HOUSE DOCKET, NO. FILED ON: 7/24/2014

HOUSE . . . . . No. 4348

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act authorizing for the lease of property at Essex North Shore Agricultural and Technical School.

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

SECTION 1. As used in this section, the following words shall have the following meanings unless the context clearly requires otherwise:

"Commissioner", the commissioner of capital asset management and maintenance.

"District", the Essex North Shore agricultural and technical school district established pursuant to chapter 463 of the acts of 2004.

"Division", the division of capital asset management and maintenance.

"School", the Essex North Shore agricultural and technical school established pursuant to chapter 463 of the acts of 2004.

SECTION 2. Notwithstanding section 32 to 37, inclusive, of chapter 7C of the General Laws, chapter 463 of the acts of 2004 or any other general or special law to the contrary, the commissioner may, in consultation with the district, lease or enter into other agreements for a term, including any extensions, not to exceed 25 years for certain lands and any buildings and other appurtenances thereon located at the school in the town of Middleton to Essex Sports Center, LLC. The location and boundaries of any of the parcels to be leased shall be determined by the commissioner based upon a survey by a certified engineer.

SECTION 3. The lessee shall use the property solely for constructing and operating athletic and recreational facilities for use by the school or any other authorized parties. The lease or other agreement shall include a provision restricting the use of the property to such purposes and providing for termination of the lease if the property ceases to be used for such purposes. Upon the expiration of the lease, or if Essex Sports Center, LLC ceases to be the lessee at any

time before the expiration of the lease, the land, facilities, fields and appurtenances shall revert to the commonwealth upon such terms and conditions as the commissioner may determine. The lease may permit leasehold mortgages covering any lease executed as authorized in this section to assist the lessee in financing improvements to the leased property, provided, however, that any such leasehold mortgage shall be subordinate to any such lease, subject to the ability of any such leasehold mortgagee to exercise its rights under any such mortgage.

SECTION 4. The lease or other agreement authorized by this section shall be on terms and conditions acceptable to the commissioner after consultation with the district, and subject to review by the inspector general prior to the execution of the lease; provided, however, that any such lease or other agreement shall provide, without limitation that: (i) the lessee shall manage, operate, improve, repair and maintain the land, buildings and appurtenances associated therewith during the term of the lease which shall be subject to the approval of the commissioner and the district and the upkeep shall be reviewed on an annual basis by the commissioner, the lessee and the district; provided, however, that the lessee shall be responsible for the repairs and maintenance as recommended by the commissioner or the district; (ii) the lessee shall carry comprehensive general liability and construction insurance in amounts acceptable to the commissioner and the district naming the commonwealth and the district as the co-insured and protecting the commonwealth and the district against all claims for personal injury or property damage arising from the land, buildings and appurtenances associated therewith during the construction and the term of the lease; (iii) the lessee shall pay rent in an amount equal to or greater than the full and fair market value of its leasehold interest under this section as determined by an independent appraisal prepared in accordance with the usual and customary professional appraisal practices by a certified appraiser commissioned by the commissioner, in consultation with the inspector general; (iv) the lessee shall be responsible for the capital improvements to the premises; (v) the lessee shall be responsible for all costs of all utilities during the term of the lease; and (vi) the lessee shall not design or construct any facilities on the parcel without the written approval of the division, in consultation with the district.

SECTION 5. The lessee shall be responsible for and shall maintain an escrow fund for all costs and expenses including, but not limited to, costs associated with any engineering, surveys, appraisals, and lease preparation as such costs may be determined by the commissioner.

SECTION 6. The district may establish a receipts reserved for appropriation account for any revenue generated from the lease of property to the lessee. The account shall be used for the general appropriations of the district.

SECTION 7. No general or special law or rule or regulation relating to the advertising, bidding or awarding of contracts, to the procurement of services including, but not limited to, chapter 30B of the General Laws or to the construction and design improvements shall apply to the district or the lessee under this section.

SECTION 8. The 25-year lease and other agreements executed pursuant to this section shall be on terms, conditions and consideration acceptable to the commissioner and the district; provided, however, that the lessee shall permit the following reserved ice rink needs free of charge and on a priority basis to the district: (i) daytime physical education classes which are scheduled as part of the regular school curriculum; (ii) practice and games for the following hockey teams if such teams are established: male varsity, male junior varsity, female varsity and female junior varsity; provided further, that the lessee shall permit the following reserved turf field needs free of charge and on a priority basis to the district: (1) daytime physical education classes which are scheduled as part of the regular school curriculum; (2) practice and games for the following soccer, football, field hockey, winter track and field, spring track and field, lacrosse, baseball and softball teams if such teams are established: male varsity, male junior varsity, female varsity and female junior varsity; provided further, that schedules for the ice rink and turf field use shall be presented by the district to the lessee by July 1 preceding each academic year and only for those classes and teams which are in existence for that academic year; provided, further, that the lessee shall permit reserved ice for school-sponsored or Massachusetts Interscholastic Athletic Association tournaments, if available; and provided further, that the lessee shall ensure fair and reasonable use of the ice rink, fields, facilities, land and appurtenances for communities within the district.

SECTION 9. All records of the lessee relating to the operation of the facility including, but not limited to, finances and scheduling shall be made available for inspection by the offices of the state auditor, the attorney general, the inspector general and the division upon request.

SECTION 10. This act shall take effect upon its passage.