

SENATE No. 2232

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to modify the Lowell Arena and Civic Stadium Commission to the Civic Stadium Commission and to transfer the Tsongas Arena from the city of Lowell to the university of Massachusetts Building Authority.

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. Chapter 325 of the Acts of 1994, amended by chapter 79 of the acts of
2 1995, and further amended by chapter 205 of the acts of 1996, is hereby repealed.

3 SECTION 2. The Lowell Arena and Civic Stadium Commission shall be renamed the
4 Lowell Civic Stadium Commission, hereinafter called the commission, for the purpose of
5 operating and maintaining, the civic stadium.

6 SECTION 3. (a) The commission shall consist of seven members, residents of the city as
7 herein provided, four of whom shall be appointed by the city manager with the approval of the
8 city council and three of whom shall be appointed by the chancellor of the University of
9 Massachusetts at Lowell, hereinafter called the university, in accordance with the procedures set
10 forth in this act. A record of such appointments by the city and as designated in writing by the
11 university shall be filed with the city clerk and thereupon be effective. The chairperson of the
12 commission shall be designated by the city manager.

13 (b) The members of the commission appointed by the university, shall either be residents
14 of the city or officers or employees of the university. A vacancy in the commission shall be filled
15 through the procedures set forth in paragraph (a). Any member of the commission appointed by
16 the university may vote or act on any matter concerning or related to the university brought
17 before the commission.

18 (c) The members of the commission shall serve for terms of five years unless sooner
19 removed; provided, however, that two of the initial appointees of the chancellor of university
20 shall serve for two years, and one shall serve for three years, the term of each to be designated by
21 the chancellor at the time of appointment; the remaining initial appointees of the city shall serve
22 for terms of one, two, four, and five years respectively, the term of each to be designated by the
23 city manager at the time of appointment. Members, unless sooner removed, shall serve until the
24 appointment of their successors. Vacancies other than by reason of expiration of a term shall be
25 filled by appointment by the appropriate appointing authority for the balance of the unexpired
26 term. A member of the commission may be removed for cause for misfeasance, malfeasance or
27 wilful neglect of duty by a unanimous vote of each, of the city, acting through the city council,
28 and the university, acting through the chancellor, who may appoint a designee for this purpose,
29 pursuant to reasonable notice to the member in question which shall include a statement of facts
30 forming the basis for consideration of removal, and a public hearing conducted before the
31 council and the university representative, unless such hearing is expressly waived by the member
32 in question in writing. Removal for cause may be initiated by either the city or the university.

33 (d) The commission shall adopt by-laws, rules and regulations, which are consistent with
34 the provisions hereof or of any applicable statute or ordinance, for conducting its business and
35 meetings and otherwise carrying out, the purpose of this act. Four members of the commission

36 shall constitute a quorum and the affirmative vote of the majority shall be necessary and shall
37 suffice for any action taken by the commission including the adoption of such by-laws, rules and
38 regulations.

39 (e) Members of the commission shall serve without compensation, but shall be allowed
40 their reasonable and necessary expenses incurred in the performance of their duties as such
41 members.

42 (f) Notwithstanding any other provision hereof, upon the effective date of this act the
43 then serving members of the Lowell Arena and Civic Stadium Commission shall continue in
44 office as the members of the Lowell Civic Stadium Commission described in this Section 3, and
45 their respective terms as members of the civic stadium commission shall not be modified.

46 SECTION 4. (a) The commission, in cooperation with federal, state, municipal or private
47 agencies or persons, natural or corporate, including, without limitation, the university, is hereby
48 authorized for and on behalf of the city to plan, design, locate, acquire property, construct, equip,
49 furnish, alter, enlarge and repair structures and facilities of the civic stadium, whenever and to
50 such extent that the commission deems such facilities to be necessary or desirable.

51 (b) Notwithstanding any other provision hereof to the contrary, the commission shall take
52 no action described in this section without the approval of the city council of the city in each
53 instance upon written request of the city council by the commission: (i) adoption of annual
54 capital and annual operating budgets, (ii) the acquisition by purchase or lease of real property,
55 (iii) the disposition of real property, and (iv) the exercise of eminent domain.

56 SECTION 5. (a) The commission is hereby authorized to acquire in the name and on
57 behalf of the city for the purposes of this act private or public, real or personal property rights

58 above, at or below the surface of the earth which it deems necessary or desirable for the civic
59 stadium by purchase, gift, lease, bequest, devise or grant, and the city may transfer to the
60 jurisdiction of the commission for such purpose any such property acquired by the city by
61 purchase, gift, lease, bequest, devise, grant or by the exercise of eminent domain under any
62 provision of law. Wherever possible and practicable, real property acquired under the provision
63 of this act shall be acquired in fee simple.

64 (b) The commission, may sell, lease, exchange, demolish or otherwise dispose of
65 property and property rights acquired under this act if, in so doing, it deems that the interests of
66 the city will be best served and that the same are no longer needed for purposes of the civic
67 stadium.

68 Section sixteen of chapter thirty B of the General Laws shall not apply to this section.

69 SECTION 6. For the purposes of making surveys, planning, acquiring land for, erecting,
70 equipping of the civic stadium, the city, acting by and through the commission, is hereby
71 authorized to accept and use such federal, commonwealth and university funds, grants,
72 appropriations, credits and benefits as may now or hereafter be available for the same including,
73 without limitation, any funds available to the city or the commission in accordance with chapter
74 four hundred and eighty-six of the acts of nineteen hundred and eighty and to secure the benefits
75 in regard to the civic stadium of the applicable provisions of federal or state law or that which
76 may be restricted by referendum for initial construction.

77 SECTION 7. Notwithstanding the provisions of any general or special law or ordinance
78 to the contrary, the commission for and on behalf of the city is hereby authorized and
79 empowered:

80 (a) To maintain, operate, insure, promote, repair and improve a civic stadium for such
81 uses as are provided in this act.

82 (b) To provide through employees of the city under the commission's supervision or by
83 the grant of one or more contracts or concessions to the university or to private persons or
84 entities for the furnishing of services and materials for the accommodation of persons admitted to
85 or using the civic stadium or any part, facility or function thereof.

86 (c) To establish rules, regulations and policies, and fix penalties for violations thereof, for
87 the use and occupancy of the civic stadium in accordance with the purposes provided for in this
88 act and to revise the same from time to time. Penalties enforced or other damages recovered by
89 judicial process or otherwise shall be collected for the account of the city and paid over to the
90 commission.

91 (d) To fix and revise from time to time and charge and collect fees, rates, rentals and
92 other charges for admission to, or the use or occupancy of the civic stadium or any part thereof,
93 and for the grant of concessions therein and for things furnished or services rendered by the
94 commission or by the university or any other person holding a concession from the commission,
95 whether the facilities are operated by the commission or under a contract or lease with the
96 university or any other persons or entities. The commission shall fix such fees, rates, rentals or
97 other charges for the admission to or the use and occupancy of the civic stadium under this act as
98 in its judgment are best suited to insure maximum income to meet the expenses of the
99 commission as established in its annual budget and to provide such facilities at reasonably low
100 cost. The fees, rates, rentals and other charges fixed by the commission shall not be subject to

101 supervision by or regulation of any department, division, commission, board, bureau or agency
102 of the commonwealth or of the city except as otherwise provided herein.

103 (e) Notwithstanding the provisions of any general or special law to the contrary, the
104 University of Massachusetts shall not be required to pay a fee or charge of any kind for the use
105 of the civic stadium, but, shall be responsible for it's own costs.

106 (f) To contract with the university and any other persons or entities, public or private,
107 with respect to the use and occupancy by the university or such persons or entities by lease,
108 rental or otherwise, of all or any portion of the civic stadium under such terms and conditions,
109 for such fees, rentals or other charges, and for such period, not exceeding ten years, as the
110 commission shall deem in the best interest of the city, except that a contract with the university
111 for university use may be for a period in excess of ten years.

112 (g) Notwithstanding any general or special law to the contrary, the city and the
113 commission are hereby authorized to extend the current Baseball Stadium Lease Agreement with
114 The University of Massachusetts at Lowell, provided however, that any such contract shall not
115 exceed a term of twenty-five years. Further, the city and the commission are hereby authorized
116 to enter into successor lease agreements with The University of Massachusetts at Lowell for
117 additional terms, provided however, that any such contract shall not exceed a term of twenty-five
118 years.

119 (h) To contract with a private professional manager or management firm, hereinafter
120 called the "general manager", which may be the same as the management agent for Lowell
121 memorial auditorium, wherein the commission may delegate such duties and authority to the
122 general manager in regard to supervising the design and construction and equipping, furnishing,

123 repairing, operating and maintaining the civic stadium as the commission deems proper;
124 provided, however, that any such contract shall provide for the termination of the same by the
125 commission for cause and may provide for the termination of the same at the convenience of the
126 commission.

127 (i) To engage accounting, management, legal, financial, consulting and other professional
128 services, and to employ such other employees and agents, as may be necessary to carry out the
129 provisions and purposes of this act.

130 (j) Except as otherwise provided herein, all contracts made pursuant to this act shall be in
131 accordance with the provisions of section twenty-nine of chapter forty-three of the General
132 Laws.

133 (k) Members of the commission shall not be employees of the city and the provisions of
134 chapter thirty-one of the General Laws shall not apply to any persons employed by the
135 commission.

136 SECTION 8. (a) The commission is hereby authorized to maintain and operate the civic
137 stadium or to contract with the university or to contract with any person acting jointly with the
138 university or any other person, public or private, for the maintenance and operation of the civic
139 stadium or any portion thereof, provided, however, that any such contract shall not exceed a term
140 of ten years and shall be subject to the limitations and procedures established by section twenty-
141 nine of chapter forty-three of the General Laws and chapter thirty B of the General Laws.

142 (b) Any contract pursuant to paragraph (a) may provide for advance reservations of the
143 civic stadium shall be on such terms and conditions as the commission deems proper.

144 Notwithstanding the provisions of any general or special law or ordinance to the contrary,

145 contracts executed pursuant to this section shall be valid and binding on both parties thereto
146 when executed by any such person and upon approval by a majority of the members of the
147 commission. Said commission's power to execute contracts under this section may be delegated
148 by it to the general manager of the civic stadium.

149 SECTION 9. (a) The commission shall have no independent authority to incur debt. All
150 debt in the form of notes or bonds, if any, incurred in connection with the civic stadium shall be
151 debt of the city and shall be incurred by the city in accordance with applicable laws and
152 procedures and on such terms and conditions as determined by the city from time to time.

153 (b) Subject to the approval of the finance advisory board if such board shall then be in
154 existence, the city, upon recommendation of the city manager and the approval of the city
155 council, may appropriate to the commission such funds as it deems necessary for the purposes of
156 managing, operating, promoting, maintaining, repairing and improving the civic stadium or any
157 of its facilities. The provisions of chapter four hundred and eighty-six of the acts of nineteen
158 hundred and eighty, to the extent not inconsistent with the provisions of this act, shall apply to
159 the city and the commission acting under the provisions of this act.

160 (c) Any receipts from the operation of the civic stadium shall be kept in a separate fund
161 by the city treasurer apart from any other money, funds, or other property of the city and may be
162 used subject to the recommendation of the city manager and the approval of the city council for
163 the purpose of managing, operating, promoting, maintaining, repairing and improving the civic
164 stadium and for the payment of bond and note indebtedness as provided in this act and for a
165 capital reserve fund among other things. The provisions of section fifty-three F ½ of chapter

166 forty-four of the General Laws shall apply to the civic stadium which shall be deemed to be an
167 enterprise under said provisions.

168 SECTION 10. The commission shall prepare and submit to the city manager and city
169 council an annual report within three months of the end of the city's fiscal year.

170 SECTION 11. All existing contractual rights and obligations of the Lowell Arena and
171 Civic Stadium Commission with respect to the civic arena shall become the contractual rights
172 and obligations of the University of Massachusetts at Lowell on the effective date of this section.

173 SECTION 12. (a) Notwithstanding any limitation on the number of licenses which may
174 be issued under the provisions of section seventeen of chapter one hundred and thirty-eight of the
175 General Laws, the licensing commissioners of the City of Lowell may issue to the University of
176 Massachusetts Building Authority, the university, any non-profit supporting organization of the
177 university or to any other persons or entities operating the civic arena under a contract with the
178 Authority or the university, or who has been granted a concession by the Authority or the
179 university for the sale of food and alcoholic beverages, a license as a common victualler to serve
180 all alcoholic beverages to be drunk on the premises of the civic arena or any part thereof and the
181 provisions of sections twelve A and sixteen C of said chapter one hundred and thirty-eight shall
182 not apply to such premises. A licensee shall not be required by said licensing board under the
183 provisions of section twelve of said chapter one hundred and thirty-eight to have the licensed
184 premises open during any hours when there is no activity being conducted in the civic arena nor
185 shall the licensee be permitted to serve food or alcoholic beverages to strangers, travelers or
186 members of the general public who are not attending an activity then being conducted in the
187 civic arena.

188 (b) Notwithstanding any general or special law or ordinance to the contrary, said
189 licensing commissioners are authorized to issue to the Authority, the university, any non-profit
190 supporting organization of the university or to any other persons operating the civic arena under
191 a contract with the Authority or the university or who has been granted a concession by the
192 Authority or the university for the sale of food or beverages a common victualler's license for the
193 premises of the civic arena or any part thereof pursuant to section two of chapter one hundred
194 and forty of the General Laws and the provisions of section five of said chapter one hundred and
195 forty shall not apply to the license so issued.

196 (c) Notwithstanding any limitation on the number of licenses which may be issued under
197 the provisions of section seventeen of chapter one hundred and thirty-eight of the General Laws,
198 the licensing commissioners of the City of Lowell may issue to the university, any non-profit
199 supporting organization of the university or to any other persons or entities operating the civic
200 stadium under a contract with the city, or who has been granted a concession by the city for the
201 sale of food and alcoholic beverages, a license as a common victualler to serve all alcoholic
202 beverages to be drunk on the premises of the civic stadium or any part thereof and the provisions
203 of sections twelve A and sixteen C of said chapter one hundred and thirty-eight shall not apply to
204 such premises. A licensee shall not be required by said licensing board under the provisions of
205 section twelve of said chapter one hundred and thirty-eight to have the licensed premises open
206 during any hours when there is no activity being conducted in the civic stadium nor shall the
207 licensee be permitted to serve food or alcoholic beverages to strangers, travelers or members of
208 the general public who are not attending an activity then being conducted in the civic stadium.

209 (d) Notwithstanding any general or special law or ordinance to the contrary, said
210 licensing commissioners are authorized to issue to the university, any non-profit supporting

211 organization of the university or to any other persons operating the civic stadium under a
212 contract with the city or who has been granted a concession by the city for the sale of food or
213 beverages a common victualler's license for the premises of the civic stadium or any part thereof
214 pursuant to section two of chapter one hundred and forty of the General Laws and the provisions
215 of section five of said chapter one hundred and forty shall not apply to the license so issued.

216 (e) Any licenses issued under this section shall not be transferable to any other location
217 and such licenses shall be renewed annually subject to the provisions of chapter one hundred and
218 thirty-eight of the General Laws.

219 (f) Any license issued under this section shall expire and be returned by the licensee to
220 the licensing commissioner upon the termination of the licensee's lease or concession.

221 SECTION 13. This Act shall take effect on January 12, 2010. Notwithstanding the
222 foregoing, the contracts referred to in section 11 shall remain the contracts of the commission
223 until the recording with the Middlesex County North District Registry of Deeds of a deed to the
224 University of Massachusetts Building Authority of the Tsongas Arena and the land on which it is
225 located, which includes the land shown as Lot 5 and a portion of Lot 1 on a plan recorded with
226 the Registry as Plan 101 in Plan Book 205.