

SENATE No. 2127

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Text of amendment (Ways and Means) to the Senate Bill relative to the leasing of land to the Pittsfield Family YMCA by Berkshire Community College S2114.

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

1 Notwithstanding any general or special law to the contrary, but subject to section 40J of
2 chapter 7 of the General Laws, the commissioner of capital asset management and maintenance
3 may, in consultation with the department of higher education and Berkshire Community College,
4 enter into a lease or other agreement with the Pittsfield Young Men’s Christian Association for
5 the purpose of facilitating the operation and maintenance of a summer community recreational
6 program for a term, including extensions, not to exceed 20 years of certain facilities at the
7 college’s campus in the city of Pittsfield. The exact areas to be leased or otherwise used by the
8 Pittsfield Young Men’s Christian Association shall be determined by the commissioner in
9 consultation with the department of higher education and the college.

10 Any lease or other agreement entered into pursuant to this act shall be on such terms and
11 conditions as the division of capital asset management and maintenance, in consultation with the
12 department of higher education and Berkshire Community College, deems appropriate. Any
13 such lease or other agreement shall contain a provision that requires the Pittsfield Young Men’s

14 Christian Association to carry comprehensive general liability insurance with the commonwealth
15 named as a co-insured, to protect the commonwealth against all personal injury or property
16 damage on the facilities during the term of the lease or other agreement. The Pittsfield Young
17 Men's Christian Association shall indemnify and hold the commonwealth and Berkshire
18 Community College harmless for all personal injury or property damage caused or suffered by
19 the Pittsfield Young Men's Christian Association, its clients or agents.

20 The consideration for the lease or other agreement shall be the full and fair market value
21 as determined by the commissioner of capital asset management and maintenance pursuant to an
22 independent professional appraisal. The inspector general shall review and approve the appraisal
23 and the review shall include an examination of the methodology utilized for the
24 appraisal. Within 30 days of receiving the appraisal, the inspector general shall prepare a report
25 of his review and file the report with the commissioner of capital asset management and
26 maintenance. Within 15 days of receiving the inspector general's report but no later than 15
27 days before the execution of any agreement or other document relating to the lease, the
28 commissioner shall submit such report to the house and senate committees on ways and means
29 and the house and senate committees on bonding, capital expenditures and state assets.

30 The Pittsfield Young Men's Christian Association shall be responsible for all costs
31 deemed necessary or appropriate by the commissioner of capital asset management and
32 maintenance for the transaction including, without limitation, the costs for legal work, survey,
33 title, appraisal and the preparation of plans and specifications. The Pittsfield Young Men's
34 Christian Association shall also be responsible for any costs, liabilities or expenses of any kind
35 for the development, improvement, maintenance or operation of the facilities subject to the lease

36 or other agreement as may be determined by the commissioner of capital asset management and
37 maintenance, in consultation with Berkshire Community College.

38 The design of and plans and specifications for any buildings or other improvements to be
39 constructed by the Pittsfield Young Men's Christian Association shall be subject to the review
40 and approval of the division of capital asset management and maintenance and Berkshire
41 Community College.