

HOUSE No. 4217

The Commonwealth of Massachusetts

PRESENTED BY:

David Biele

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 relative to the expansion of the Boston convention and exhibition center.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>David Biele</i>	<i>4th Suffolk</i>	<i>10/18/2019</i>

HOUSE No. 4217

By Mr. Biele of Boston, a petition (subject to Joint Rule 12) of David Biele relative to the expansion of the Boston Convention and Exhibition Center. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to the expansion of the Boston convention and exhibition center.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith the expansion of the Boston convention and exhibition center, 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. For the purposes of the BCEC expansion project, this act shall be deemed to
2 provide an exclusive and complete method for anything authorized herein and shall be deemed
3 and construed to be supplemental and additional to, and not in derogation of, powers conferred
4 upon the Authority under any other general or special law; provided, however, that if this act is
5 inconsistent with any general or special law, administrative order or regulation or any limitation
6 imposed by a corporate or municipal charter, this act shall control.

7 SECTION 2. As used in this act and chapter 195 of the acts of 2014, the following words
8 shall have the following meanings, unless the context clearly requires otherwise:

9 “Authority”, the Massachusetts Convention Center Authority, established pursuant to
10 section 33 of chapter 190 of the acts of 1982, or, if said Authority shall be abolished, the board,
11 body or commission succeeding to the principal functions thereof or to whom the powers given
12 by this act to said Authority shall be given by law.

13 “BCEC expansion project”, the planning, design, development, construction,
14 expansion, rehabilitation, improvement, furnishing, equipping and finishing or any combination
15 of the foregoing within the convention center development area of an expansion to the Boston
16 convention and exhibition center containing additional contiguous exhibition space and attendant
17 meeting rooms, lecture rooms, ballroom space, multi-purpose space and related common areas
18 for public circulation, service and support, together with all necessary and related furnishings,
19 furniture, machinery, equipment, parking facilities and other facilities, approaches, driveways,
20 walkways, roadways, planting and landscaping associated therewith; the demolition or removal
21 of any buildings or structures within the convention center development area and site preparation
22 necessary to complete the project and associated permitting and environmental remediation
23 thereof; and measures mitigating the local impact of the foregoing, in each case of a scale and
24 scope generally consistent with the project description contained in the BCEC expansion project
25 report.

26 “BCEC expansion project report”, the report, feasibility study and program prepared
27 by Populous Architects Inc. pertaining to the BCEC expansion project delivered to the clerks of
28 the senate and the house of representatives and the senate and house committees on ways and
29 means.

30 “Boston convention and exhibition center” or “BCEC”, the convention and exhibition
31 center and related facilities so called, and all real and personal property associated therewith,
32 owned and operated by the Authority within the convention center development area. As the
33 context requires, “Boston convention and exhibition center” or “BCEC” shall also mean such
34 convention and exhibition center as expanded in accordance with this act.

35 “City”, the city of Boston.

36 “Convention center development area”, the area within the city of Boston bounded
37 and described as follows: beginning at the intersection of the eastern boundary of the South
38 Boston Bypass road, and the southern boundary of Summer street, thence easterly along the
39 southern boundary of Summer street to the intersection of the western boundary of D street, then
40 southerly along the western boundary of D street to the centerline of Cypher street, then westerly
41 along the centerline of Cypher street with a line extended to the eastern boundary of the South
42 Boston Bypass road, and then northerly along the eastern boundary of the South Boston Bypass
43 road to the point of beginning.

44 “Convention Center Fund”, the Convention and Exhibition Center Fund established by
45 section 10 of chapter 152 of the acts of 1997.

46 “Disability business enterprise” shall mean a business enterprise that is owned and
47 controlled by one or more disabled persons, as defined by the supplier diversity office of the
48 operational services division.

49 “Hynes convention center”, the convention and exhibition center and related facilities
50 known as the John B. Hynes Veterans Memorial Convention Center located in the city of

51 Boston, and all real and personal property associated therewith, owned and operated by the
52 Authority.

53 “LGBT business enterprise” shall mean a business enterprise that is owned and
54 controlled by one or more lesbian, gay, bisexual, or transgender (LGBT) persons, as defined by
55 the supplier diversity office of the operational services division.

56 “Minority business enterprise” or “MBE” shall mean a business enterprise that is
57 owned and controlled by one or more socially or economically disadvantaged persons, as defined
58 by the supplier diversity office of the operational services division. Such disadvantage may arise
59 from cultural, racial, chronic economic circumstances or background or other similar cause.
60 Such persons include, but are not limited to, African Americans, Cape Verdeans, Western
61 Hemisphere Hispanics, Asians, American Indians, Eskimos, and Aleuts.

62 “Women business enterprise” or “WBE” shall mean a business enterprise that is both
63 owned and controlled by one or more women who have invested in an ongoing business free of
64 conversion rights, as defined by the supplier diversity office of the operational services division.

65 “Veteran business enterprise” or “VBE” shall have the same meaning as defined in
66 said section 58 of said chapter 7 and shall also include a service-disabled veteran-owned small
67 business as defined in subsection (i ½) of section 61 of said chapter 7 or other veteran-owned
68 business enterprise, in each case as defined by the supplier diversity office of the operational
69 services division.

70 “BCEC Surplus Land”, that portion of the convention center development area that is
71 not reasonably necessary to support the operation of the BCEC following completion of the
72 BCEC expansion project, as provided in section 7 of this act.

73 SECTION 3. (a) The Authority may develop, lease, construct, improve, furnish, equip,
74 finish and otherwise carry out the BCEC expansion project, and may own, operate, lease,
75 sublease, license, promote, maintain, improve and rehabilitate the same, either directly or
76 indirectly in whole or in part through agents, lessees, contractors, concessionaires or others, all as
77 provided for and subject to this act. Compliance by the Authority with the provisions of this act
78 shall be conclusively deemed to satisfy the requirements of paragraph (n) of section 35 and
79 section 38N and section 44A of chapter 190 of the acts of 1982.

80 (b) Notwithstanding any general or special law to the contrary, the commissioner of
81 the division of professional licensure or a designee in the office of public safety and inspections
82 in said division of professional licensure shall be solely responsible for inspection, enforcement,
83 permitting and licensure of the BCEC expansion project authorized or required by chapter 143 of
84 the General Laws or section 21 of chapter 40 of the General Laws and regulations referred to
85 therein or adopted pursuant thereto. The BCEC expansion project shall be exempt from
86 compliance with the city's zoning code and any regulations promulgated thereunder; provided,
87 however, the Authority shall subject the BCEC expansion project to large project review as set
88 forth in subsections 1 to 5, inclusive, of section 80B-3 of the city's zoning code. The issuance of
89 any permit for any portion of the BCEC expansion project on any lands formerly used as a
90 railroad right-of-way or any property appurtenant thereto formerly used by any railroad company
91 in the commonwealth shall be exempt from section 54A of chapter 40 of the General Laws.

92 (c) The Authority shall prepare or cause to be prepared a report regarding the BCEC
93 expansion project in accordance with section 62B of chapter 30 of the General Laws; provided
94 however, that notwithstanding sections 62 to 62H, inclusive, of said chapter 30, the Authority
95 may commence and undertake research, planning, design and other work necessary for the

96 BCEC expansion project and may engage an owner’s project manager, architects and engineers
97 and a construction manager therefor as provided in section 4 and may take all actions necessary
98 or appropriate or required for acquisition of rights, air rights, sub-surface rights, easements,
99 leases, ground leases and other interests necessary for the BCEC expansion project, prior to the
100 publication of a final environmental impact report pursuant to this section and section 62C of
101 said chapter 30.

102 SECTION 4. (a) The Authority shall take measures to promote full participation and
103 equality of opportunity for minority persons, women, veterans, LGBT persons, disabled persons,
104 and Boston residents in all phases of the development and construction of the BCEC expansion
105 project. Such measures shall include:

106 (1) establishing a supplier diversity program which shall include goals or benchmarks for
107 the participation of minority business enterprises, women business enterprises, veteran business
108 enterprises, LGBT business enterprises, and disability business enterprises, in each case
109 consistent with those goals or benchmarks established by:

110 (A) the division of capital asset management and maintenance in accordance with
111 section 6 of chapter 7C of the General Laws; and

112 (B) the supplier diversity office of the operational services division pursuant to
113 subsection (i3/4) of said section 61 of said chapter 7 or Executive Order 565, all as of the date of
114 this act;

115 (2) developing and applying selection criteria for the award of contracts for the
116 development and construction of the BCEC expansion project that incentivize bidder proposals

117 which demonstrate a commitment to and likelihood of success in promoting the full participation
118 of each category of business enterprise listed in (a)(1) above;

119 (3) establishing a workforce diversity program designed and implemented to achieve
120 meaningful participation of Boston residents, minority persons, and women as construction
121 employees; provided that such program shall include employment goals not less than the Boston
122 Residents Jobs Policy standards established pursuant to the city of Boston code, ordinances,
123 section 8-9; and

124 (4) establishing a construction workforce training program designed and implemented to
125 provide access and training to those traditionally under-represented in the construction trades,
126 including minority persons and women.

127 (b) The Authority shall engage an owner's project management team for the BCEC
128 expansion project in accordance with the manner of selecting an owner's project manager
129 pursuant to section 44A 1/2 of chapter 149 of the General Laws. The owner's project
130 management team shall serve as the Authority's agent and consultant during the planning, design
131 and construction of the BCEC expansion project.

132 (c) Notwithstanding any general or special law to the contrary, the Authority may
133 utilize the construction manager at risk approach in construction of the BCEC expansion project,
134 as provided in subsections (f) and (g) of section 5 of chapter 152 of the acts of 1997, and select
135 trade contractors for the BCEC expansion project as provided in subsection (d) below and in
136 each case shall follow the procedures for the selection of contractors and awarding of contracts
137 previously adopted by the Authority for construction of the Boston convention and exhibition
138 center in consultation with the commissioner of capital asset management and maintenance and

139 with the review of the inspector general of the commonwealth; provided, that: (i) the
140 responsibilities assigned to a technical advisory board in subsection (f) of said section 5 of said
141 chapter 152 shall be performed by a selection committee appointed by the Authority which, in
142 consultation with the Authority, shall determine the procedures to be applied in the selection of a
143 construction manager for the BCEC expansion project; and (ii) the decisions of such selection
144 committee, and the decisions of the trade contractor prequalification committee appointed by the
145 Authority as provided in subsection (d) below shall be final and not subject to appeal except on
146 grounds of fraud or collusion. The Authority shall consult with the division of capital asset
147 management and maintenance and the inspector general with respect to any modifications to the
148 procedures for selection of a construction manager or the procedures for selection of trade
149 contractors; provided, however, that the division of capital asset management and maintenance
150 shall otherwise have no jurisdiction over the BCEC expansion project.

151 (d) Except as otherwise agreed to between the Authority and the construction
152 manager, trade contracts for the provision of labor, material and equipment in connection with
153 the construction of the BCEC expansion project shall be awarded in the manner provided in
154 section 8 of chapter 149A of the General Laws; provided, that (i) the purchase of tangible
155 personal property and services for the BCEC expansion project by the construction manager and
156 by trade contractors shall be exempt from the excise imposed by chapter 64H of the General
157 Laws, and (ii) the trade contractor prequalification committee to be established in accordance
158 with section 8 of chapter 149A shall be appointed by the Authority and shall consist of two
159 general contractors, two trade contractors, an architect and an engineer, all of whom have had
160 active roles in the construction of large buildings. Trade contracts shall be awarded to the lowest
161 prequalified responsive bidder; provided, however, that a trade contract may be awarded to other

162 than the lowest responsive bidder with the approval of the Authority upon written justification by
163 the construction manager describing in detail why such award is in the best interests of the
164 Authority. In no event shall the award of a trade contract to other than the lowest responsive
165 bidder upon the recommendation of the construction manager affect the guaranteed maximum
166 price. The Authority shall have the right to reject any bidder for a trade contract upon written
167 justification describing in detail why such action is in the best interests of the Authority;
168 provided, however, that if the Authority rejects the lowest responsive bidder for a trade contract,
169 the guaranteed maximum price shall be increased by the difference between the price offered by
170 the rejected bidder and the trade contract awarded.

171 (e) The provisions of sections 26 to 27F, inclusive, and section 29 of chapter 149 of
172 the General Laws shall apply to the contract between the Authority and the construction manager
173 and all trade contracts awarded pursuant to this section.

174

175 (f) Notwithstanding subsections (c) and (d), for the BCEC expansion project or any
176 portion thereof, the Authority may, by majority vote of its board members, elect to use other
177 methods provided under any general or special law for procuring design or construction services,
178 including section 39M of chapter 30 of the General Laws, section 44A to 44M, inclusive, of
179 chapter 149 of the General Laws or chapter 149A of the General Laws; provided, that
180 subsections (a) and (e) of this section shall apply to the BCEC expansion project regardless of
181 the method utilized for procuring construction contracts. If the Authority elects to apply said
182 chapter 149A to a portion of the BCEC expansion project, the Authority shall be deemed to be an
183 exempt agency within the meaning of subsection (d) of section 4 of said chapter 149A; provided,

184 however, that if the Authority elects to use procurement methods, other than those provided in
185 subsections (c) and (d) of this section, that are inconsistent with section 39M of chapter 30,
186 sections 44A to 44M, inclusive, of chapter 149 or chapter 149A, the Authority shall consult with
187 the inspector general on such procurement methods and upon consultation the inspector general
188 shall be provided at least 30 days to provide written comments before the Authority begins the
189 procurement of services for the BCEC expansion project pursuant to such alternative measures.

190 (g) In implementing the BCEC expansion project, the Authority shall prepare
191 quarterly reports which shall include, but not be limited to: (i) the total dollars expended on the
192 BCEC expansion project to date; (ii) for each category of business enterprise identified in section
193 4(a)(1), the number, type of contract, and dollar value of contracts entered into to date; (iii) the
194 total number of employees working on the BCEC expansion project; (iv) the total number of
195 employees working on the BCEC expansion project, broken down by race, ethnicity and gender;
196 (v) the total number of Boston residents working on the BCEC expansion project; and (vi) the
197 total number of hours worked on the BCEC expansion project broken down by race, ethnicity
198 and gender. Said reports shall be submitted to the secretary of administration and finance, the
199 house and senate committees on ways and means, the clerks of the house and senate and the
200 house and senate committees on bonding, capital expenditures and state assets. The Authority
201 shall post each quarterly report on its website.

202 (h) In implementing the BCEC expansion project, the Authority shall establish a
203 monitoring committee, to be known as the access and opportunity committee, which shall meet
204 quarterly, in a forum open to the public, to review the Authority's reports issued pursuant to
205 subsection (g), monitor compliance with subsection (a) and make recommendations to the
206 Authority regarding the successful implementation of the supplier diversity program and

207 workforce diversity program established pursuant to subsection (a). The Authority, in
208 establishing the access and opportunity committee, shall ensure representation from, but not
209 limited to, a representative of the construction manager for the BCEC expansion project, a
210 representative of the owner’s project management team, representatives of the trade contractors
211 performing work on the BCEC expansion project, a representative of the Massachusetts Minority
212 Contractors Association, Inc., a representative of the supplier diversity office of the operational
213 services division, a representative of the Massachusetts office of access and opportunity, a
214 representative of the Veteran’s Business Council, the city councilor representing district 2 of the
215 Boston city council or a designee, the state representative representing the fourth Suffolk district
216 or a designee, the state senator representing the first Suffolk district or a designee, and
217 representatives of local, community-based organizations.

218

219 SECTION 5. (a) In the design and construction of the BCEC expansion project, the
220 Authority shall design to a minimum of the LEED Silver standards of the United States Green
221 Building Council or equivalent environmental and sustainability standards or guidelines of a
222 similarly recognized organization. In said design and construction, the Authority shall comply
223 with the energy efficiency requirements of either: (i) the “Stretch Energy Code”, as defined in
224 780 CMR chapter 115AA; or (ii) the Massachusetts energy code in effect at the time of the
225 application for building permit, whichever is more stringent.

226

227 (b) In the building operations and maintenance of the BCEC, the Authority shall use
228 best efforts to comply with the LEED Silver - Existing Buildings standards of the United States

229 Green Building Council or equivalent environmental and sustainability standards or guidelines
230 for building operations and maintenance of a similarly recognized organization.

231

232 (c) The design and construction of the BCEC expansion project shall consider on-site
233 renewable energy generation for the BCEC, including the installation and use of photovoltaic
234 solar panels.

235 SECTION 6. (a) Notwithstanding the provisions of subsection (t) of section 35 of chapter
236 190 of the acts of 1982 or of any general or special law to the contrary, the Authority may sell,
237 lease, transfer or otherwise dispose of the land and improvements comprising the Hynes
238 convention center or any interest therein, with the concurrence of the secretary of administration
239 and finance, in order to carry out the purposes of this act; provided, however, that except as
240 provided in subsection (e) all proceeds from such sale, lease, transfer, or disposition shall be used
241 for the purposes of the BCEC expansion project as defined in section 2.

242 (b) The Authority shall market the Hynes convention center in a commercially
243 reasonable manner with the object of maximizing the consideration received for such sale, lease,
244 transfer or other disposition. The Authority shall determine whether any disposition shall be in
245 the form of a sale, lease, transfer, or other method based on its determination of how best to
246 achieve the purposes of this act. Any sale, lease, transfer, or other disposition shall be made to
247 the proposer submitting the highest acceptable proposal subject to any restrictions, covenants, or
248 conditions the Authority shall determine serve the purposes of this act or are required to serve the
249 public interest, including the requirement that columns, foundations and other structural elements
250 that support the Hynes convention center or any addition or alteration thereto, and which are

251 located within the easement area established under easements of record held by the
252 Massachusetts Department of Transportation, shall be maintained in sound and safe condition.

253 (c) Notwithstanding any general or special law to the contrary, the Authority shall be
254 authorized to take all actions commercially reasonable in marketing the Hynes convention
255 center, including by engaging a commercial real estate broker, outside legal counsel, and other
256 professional advisors customary in such transactions to represent and advise the Authority in
257 connection with the transaction.

258 (d) The proceeds of the disposition of the Hynes convention center as authorized by
259 this section shall be deposited in the Convention Center Fund but shall be kept in an account
260 separate and apart from the amounts credited to the fund pursuant to the provisions of subsection
261 (b) of section 10 of chapter 152 of the acts of 1997 and, except as provided in subsection (e)
262 below, shall be expended exclusively to effectuate the purposes of the BCEC expansion project
263 as defined in section 2.

264 (e) Proceeds from the disposition of the Hynes convention center as authorized by this
265 section that are unexpended following final completion of the BCEC expansion project shall
266 remain in the Convention Center Fund and may be expended for any lawful purpose of the fund.

267 SECTION 7. (a) Upon completion of final design for the BCEC expansion project, the
268 Authority will provide to the city of Boston and the Boston Redevelopment Authority a plan and
269 description of the BCEC Surplus Land which shall include proposed use restrictions for said land
270 for uses inconsistent with or detrimental to the operation of the BCEC. The BCEC Surplus Land
271 is bounded generally by Cypher Street to the south, D Street to the east, the BCEC to the north
272 and the South Boston Bypass Road to the west, and is anticipated to be approximately twelve

273 acres in area. The BCEC Surplus Land may exclude land the Authority reasonably determines
274 may be necessary for future use in connection with the operation of the BCEC, including but not
275 limited to land that may be necessary for access to the BCEC or development of parking
276 facilities. The city of Boston and the Boston Redevelopment Authority, having had an
277 opportunity to inspect the BCEC Surplus Land, shall provide the Authority with comments on
278 the plan, description, and proposed use restrictions, and may notify the Authority whether the
279 city of Boston and the Boston Redevelopment Authority accept the BCEC Surplus Land as
280 described and shown on the plan and subject to the accompanying use restrictions.

281 (b) Subject to the acceptance of the Boston Redevelopment Authority and with the
282 approval of the mayor of the city of Boston, the Authority is hereby authorized and directed to
283 convey to the Boston Redevelopment Authority all of the Authority's right, title and interest in
284 and to the BCEC Surplus Land, for \$1, upon the latest to occur of: (i) agreement of the city of
285 Boston and the Boston Redevelopment Authority and the Authority on the plan and description
286 of the BCEC Surplus Land and accompanying use restrictions, (ii) completion of the sale or
287 other disposition of the Hynes Convention Center as authorized by section 6 of this act, and (iii)
288 obtaining by the Authority of all permits and approvals necessary for the construction of the
289 BCEC expansion project and satisfaction or resolution of any other conditions, contingencies or
290 other matters prerequisite to such construction. The BCEC Surplus Land shall be conveyed in
291 such condition as exists at the time of conveyance, and such conveyance shall be subject to: (a)
292 temporary rights and easements reserved by the Authority to facilitate completion of the BCEC
293 expansion project, (b) perpetual rights and easements reserved by the Authority for access,
294 utilities and other purposes as necessary in connection with the operation of the BCEC, (c)
295 rights, easements and restrictions of record, and (d) the use restrictions provided for in subsection

296 (a). The Boston Redevelopment Authority shall consult with the Authority with respect to
297 planning and potential uses of the BCEC Surplus Land and shall pay to the city of Boston
298 proceeds derived from any subsequent conveyance or transfer of interest in the BCEC Surplus
299 Land as the mayor of the city of Boston shall deem appropriate. If the BCEC Surplus Land or a
300 portion thereof is used in violation of the agreed upon use restrictions or is transferred by the
301 Boston Redevelopment Authority to a third party without inclusion of the agreed upon use
302 restrictions, then, without limiting any other rights and remedies of the Authority, at the
303 Authority's election, title to the BCEC Surplus Land or such portion thereof shall revert to the
304 Authority. The deed conveying the BCEC Surplus Land to the Boston Redevelopment Authority
305 shall provide for such rights and easements and such use restrictions and right of reverter
306 provided for in this section, all of which shall be binding on successors and assigns of the Boston
307 Redevelopment Authority, and any deed from the Boston Redevelopment Authority to a third
308 party shall likewise include the rights, easements, and use restrictions and right of reverter
309 provided for in this section. The exemption from section 54A of chapter 40 of the General Laws
310 as referenced pursuant to subsection (b) of section 3 shall also apply to the BCEC Surplus Land
311 upon conveyance to the Boston Redevelopment Authority.

312 SECTION 8. Notwithstanding the foregoing, nothing in this act shall be interpreted in
313 any way to impair the bonds outstanding under section 11 of chapter 152 of the acts of 1997, as
314 amended, or the obligations and covenants of the commonwealth under the trust agreement
315 pursuant to which such bonds are issued.

316 SECTION 9. Paragraph (a) of section 38N of chapter 190 of the acts of 1982, as inserted
317 by section 313 of chapter 138 of the acts of 1991, is hereby amended by striking out, in line 3,
318 the words "one million dollars" and inserting in place thereof the following words:- \$5,000,000.

319 SECTION 10. Paragraph (d) of section 15 of chapter 152 of the acts of 1997, as amended
320 by section 5 of chapter 256 of the acts of 2006 and section 125 of the acts of 2011, is hereby
321 amended by striking out the first sentence thereof and inserting in place thereof the following
322 sentence: --The Boston convention and exhibition center may be marketed and used for so-called
323 gate shows or other similar consumer shows.

324 SECTION 11. Sections 1 and 2 and 4 through 12, inclusive, of chapter 195 of the acts of
325 2014 are hereby repealed.