habitat – unlike most traditional forms of development utilizing catch basins and detention ponds that create prime mosquito breeding habitat in close proximity to human populations.

The proposed bill is of particular concern at a time when many people are seeking to reduce their exposures to chemicals. More and more people are growing their own food and managing their yards and gardens with minimal or no pesticides, both to protect their own health and for the benefit of wild pollinators that are in serious decline. This bill would eliminate landowner's rights to be excluded from routine pesticide spraying.

The bill also fails to address concerns of municipalities. We have heard from many local officials and citizens over the years who would like to have mosquito surveillance (trapping and testing) and public education (for source control and personal protection measures) services. But they are unable to obtain those services without joining a mosquito district and also accepting routine spraying of chemicals and heavy equipment in their local wetlands and streams, without any local input or control over those activities.

We urge that this bill be rejected. If the Committee feels that it must adopt legislation to address the predicted high risk of EEE in 2020, we recommend that you substitute the bill with the following provisions:

- Limit the powers conveyed to surveillance only. If positive mosquitoes are found in particular localities, DPH can first conduct public education for personal protection, and if other interventions are deemed truly essential to the public health, an emergency can be declared to conduct eradication. There is no need for broad exemption from statutes to accomplish this work.
- Reform the Reclamation Board to add the DPH and the Department of Fisheries and Wildlife, consistent with the CDC/EPA guidance.
- Insert transparency provisions (see H.850)
- Provide a sunset clause for any emergency exemptions, so that they expire each year with the first frost. Limit exemptions to specific laws – e.g. the ability of a mosquito district to conduct surveillance outside of its district boundaries upon request by DPH, rather than sweeping exemptions to all laws anywhere in the commonwealth for indefinite periods of time.
- Require the use of IPM in all mosquito control activities.

Thank you for considering these comments.

Sincerely,

Michael Cusher  
Legislative Director

cc: Senator Nick Collins  
Representative John J. Mahoney  
Representative Chynah Tyler