

# HOUSE . . . . . No. 4050

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Denise C. Garlick and James E. Timilty*

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act authorizing the commissioner of Capital Asset Management and Maintenance to convey certain parcels of land in the town of Medfield.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Denise C. Garlick</i>	<i>13th Norfolk</i>	<i>4/4/2014</i>
<i>James E. Timilty</i>	<i>Bristol and Norfolk</i>	<i>4/4/2014</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	<i>4/5/2014</i>

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By Representative Garlick of Needham and Senator Timilty, a joint petition (subject to Joint Rule 12) of Denise C. Garlick, James E. Timilty and Shawn Dooley (by vote of the town) for legislation to authorize the commissioner of Capital Asset Management and Maintenance to convey certain parcels of land in the town of Medfield. State Administration and Regulatory Oversight. [Local Approval Received.]

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen  
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An Act authorizing the commissioner of Capital Asset Management and Maintenance to convey certain parcels of land in the town of Medfield.

*Whereas*, The deferred operation of this act would tend to defeat its purpose, which is to transfer forthwith certain parcels of land to the town of Medfield, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

*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 29 of the General Laws is hereby amended by inserting after  
2 section 2KKKK the following section:-

3           Section 2LLLL. There shall be established and set up on the books of the commonwealth  
4 a separate fund, to be known as the Health and Human Services Capital Projects Trust Fund,  
5 hereinafter in this section referred to as the fund, administered by the commissioner of the  
6 division of capital asset management and maintenance at the direction of the secretary of health  
7 and human services. The fund shall be credited: (i) the portion of any net cash proceeds from the  
8 conveyance, lease or other disposition of any facilities vacated by any agency within the  
9 executive office of health and human services and determined to be surplus by the commissioner  
10 of the division of capital asset management and maintenance; (ii) any appropriations; (iii) bond  
11 proceeds; or (iv) other monies authorized by the general court and specifically designated to be  
12 credited thereto. The comptroller shall disburse amounts in the fund at the direction of the  
13 commissioner of the division of capital asset management and maintenance, in consultation with  
14 the secretary of the executive office of health and human services, without further appropriation,  
15 for the purpose of paying costs of, or paying down any portion of any debt incurred to pay costs

16 related to the acquisition, construction or improvements to health and human services facilities.  
17 The comptroller shall establish procedures necessary to effectuate this section, including  
18 procedures for the proper transfer, accounting and expenditures of funds. The comptroller may  
19 make payments in anticipation of receipts and shall establish procedures for reconciling  
20 overpayments and underpayments from the trust fund. The commissioner shall report semi-  
21 annually to the house and senate committees on ways and means on the revenue and expenditure  
22 activity within the fund. The fund shall be an expendable trust fund and shall not be subject to  
23 appropriation. Money remaining in the fund at the end of a fiscal year shall not revert to the  
24 General Fund.

25 SECTION 2. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General  
26 Laws, chapter 269 of the acts of 2008 or any other general or special law to the contrary, the  
27 commissioner of capital asset management and maintenance, hereinafter referred to as the  
28 commissioner, may convey 1 or more parcels of land located at the former state hospital in  
29 Medfield to the town of Medfield. The parcels are shown as parcel A and parcel B on a plan  
30 entitled "Compiled Plan of Land, Medfield State Hospital, Medfield, Massachusetts, prepared for  
31 Division of Capital Asset Management", dated June 14, 2005, prepared by Judith Nitsch  
32 Engineering, Inc., on file with the division of capital asset management and maintenance. The  
33 exact location and boundaries of the parcels to be conveyed shall be determined by the  
34 commissioner, in consultation with the town of Medfield. The use of the parcels to be conveyed  
35 to the town shall not be restricted to use for municipal or other specific uses; provided, however,  
36 that the town may so restrict the parcels at a later date, in accordance with applicable general and  
37 special law. The parcels shall be conveyed by deed without warranties or representations by the  
38 commonwealth.

39 SECTION 3. As consideration for the conveyance of the parcels described in section 2,  
40 the town of Medfield shall pay the commonwealth an amount equal to certain costs related to the  
41 closure of the former state hospital in Medfield including, but not limited to, the costs of  
42 removing combustible materials, disconnecting certain utilities, and otherwise closing those  
43 buildings located on the parcels conveyed, routine security, and other capital expenditures and  
44 operating expenses incurred by the commonwealth in preparation for or following the closure of  
45 the former state hospital, as determined by the commissioner and agreed to by the town. The  
46 town of Medfield may pay the amount so determined by the commissioner and agreed to by the  
47 town upon its purchase of the parcels described in section 2 or the town may pay the amount so  
48 determined in 10 annual payments pursuant to section 20A of chapter 58 of the General Laws. If  
49 the town's payment of consideration pursuant to this section so requires, the town may seek voter  
50 approval pursuant to subsection (k) of section 21C of chapter 59 of the General Laws.

51 SECTION 4. Notwithstanding chapter 269 of the acts of 2008, or any other general or  
52 special law to the contrary, parcels A-1 and A-2, as shown on the plan referenced in section 2  
53 shall be maintained as open space or used for agricultural and passive recreation purposes,  
54 subject to those subsurface utility easements on parcel A-1 serving the town's water system.

Notwithstanding the foregoing, but subject to such subsurface utility easements, the commissioner of capital asset management and maintenance may transfer the care and custody of parcels A-1, A-2 or C, or portions thereof, to the department of conservation and recreation for open space and passive recreation purposes. Such transfer shall be without consideration and shall not be subject to chapter 7C of the General Laws.

SECTION 5. In the event that the town of Medfield sells or leases any portion of the parcels described in section 2, the net proceeds from such sale or lease as determined by the town and agreed to by the commissioner, shall be allocated between the town of Medfield and the commonwealth in equal shares, ; provided, however, that the commissioner may agree to reduce the share of the commonwealth's proceeds to not less than 30 per cent of net proceeds in order to provide certain incentives to the town of Medfield to sell or lease some or all of the parcels described in section 2 expeditiously or to facilitate the development of some or all of the parcels in accordance with smart growth principles promulgated from time to time by the governor and the secretary of energy and environmental affairs. In the event that the net proceeds, as so determined, is a negative amount, the commonwealth shall not be required to make any payments to the town of Medfield. Any proceeds received by the commonwealth pursuant to this section shall be deposited into the Health and Human Services Capital Projects Trust Fund established pursuant to section 2LLLL of chapter 29 of the General Laws.

SECTION 6. Notwithstanding any general or special law to the contrary, the town of Medfield shall pay for all costs and expenses of the transactions authorized in this act as determined by the commissioner including, but not limited to, the costs of any recording fees and deed preparation related to the conveyances and for all costs, liabilities and expenses of any nature and kind related to the town's ownership of the parcels; provided, however, that such costs shall be included for the purposes of determining the net proceeds of the town's sale or lease of any portion of the parcels described in section 2. Amounts paid by the town of Medfield pursuant to section 3 shall not be included for the purposes of determining the net proceeds from a sale or lease.

SECTION 7. (a) In the event that the town of Medfield does not complete its purchase of the property described in section 2 on or before December 31, 2015, notwithstanding sections 33 to 38, inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary, the commissioner may sell, lease for terms up to 99 years, including all renewals and extensions, or otherwise grant, convey or transfer to purchasers or lessees an interest in the property described in section 2 or portions thereof, subject to this section and on such terms and conditions that the commissioner considers appropriate; provided, however, that the purchase by the town of Medfield shall be considered complete upon the transfer of title to the parcel or parcels described in section 2 to the town. The commissioner shall dispose of the property, or portion thereof, using appropriate competitive bidding processes and procedures. At least 30 days before the date on which bids, proposals or other offers to purchase or lease a property, or any portion thereof, are due, the commissioner shall place a notice in the central register

published by the state secretary pursuant to section 20A of chapter 9 of the General Laws stating the availability of the property, the nature of the competitive bidding process and other information that the commissioner considers relevant, including the time, place and manner for the submission of bids and proposals and the opening of the bids or proposals.

(b) Notwithstanding any general or special law to the contrary, the grantee or lessee of all or any portion of the property described in section 2 and subject to this section shall be responsible for costs and expenses including, but not limited to, costs associated with deed preparation and recording fees related to the conveyances and transfers authorized in this section as such costs may be determined by the commissioner.

(c) No agreement for the sale, lease, transfer or other disposition of the property described in section 2 and subject to this section, or any portion thereof, and no deed executed by or on behalf of the commonwealth, shall be valid unless the agreement or deed contains the following certification, signed by the commissioner:

“I, the undersigned commissioner of capital asset management and maintenance, hereby certify under penalties of perjury that I have fully complied with the relevant provisions of general and special law in connection with the property described in this document.”

SECTION 8. In any disposition pursuant to section 2 or section 7, the commissioner may retain, accept or acquire by purchase, transfer, lease, eminent domain, pursuant to chapter 79 of the General Laws or otherwise, and may grant by deed, transfer, lease or otherwise any rights-of-way or easements, in, over or beneath any parcel or portions thereof, or any other portions of the former Medfield state hospital, as the commissioner deems necessary and appropriate for the continued access to, egress from and use of portions of the former Medfield state hospital including, without limitation, parcels A-1 and A-2, by the general public or other state agencies or to carry out this act; provided however that in any disposition pursuant to section 2, such retention, acceptance, acquisition, or grant of any rights-of-way or easements in, over or beneath parcels A or B shall be subject to the approval of the town of Medfield.

SECTION 9. Sections 2 to 8, inclusive, shall take effect upon their acceptance by a majority vote of the board of selectmen of the town of Medfield, but not otherwise.