

# SENATE . . . . . No. 2236

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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An Act modifying the Lowell Civic Stadium Commission.

*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. Section 1 of chapter 325 of the acts of 1994 is hereby amended by striking  
2 out the first sentence.

3           SECTION 2. Section 2 of said chapter 325 is hereby amended by striking out the first  
4 sentence.

5           SECTION 3. Subsection (a) of section 3 of said chapter 325 is hereby amended by  
6 striking out the first and second sentences, as appearing in section 3 of chapter 79 of the acts of  
7 1995, and inserting in place thereof the following sentences:- The city of Lowell, upon  
8 recommendation of the city manager and approval of the city council, may establish a  
9 commission, to be known as the Lowell civic stadium commission, hereinafter called the  
10 commission, for the purpose of establishing, designing, constructing, operating and maintaining,  
11 as herein provided, a civic stadium within said city. The commission shall consist of 7 members,  
12 residents of the city as herein provided, 4 of whom shall be appointed by the city manager with  
13 the approval of the city council and 3 of whom shall be appointed by the chancellor of the

University of Massachusetts at Lowell, hereinafter called the university, in accordance with the procedures set forth in this act.

SECTION 4. Said section 3 of said chapter 325 is hereby further amended by striking out subsection (d) and inserting in place thereof the following subsection:-

(d) The commission shall adopt by-laws, rules and regulations, which are consistent with the provisions hereof or of any applicable statute or ordinance, for conducting its business and meetings and otherwise carrying out, the purpose of this act. Four members of the commission shall constitute a quorum and the affirmative vote of a majority of the members shall be necessary for any action taken by the commission including the adoption of by-laws, rules and regulations.

SECTION 5. Section 4 of said chapter 325 is hereby amended by striking out subsection (a), as inserted by section 5 of chapter 79 of the acts of 1995, and inserting in place thereof the following subsection:-

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

SECTION 6. Said section 4 of chapter 325 is hereby amended by striking out subsections (c) to (e), inclusive.

SECTION 7. Said chapter 325 is hereby further amended by striking out section 5 to 10, inclusive, and inserting in place thereof the following 6 sections:-

Section 5. (a) The commission, upon the approval of the city council as provided in subsection (b) of section 4, may acquire in the name of and on behalf of the city, for the purposes of this act private or public, real or personal property rights above, at or below the surface of the earth which it deems necessary or desirable for a civic stadium by purchase, gift, lease, bequest, devise or grant, and the city may transfer to the jurisdiction of the commission for such purpose any such property acquired by the city by purchase, gift, lease, bequest, devise or grant or by the exercise of eminent domain under any provision of law. Wherever possible and practicable, real property acquired under the provision of this act shall be acquired in fee simple.

(b) The commission, upon the approval of the city council as set forth in subsection (b) of section 4, may sell, lease, exchange, demolish or otherwise dispose of property and property rights acquired under this act if, in so doing, it deems that the interests of the city will be best served and that the same are no longer needed for purposes of the civic stadium.

Section 16 of chapter 30B of the General Laws shall not apply to this section.

Section 6. For the purposes of making surveys, planning, acquiring land for, erecting, equipping of a civic stadium, the city, acting by and through the commission, may accept and use federal, commonwealth and university funds, grants, appropriations, credits and benefits as may now or hereafter be available for the same including, without limitation, any funds available to the city or the commission in accordance with the provisions of chapter 486 of the acts of 1980 and to secure the benefits in regard to the civic stadium of the applicable provisions of federal or state law or that which may be restricted by referendum for initial construction.

Section 7. Notwithstanding the provisions of any general or special law or ordinance to the contrary, the commission for and on behalf of the city may:

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

(b) provide through employees of the city under the commission's supervision or by the grant of 1 or more contracts or concessions to the university or to private persons or entities for the furnishing of services and materials for the accommodation of persons admitted to or using the civic stadium or any part, facility or function thereof;

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

(d) fix and revise, from time to time, and charge and collect fees, rates, rentals and other charges for admission to, or the use or occupancy of the civic stadium or any part thereof and for the grant of concessions therein and for things furnished or services rendered by the commission or by the university or any other person holding a concession from the commission, whether the facilities are operated by the commission or under a contract or lease with the university or any other persons or entities. The commission shall fix such fees, rates, rentals or other charges for the admission to or the use and occupancy of the civic stadium under this act as in its judgment are best suited to insure maximum income to meet the expenses of the commission as established in its annual budget and to provide the facilities at reasonably low cost. The fees, rates, rentals

and other charges fixed by the commission shall not be subject to supervision by or regulation of any department, division, commission, board, bureau or agency of the commonwealth or the city except as otherwise provided herein;

(e) allow, notwithstanding the provisions of any general or special law to the contrary, the university to use the civic stadium without paying a fee or charge of any kind for the use of the civic stadium; provided, however, the university shall be responsible for its own costs.;

(f) contract with the university and any other persons or entities, public or private, with respect to the use and occupancy by the university or persons or entities by lease, rental or otherwise, of all or any portion of the civic stadium under terms and conditions, for fees, rentals or other charges, and for a period, not exceeding 10 years, as the commission shall deem in the best interest of the city, except that a contract with the university for university use may be for a period in excess of 10 years. Any contract with the university may include provision for the payment by the university directly or by contribution to the commission through the city of a portion of the capital costs of design, construction and operation of the civic stadium and the university may enter into any contract with the commission and make any payment or contribution from any monies of the university available for such purpose, notwithstanding the provisions of any general or special law to the contrary;

(g) extend the current baseball stadium lease agreement with the university notwithstanding any general or special law to the contrary; provided, however, that any such contract shall not exceed a term of 25 years; provided further, that the city and the commission may enter into successor lease agreements with the university for additional terms; and provided further, that any such successor lease agreement shall not exceed a term of 25 years;

(h) contract with a private professional manager or management firm, hereinafter called the "general manager", which may be the same as the management agent for Lowell memorial auditorium, wherein the commission may delegate duties and authority to the general manager with regard to supervising the design and construction and equipping, furnishing, repairing, operating and maintaining the civic stadium as the commission deems appropriate; provided, however, that any contract shall provide for the termination of the same by the commission for cause and may provide for the termination of the same at the convenience of the commission;

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

(j) except as otherwise provided herein, all contracts made pursuant to this act shall be in accordance with the provisions of section 29 of chapter 43 of the General Laws; and

(k) members of the commission shall not be employees of the city and the provisions of chapter 31 of the General Laws shall not apply to any persons employed by the commission.

Section 8. (a) The commission may maintain and operate a civic stadium, or contract with the university, contract with any person acting jointly with the university, or contract with any other person, public or private, for the maintenance and operation of the civic stadium or any portion thereof; provided, however, that any contract shall not exceed a term of 10 years and shall be subject to the limitations and procedures established by section 29 of chapter 43 of the General Laws.

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

Notwithstanding the provisions of any general or special law or ordinance to the contrary, contracts executed pursuant to this section shall be valid and binding on both parties thereto when executed by any such person and upon approval by a majority of the members of the commission. The commission's power to execute contracts under this section may be delegated by it to the general manager of the civic stadium.

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

(b) Subject to the approval of the finance advisory board if such board shall then be in existence, the city, upon recommendation of the city manager and approval of the city council, may appropriate to the commission funds as it deems necessary for the purposes of managing, operating, promoting, maintaining, repairing and improving the civic stadium or any of its facilities. The provisions of chapter 486 of the acts of 1980, to the extent not inconsistent with the provisions of this act, shall apply to the city and the commission acting under this act.

(c) Any receipts from the operation of the civic stadium shall be kept in a separate fund by the city treasurer apart from any other money, funds or other property of the city and may be used subject to the recommendation of the city manager and the approval of the city council for the purpose of managing, operating, promoting, maintaining, repairing and improving the civic stadium and for the payment of bond and note indebtedness as provided in this act and for a capital reserve fund among other things. The provisions of section 53F½ of chapter 44 of the

143 General Laws shall apply to the civic stadium which shall be deemed to be an enterprise under  
144 the provision.

145         Section 10. (a) Notwithstanding any limitation on the number of licenses which may be  
146 issued under section 17 of chapter 138 of the General Laws, the licensing commissioners of the  
147 city of Lowell may issue to the university, a non-profit supporting organization of the university  
148 as designated by the university or to any other persons or entities operating the civic stadium  
149 under a contract with the city, or who has been granted a concession by the city for the sale of  
150 food and alcoholic beverages, a license as a common victualler to serve all alcoholic beverages  
151 to be drunk on the premises of the civic stadium or any part thereof and the provisions of  
152 sections 12A and 16C of said chapter 138 shall not apply to the premises. A licensee shall not be  
153 required by the licensing board under the provisions of section 12 of said chapter 138 to have the  
154 licensed premises open during any hours when there is no activity being conducted in the civic  
155 stadium nor shall the licensee be permitted to serve food or alcoholic beverages to strangers,  
156 travelers or members of the general public who are not attending an activity then being  
157 conducted in the civic stadium.

158         (b) Notwithstanding any general or special law or ordinance to the contrary, the licensing  
159 commissioners may issue to the university, a non-profit supporting organization of the university  
160 as designated by the university or to any other persons operating the civic stadium under a  
161 contract with the city or who has been granted a concession by the city for the sale of food or  
162 beverages, a common victualler's license for the premises of the civic stadium or any part thereof  
163 pursuant to section 2 of chapter 140 of the General Laws; provided, however, the provisions of  
164 section 5 of said chapter 140 shall not apply to the license so issued.



(c) A licenses issued under this section shall not be transferable to any other location and the licenses shall be renewed annually subject to chapter 138 of the General Laws.

(d) A license issued under this section shall expire and be returned by the licensee to the licensing commissioner upon the termination of the licensee's lease or concession to carry out a permitted purpose of this act.

SECTION 8. (a) Notwithstanding any limitation on the number of licenses which may be issued under section 17 of chapter 138 of the General Laws, the licensing commissioners of the city of Lowell may issue to the University of Massachusetts Building Authority, the University of Massachusetts at Lowell, a non-profit supporting organization of the university as designated by the university or to any other persons or entities operating the Tsongas Arena under a contract with the Authority or the university, or who has been granted a concession by Authority or the university for the sale of food and alcoholic beverages, a license as a common victualler to serve all alcoholic beverages to be drunk on the premises of the Tsongas Arena or any part thereof and the provisions of sections 12A and 16C of said chapter 138 shall not apply to such premises. A licensee shall not be required by the licensing board under said section 12 of said chapter 138 to have the licensed premises open during any hours when there is no activity being conducted in the Tsongas Arena nor shall the licensee be permitted to serve food or alcoholic beverages to strangers, travelers or members of the general public who are not attending an activity then being conducted in the Tsongas Arena.

(b) Notwithstanding any general or special law or ordinance to the contrary, the licensing commissioners may issue to the Authority, the university, a non-profit supporting organization of the university as designated by the university or to any other persons operating the Tsongas

Arena under a contract with the Authority or the university or who has been granted a concession by the Authority or the university for the sale of food or beverages, a common victualler's license for the premises of the Tsongas Arena or any part thereof pursuant to section 2 of chapter 140 of the General Laws; provided, however, the provisions of section 5 of said chapter 140 shall not apply to the license so issued.

(c) A licenses issued under this section shall not be transferable to any other location and the licenses shall be renewed annually subject to chapter 138 of the General Laws.

(d) A license issued under this section shall expire and be returned by the licensee to the licensing commissioner upon the termination of the licensee's lease or concession to carry out a permitted purpose of this act.

SECTION 9. Notwithstanding any general or special law to the contrary, the Lowell Arena and Civic Stadium Commission shall be renamed the Lowell Civic Stadium Commission for the purpose of operating and maintaining the civic stadium and upon the effective date of this act all members of the Lowell Arena and Civic Stadium Commission shall continue in office as members of the Lowell Civic Stadium Commission for the remainder of their respective terms.

SECTION 10. Notwithstanding any general or special law to the contrary, all existing contractual obligations of the Lowell Arena and Civic Stadium Commission with respect to the Tsongas Arena shall become the contractual rights and obligations of the University of Massachusetts at Lowell.

SECTION 11. This act shall take effect on January 12, 2010; provided, however, section 10 shall take effect upon the recording with the Middlesex County North District Registry of Deeds a deed to the University of Massachusetts Building Authority of the Tsongas Arena and

209 the land on which it is located, which includes the land shown as Lot 5 and a portion of Lot 1 on  
210 a plan recorded with the Middlesex County North District Registry of Deeds as Plan 101 in Plan  
211 Book 205.