

SENATE No. 1422

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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

15 properties; provided, however, that the division of capital asset management and maintenance, in
16 consultation with the department of conservation and recreation shall prefer any proposal
17 submitted by the city or town where the rink or rinks are located, or by a non-profit organization
18 within the city or town where the rink or rinks are located, which complies with the requirements
19 of this section

20 There shall be an option for renewal or extension for operations and maintenance
21 services not exceeding an additional 5 years. Such renewal or extension shall be at the discretion
22 of the division of capital asset management and maintenance in accordance with the original
23 contract terms and conditions or contract terms and conditions more favorable to the state. All
24 leases must contain a provision that requires the lessee to carry comprehensive general liability
25 insurance with the commonwealth named as a co-insured, protecting the commonwealth against
26 all personal injury or property damage within the rink or on the land during the term of the lease.

27 Such leases and other agreements shall be on terms acceptable to the
28 commissioner of the division of capital asset management and maintenance after consultation
29 with the commissioner of the department of conservation and recreation, and, notwithstanding
30 any general or special law to the contrary, shall provide for the lessees to manage, operate,
31 improve, repair and maintain the properties. Any such leases or other arrangements requiring
32 capital improvements to be made to any buildings or surface areas shall include a description of
33 the required capital improvements and, at a minimum, performance specifications. Such leases
34 and other agreements shall provide that any benefits to the commonwealth and the costs of
35 improvements and repairs made to the properties provided by the tenants or the recipients of the
36 properties shall be taken into account as part of the consideration for such leases or other
37 agreements. The division, in consultation with the department, shall structure each lease or other

38 agreement to minimize disturbance of the current rights of any tenants who may currently use
39 any part of the rink or adjoining facilities, whether under a written lease or other arrangement.
40 All consideration received from the leases or other agreements shall be payable to the department
41 of conservation and recreation for deposit into the General Fund. The lessees of said properties
42 shall bear all costs deemed necessary or appropriate by the commissioner of the division of
43 capital asset management and maintenance for the transaction, including without limitation, all
44 costs for legal work, survey, title and the preparation of plans and specifications.

45 (b) The division of capital asset management and maintenance, in consultation
46 with and on behalf of the department of conservation and recreation, shall solicit proposals
47 through a request for proposals which shall include key contractual terms and conditions to be
48 incorporated into the contract, including but not limited to (1) a comprehensive list of all rinks
49 operated by the responsive bidder or offeror in the last four years, (2) other facilities
50 management or experience of the responsive bidder or offeror, (3) other skating or hockey
51 management experience of the responsive bidder or offeror, (4) a residential discount program,
52 (5) reservation policies, (6) proposed reasonable rates that will ensure continued public access,
53 (7) required financial audits, (8) policies to encourage use of the rink by persons of all races and
54 nationalities, (9) safety and security plans, (10) seasonal opening and closing dates, (11) hours of
55 operation and (12) how the operator will satisfy the following ice time allocation guidelines. Ice
56 time at rinks under the jurisdiction of the division of urban parks and recreation shall be allocated
57 to user groups in the following priority order: general public skating; non-profit youth groups;
58 school hockey; youth groups other than non-profit youth groups; and adult organizations or
59 informal groups. Ice time may be allocated at the discretion of the operator, provided that
60 general public skating shall be booked at a minimum of 12 hours per week, with a range of times

61 and days which reasonably allow for public skaters of all ages to participate in some public
62 skating sessions. Every effort shall be made to balance the ice allocation needs of long-
63 established youth organizations and newly formed youth organizations in a manner that provides
64 equal opportunity and equal access for youths of each gender.

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

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

78 (d) The provisions of any general or special law or rule or regulation relating to
79 the advertising, bidding or award of contracts, to the procurement of services or to the
80 construction and design of improvements shall not be applicable to any selected offeror which is
81 awarded a contract pursuant to this section, except as provided in this section.