

# HOUSE . . . . . No.

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## The Commonwealth of Massachusetts

PRESENTED BY:

*Adrian C. Madaro*

*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 modernizing the governance of port authority parks in East Boston.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Adrian C. Madaro</i>	<i>1st Suffolk</i>	<i>12/19/2022</i>

# HOUSE . . . . . No.

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By Mr. Madaro of Boston, a petition (subject to Joint Rules 12 and 9) of Adrian C. Madaro relative to modernizing the governance of port authority parks in the East Boston section of the city of Boston. Environment, Natural Resources and Agriculture.

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## The Commonwealth of Massachusetts

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In the One Hundred and Ninety-Second General Court  
(2021-2022)  
\_\_\_\_\_

An Act modernizing the governance of port authority parks in East Boston.

*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 349 of the Acts of 1986 is hereby amended as follows:

2           Clause (6) of said Section 1 of said chapter 349 is hereby amended by striking the first  
3 sentence in its entirety, and further amended by striking out the words “lobster facility and  
4 waterfront park” and replacing them with the word “parks.”

5           Clause (7) of said Section 1 of said chapter 349 is hereby amended by striking said clause  
6 in its entirety.

7           Clause (8) of of said Section 1 of said chapter 349 is hereby amended by striking the  
8 second sentence of said clause in its entirety, and inserting in place thereof, the following:  
9 “Phase I includes the area of the piers referred to as pier 4 and associated upland areas and  
10 consists of a park.”

SECTION 2. Section 2 of chapter 349 of the Acts of 1986 is hereby stricken in its entirety and replaced with the following language:

The following words as used in this act shall, unless the context clearly requires otherwise, have the following meanings:-

"Authority", the Massachusetts Port Authority.

"Commissioner", the commissioner of the department.

"Department", the department of conservation and recreation.

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

"East Boston", the East Boston section of the city of Boston.

"PAC", the East Boston Project Advisory Committee, Incorporated, consisting of twenty-one members to be appointed pursuant to section 6.

"Parks", all public open space operated and maintained by the Massachusetts Port Authority in the East Boston section of the city of Boston outside the boundaries of Logan International Airport, namely, Piers Park (Phase I, Phase II and Phase III) located at the piers, Bremen Street Park located adjacent to Bremen Street, the Navy Fuel Pier located on Marginal Street, the Al Festa Ballfield located on Horace Street, and the Narrow Gauge Extension located near the Wood Island Marsh.

"Piers", Piers 1 through 4 located in the East Boston section of the city of Boston which constitute a part of the port properties as defined in chapter 465 of the acts of 1956 as amended.

"Plan", for the park(s) to be located on the Piers will consist of three phases. Phase I is the existing waterfront park being commonly known as "Piers Park" and is located on pier 4 and associated uplands areas as of the passage of this act. Phase II will be a waterfront park on associated upland areas north of pier 3, as more fully described below. Phase III will be a waterfront park on pier 3, as more fully described below. The authority has divided the development of the Piers into three phases, Phase I, Phase II and Phase III, for planning purposes and for review in accordance with sections sixty-one and sixty-two H, inclusive, of chapter thirty of the General Laws with the approval of the secretary of energy and environmental affairs.

The area of the Phase II and Phase III parks shall include at least the following as shown on Sheet Nos. 26N-14E and 26N-15E of the "City of Boston Topographic and Planimetric Survey", dated 1962 and on file with the Boston Redevelopment Authority (the BRA Plan); beginning at the eastern-most edge of Pier No. 1 and a line from that edge to Marginal Road; thence returning along said line to the water's edge at Pier 1; thence running in an easterly direction along said water's edge to the midpoint between Pier 1 and the existing Pier 3; thence running parallel to said eastern-most edge of Pier 1 to the "Pierhead and Bulkhead Line" as shown on the BRA Plan; thence running along said Pierhead and Bulkhead Line (but including the full outline of any existing piers) in a southeasterly direction to a point intersecting the line of the southwestern edge of the Phase I Park extended out to the "Pierhead and Bulkhead Line"; then running in a northwesterly direction along the edge of said Phase I Park to a point intersecting the southerly edge of Marginal Street; and then running in a northwesterly direction along the southerly edge of Marginal Street to the point of beginning. The foregoing description is meant and intended to result in a continuous of upland and pier from the edge of Pier 1, to the existing Phase I park (i.e., Piers Park), as described in the FEIR. The Phase III park shall include

all pilings, supports, the bulkheads, conveyors and structures thereon or thereunder, the land underneath said Pier 3, and the Phase II park shall include all Pier 3 upland areas located southwest of Marginal Street.

SECTION 3. Section 3 of said chapter 349 is hereby stricken in its entirety and replaced with the following language:

The division, on behalf of the commonwealth and in consultation with the department, is hereby authorized and empowered to do any and all things necessary or convenient to carry out its purposes and exercise the powers conferred by this act, if any.

SECTION 4. Section 4 of said chapter 349 is hereby stricken in its entirety and replaced with the following language:

In addition to all powers otherwise granted to the authority in act or by law, the authority is hereby authorized and empowered:

(a) to enter into an agreement or agreements with the PAC concerning the planning, design, construction, use, operation, security, and maintenance of the parks and setting out the financial responsibilities of both the PAC and the authority relative to these facilities and consistent with the purposes and provisions of this act;

(b) to design in consultation with and subject to review by the PAC, and to construct, improve, maintain, and secure the parks, including associated buildings, facilities and improvements thereon as public parks for the benefit and enjoyment of the general public;

(c) to apply for and receive funds from any source, public or private, by gift, grant, bequest, or otherwise, and to expend the same on behalf of the authority to provide for the design, construction and operation of the parks;

(d) subject to the approval of the PAC, to convey or lease the Phase III park or any part thereof, including all associated buildings and facilities and improvements thereon, for design, construction, maintenance, operation and use as a public park for the benefit and enjoyment of the general public; and

(d) to do any and all things necessary or convenient to carry out its purposes and exercise the powers conferred by this act.

SECTION 5. Section 5 of said chapter 349 as most recently amended by Section 107 of Chapter 126 of the Acts of 2022, is hereby stricken in its entirety and replaced with the following language:

(a) Any design, construction, demolition, repair or replacement of a park undertaken pursuant to this act shall be deemed a public works pursuant to section 39M of chapter 30 of the General Laws or a building project or construction of a building by a public agency for purposes of sections 44 through 58, inclusive, of chapter 7C and sections 44A through 44H, inclusive, of chapter 149 of the General Laws and chapter 149A of the General Laws, as the same may be applicable, and the prevailing wage law pursuant to sections 26 to 27H, inclusive, of chapter 149 of the General Laws shall apply.

(b) Notwithstanding the provisions of this act or any other general or special law to the contrary, any portion of the Phase III Park to be constructed pursuant to this act that is leased by the authority for a period of not less than 99 years to an entity wholly owned by a nonprofit

corporation organized for conservation purposes or for the preservation of open space, the construction of such park and the improvements to be located thereon by such nonprofit corporation pursuant to such lease shall not constitute a public works pursuant to section 39M of chapter 30 of the General Laws or a building project or construction of a building by a public agency for purposes of sections 44 through 58, inclusive, of chapter 7C and sections 44A through 44H, inclusive, of chapter 149 of the General Laws and chapter 149A of the General Laws; provided, that the prevailing wage law pursuant to sections 26 to 27H, inclusive, of chapter 149 of the General Laws shall apply.

SECTION 6. Section 6 of said chapter 349 is hereby by stricken in its entirety and replaced with the following language:

Phase I of the parks is comprised of the existing park space located on pier 4 and associated upland areas being commonly known as Piers Park. Construction of Phase II park shall be commenced immediately by the authority, in consultation with the PAC. The authority is hereby directed to move as expeditiously as possible to construct Phase II park. The authority also may proceed with the proposed development of the Phase III park pursuant to the terms of a long-term ground lease with a third party entity in consultation with the PAC regarding design and the PAC's approval of construction commencement. Notwithstanding the previous sentence, the authority shall have no obligation to commence construction of Phase III of Piers Park until bonds in an amount adequate to meet the expenditure necessary to construct said Phase III of Piers Park have been issued and sold by the state treasurer, as provided for in this section.

(a) PAC Membership. The PAC shall consist of twenty-one (21) members, seven (7) of whom shall be appointed by the district's house of representatives member, seven (7) of whom

shall be appointed by the district's senate member, and seven (7) of whom shall be appointed by the district city councilor. Except as otherwise provided herein, members of the PAC shall serve for terms of three (3) years.

(b) For the purposes of this act, the term of initial appointments made to the PAC in the first year shall begin on March 31, 2023; provided, however, that all terms shall expire on the last day of the calendar year.

(1) Members shall be divided equally into Class One, Class Two and Class Three.

(i) Class One shall consist of seven (7) members, three (3) of whom shall be appointed by the district's house of representatives member, two (2) of whom shall be appointed by the district's senate member, and two (2) of whom shall be appointed by the district city councilor; provided, however, that the term of the initial appointment of Class One members shall be through December 31, 2023; provided further, that subsequent Class One members shall serve for terms of three (3) years.

(ii) Class Two shall consist of seven (7) members, two (2) of whom shall be appointed by the district's house of representatives member, three (3) of whom shall be appointed by the district's senate member, and two (2) of whom shall be appointed by the district city councilor; provided, however, that the term of the initial appointment of Class Two members shall be through December 31, 2024; provided further, that subsequent Class Two members shall serve for terms of three (3) years.

(iii) Class Three shall consist of seven (7) members, two (2) of whom shall be appointed by the district's house of representatives member, two (2) of whom shall be appointed by the district's senate member, and three (3) of whom shall be appointed by the district city councilor;



provided, however, that the term of the initial appointment of Class Three members shall be through December 31, 2025; provided further, that subsequent Class Three members shall serve for terms of three (3) years.

(2) Unless otherwise specified herein, members of the PAC shall serve without compensation for terms of three (3) years.

(3) Members of the PAC must be residents of the East Boston section of the City of Boston at the time of their appointment and for the duration thereof and shall be at least eighteen (18) years of age on the date of their appointment.

(4) Appointments to the PAC shall ensure representation of the demographic, linguistic and geographic diversity of the East Boston section of the City of Boston and shall include, but not be limited to, persons identifying as immigrants, persons of color, seniors, parents or members of groups working with youth, members of groups advocating for the environment or environmental justice communities, persons with disabilities and other demographics with a vested interest in the quality and accessibility of these parks.

(5) In the event a vacancy occurs prior to the expiration of a member's term, hereinafter, "the unexpired term", the holder of the office who appointed said member shall appoint a new member to serve for the remainder of the unexpired term.

(6) Notice of all appointments shall be made public by the PAC.

(c) The PAC shall meet from time to time to review the operation, security and maintenance of the parks and shall advise the authority on its compliance with the requirements of this act. The PAC shall create its own bylaws and procedures.

(d) The PAC is hereby authorized and directed to enter into a contract with the authority, which will specify in detail the operational, security and maintenance requirements of the authority with respect to the parks. The PAC and authority shall review the contract from time to time and make amendments to any such contract that are reasonable and necessary in order to maintain continued uninterrupted operation, security and maintenance of the parks. In the event that the term of any such contract between the PAC and the authority concerning the operation, security and maintenance of the parks expires before the PAC and the authority renew such contract or in the event that the authority fails to renew any such contract with the PAC, the obligations of the authority as provided in the most recently executed contract between the PAC and the authority shall continue until such time as a new or amended contract has been executed. The PAC shall also advise the authority as to the other issues in East Boston concerning the authority. The authority shall pay for the reasonable operating expenses of the PAC.

(e) The PAC shall approve all preliminary and final designs for new parks, and no construction for such parks may commence without approval of the PAC.

SECTION 7. Section 7 of said chapter 349 is hereby amended by striking all instances of the words “and lobster facility” as such words may appear throughout Section 7.

SECTION 8. Section 8 of said chapter 349 is hereby replaced with the following language:

The authority shall fund the final design, construction, operation, and maintenance of the Phase I park, and the final designs of the Phase II and Phase III parks. Notwithstanding the foregoing, the authority shall have no obligation to fund construction of the Phase III park unless

and until bonds are issued by the commonwealth to meet the expenditure necessary to construct the Phase III park.

The authority shall have responsibility for the operation, security and maintenance of the parks. The authority shall enter into a contract with the PAC setting forth the standards by which said authority shall operate, secure and maintain the parks, such contracted standards shall be at least comparable to maintenance and security standards employed by similar urban parks in the region. It shall be the responsibility of the authority, at all times, to provide adequate staffing levels necessary to operate, secure and maintain the parks in conformance with the contracted standards and necessary for an urban park of this size and location. Said contract shall provide that a penalty shall be assessed against said authority for any failure to comply with said contracted standards. Any and all such penalties shall be paid by said authority to the PAC to be placed in a separate account for the maintenance of the waterfront park and the lobster facility. The PAC and authority shall review the contract from time to time and make amendments to any such contract that are reasonable and necessary in order to maintain continued uninterrupted operation, security and maintenance of the parks in conformance with the contracted standards. In the event that the term of any such contract between the PAC and the authority concerning the operation, security and maintenance of the parks expires before the PAC and the authority renew such contract or in the event that the authority fails to renew any such contract with the PAC, the obligations of the authority as provided in the most recently executed contract between the PAC and the authority shall continue until such time as a new or amended contract has been executed.

SECTION 9. Section 9 of said chapter 349 is hereby amended by striking the first sentence and replacing it with the following:

202           Except as otherwise set forth in this act, the authority shall fund from its general revenues  
203 the final design, construction, operation and maintenance of the Phase I and Phase II. The  
204 authority shall also fund from its general revenues the final design, construction, operation and  
205 maintenance of the Phase III park, unless it is conveyed, transferred, assigned, or long-term  
206 leased to another entity in accordance with the provisions of section 4 of this act.

207           SECTION 10. Section 10 of said chapter 349 is hereby stricken in its entirety and  
208 replaced with the following language: “Intentionally deleted.”

209           SECTION 11. Section 11 of said Chapter 349 is hereby stricken in its entirety and  
210 replaced with the following language:

211           Any and all revenues received by the authority from the parks from rentals, fees, or any  
212 other charge or source, other than grants made for specific purposes relating to the parks, shall be  
213 deposited with the authority and applied to the operation and maintenance of the parks.

214           SECTION 12. Notwithstanding any general or special law to the contrary, all existing  
215 membership and bylaws of the PAC are hereby dissolved as of March 31, 2023; provided,  
216 however, that initial appointments of the members to the PAC after the date of this act shall be  
217 made as soon as practicable pursuant to section 6 of this act.