

# SENATE . . . . . No. 1423

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act authorizing the leasing of the Leo J. Martin Memorial golf course..

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

1           SECTION1. (a) Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55,  
2 inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary,  
3 the division of capital asset management and maintenance, on behalf of and in consultation with  
4 the department of conservation and recreation may, using such competitive proposal process as  
5 the division deems necessary or appropriate, lease and enter into other agreements, for terms not  
6 to exceed 25 years with 1 or more operators, for the Leo J. Martin Memorial golf course in the  
7 town of Weston so as to provide for the continued use, operation, maintenance, repair and  
8 improvement of the golf courses, practice greens, driving range, restaurant or any other structure  
9 and associated lands which constitute the facilities of the Leo J. Martin Memorial golf course,  
10 hereinafter referred to as the golf course; provided, however, that the division of capital asset  
11 management and maintenance, in consultation with the department of conservation and  
12 recreation shall prefer any proposal submitted by the town of Weston, or by a non-profit  
13 organization within the town of Weston, which complies with the requirements of this section;  
14 and provided further, that the division of capital asset management and maintenance shall

15 provide the town of Weston no less than 180 days to determine whether said town shall submit a  
16 proposal prior to soliciting proposals pursuant to subsection (b); and provided further, that if said  
17 town of Weston executes a lease of the golf course pursuant to this section it shall not assign or  
18 otherwise transfer the lease to any third party.

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

27         Such lease and other agreements shall be on terms acceptable to the commissioner of the  
28 division of capital asset management and maintenance after consultation with the commissioner  
29 of the department of conservation and recreation, and, notwithstanding any general or special  
30 law to the contrary, shall provide for the lessee to manage, operate, improve, repair and maintain  
31 the property. Any such lease or other arrangement shall stipulate that any required capital  
32 improvements to the golf courses, practice greens, driving range, restaurant or any other structure  
33 or associated lands which constitute the facilities of the golf course shall be made by the lessee  
34 and shall include a description of the required capital improvements and without limitation  
35 performance specifications. Said lease and other agreement shall provide that any benefits to the  
36 commonwealth and the costs of improvements and repairs made to the properties by the lessee  
37 shall be taken into account as part of the consideration for such leases or other agreements. All

consideration received from the leases or other agreements executed pursuant to this section shall be payable to the department of conservation and recreation for deposit into the General Fund.

(b) If no lease agreement is reached with the town of Weston pursuant to subsection (a) and not before April 1, 2009, 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 recreational facilities operated by the responsive bidder or offeror in the last 4 years; (2) other facilities management or experience of the responsive bidder or offeror; (3) a residential, senior citizen and children discount program; (4) reservation policies; (5) proposed reasonable rates that will ensure continued public access; (6) required financial audits; (7) policies to encourage use of the golf course by persons of all races and nationalities; (8) safety and security plans; (9) seasonal opening and closing dates; (10) hours of operation; (11) holiday recognition; (12) grievance processes; (13) clubhouse license; (14) a provision that the facility shall be maintained as a 36 hole public golf course; (15) a provision that lessee shall not construct any facilities on the grounds of the golf course or any property appurtenant thereto; provided, however, that said lessee may construct facilities incidental to the operation of a golf course with the written approval of the commissioner of the department of conservation and recreation; (16) a provision that the town of Weston shall receive compensation from the lessee in an amount equal to or greater than the amount said town would receive in property taxes if the golf course were taxed as a commercial property as may be determined by the board of assessors of the town of Weston. Any increase in fees including fees for season passes, and any increase in charges for greens fees, golf cart or club rentals shall be approved in writing by the

commissioner of the department of conservation and recreation; provided, however, that in considering any request for an increase in fees, the commissioner shall consider without limitation: (i) any capital investment made by the contractor or lessee; (ii) the fees and charges at other public golf courses within reasonable proximity; and (iii) the length of time since the last fee increase.

It shall be a mandatory term of any request for proposals issued by the division of capital asset management and maintenance and of any contract entered into by the commonwealth with any party that any party which has entered into a contract pursuant to this section with the commonwealth shall require, in order to maintain stable and productive labor relations and to avoid interruption of the operation of the golf course and to preserve the safety and environmental conditions of said golf course, that all employees currently working on the operation and maintenance of the golf course be offered employment by any party entering into a contract pursuant to this section. Upon the execution of any agreements authorized by this section, the department of conservation and recreation shall reassign or relocate those employees who do not accept employment with the lessee, to comparable positions within the department subject to applicable collective bargaining agreements.

(c) The provisions of any general or special law or rule or regulation relating to the advertising, bidding or award of contracts, to the procurement of services or to the construction and design of improvements shall not be applicable to any party leasing the golf course pursuant to this section.

(d) Notwithstanding any general or special law to the contrary, the inspector general shall review and approve any lease executed pursuant to this section and the review shall include

an examination of the methodology utilized for establishing a lease price. Within 30 days of receiving the lease, the inspector general shall prepare a report of his review and file the report with the commissioner of the division of capital asset management and maintenance. Within 15 days of receiving the inspector general's report, the commissioner shall submit such report to the house and senate committees on ways and means and the joint committee on bonding, capital expenditures and state assets but no later than 15 days before the execution of any agreement or other document relating to the lease.

(e) Notwithstanding any general or special law to the contrary, the lessee shall be responsible for all costs and expenses, including but not limited to, costs associated with any engineering, surveys, appraisals, and document preparation related to the contracts and leases authorized pursuant to this section as such costs may be determined by the commissioner of the division of capital asset management and maintenance. Upon conveyance of the parcel, the lessee shall be solely responsible for all costs, liabilities and expenses of any nature and kind for the development, maintenance, use and operation of the golf course.

(f) The division of capital asset management and maintenance and the department of conservation and recreation shall report on the results of any requests for proposals and any subsequent leases executed as a result of this section. The report shall include, but not be limited to: the time required to conduct the request for proposals process; the quality and characteristics of the bids received in response to the request; the criteria used to identify successful bidders; the dates of any executed leases; any service changes resulting from executed leases; any increase or decrease in the length of the season of operations for the golf course; the capital improvements that have been completed, are under construction or are planned by the lessee; and the revenue generated by any executed leases. The report shall be submitted to the clerks of the house and

106 senate and to the house and senate committees on ways and means no later than February 1,  
107 2009.