

HOUSE No. 752

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to ice rinks owned by the Commonwealth..

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

1 SECTION 1. The commissioner of the division of capital asset management and
2 maintenance, hereinafter referred to as the commissioner, on behalf of and in consultation with
3 the department of conservation and recreation, hereinafter referred to as the department, is
4 hereby authorized, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General
5 Laws and section 54 of said chapter, and using such competitive proposal process as the
6 commissioner of said division deems necessary or appropriate, to enter into lease or other
7 agreements, for terms not to exceed 25 years, to provide for the continued use, operation,
8 maintenance, repair and improvement of the following state-owned structures and facilities
9 together with the land and appurtenances associated therewith: Emmons Horrigan O'Neill
10 Memorial Rink, Charlestown; Devine Memorial Rink, Dorchester; Porazzo Memorial Rink, East
11 Boston; Bajko Memorial Rink, Hyde Park; Steriti Memorial Rink, Boston; Murphy Memorial
12 Rink, South Boston; LoConte Memorial Rink, Medford; Flynn Memorial Rink, Medford; Ulin
13 Memorial Rink, Milton; Shea Memorial Rink, Quincy; Cronin Memorial Rink, Revere; Veterans

Memorial Rink, Somerville; and Connell Memorial Rink, Weymouth, all of which hereinafter referred to as the properties.

Any such lease shall or agreement shall contain a provision requiring the lessee to carry comprehensive general liability insurance with the commonwealth named as a co-insured and protecting the commonwealth against any and all personal injury or property damage within the rink and on the land during the term of the lease.

Such leases and other agreements shall be on terms acceptable to the commissioner after consultation with the department, and notwithstanding any general or special law to the contrary, shall provide for the management, operation, improvement, repair, and maintenance of the properties. Any provisions in such leases or agreements relative to capital improvements to the properties shall include (i) a description of the required capital improvements and (ii) performance specifications. Such leases and other agreements shall provide that any benefits to the commonwealth and the costs of improvements and repairs made to the properties provided by the tenants or the recipients of the properties shall be taken into account in determining the amount of lease payments. The commissioner, in consultation with the department, shall structure each lease or other agreement to minimize disturbance of the current rights of any tenants who may currently use any part of properties, whether under a written lease or other arrangement. All consideration paid in connection with any lease of the properties shall be deposited in the General Fund. The lessees of the properties shall bear all costs deemed necessary or appropriate by the commissioner of the division of capital asset management and maintenance for the transaction, including, without limitation, all costs for legal work, survey, title and the preparation of plans and specifications.

The division of capital asset management and maintenance, in consultation with and on behalf of the department of conservation and recreation, shall solicit proposals through a request for proposals which shall include key contractual terms and conditions to be incorporated into the contract, including but not limited to (1) a comprehensive list of all rinks operated by the responsive bidder in the last four years, (2) other facilities management or experience of the responsive bidder, (3) other skating or hockey management experience of the responsive bidder, (4) a residential discount program, (5) reservation policies, (6) proposed reasonable rates that will ensure continued public access, (7) required financial audits, (8) policies to encourage use of the rink by persons of all races and nationalities, (9) safety and security plans, (10) seasonal opening and closing dates, (11) hours of operation and (12) how the operator will satisfy the following ice time allocation guidelines. Ice time at rinks under the jurisdiction of the division of urban parks and recreation shall be allocated to user groups in the following priority order: general public skating; non-profit youth groups; school hockey; youth groups other than non-profit youth groups; and adult organizations or informal groups. Ice time may be allocated at the discretion of the operator, provided that general public skating shall be booked at a minimum of 14 hours per week, with a range of times and days which reasonably allow for public skaters of all ages to participate in some public skating sessions. Every effort shall be made to balance the ice allocation needs of long-established youth organizations and newly formed youth organizations in a manner that provides equal opportunity and equal access for youths of each gender.

The inspector general shall review and approve any request for proposal issued by the division before issuance.

58 The division, in consultation with the department, when evaluating proposals that are
59 otherwise comparable, shall prefer any proposal to lease a rink or rinks that is submitted by a city
60 or town where the rink or rinks are located, or by a non-profit youth hockey organization in the
61 city or town where the rink or rinks are located, provided that the proposal complies with the ice
62 time allocation guidelines outlined above.

63 It shall be a mandatory term of any request for proposals issued by the commissioner and
64 of any contract entered into by the commonwealth with any party regarding the subject matter of
65 this section that any party which has entered into a contract pursuant to this section with the
66 commonwealth shall require, in order to maintain stable and productive labor relations and to
67 avoid interruption of the operation of the rinks and to preserve the safety and environmental
68 conditions of those rinks, that all employees currently working on the operation and maintenance
69 of the rinks be offered employment by any party entering into a contract pursuant to this section.
70 Upon the execution of any agreements authorized by this section, the department of conservation
71 and recreation shall reassign or relocate those employees who do not accept employment with
72 the lessor, to comparable positions within the department subject to applicable collective
73 bargaining agreements.

74 The provisions of any general or special law or rule or regulation relating to the
75 advertising, bidding or award of contracts, to the procurement of services or to the construction
76 and design of improvements shall not be applicable to any selected lessee which is awarded a
77 contract pursuant to this section, except as provided in this section.