

HOUSE No. 3809

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>1/20/2023</i>

HOUSE No. 3809

By Representative Madaro of Boston, a petition (subject to Joint Rule 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 and Natural Resources.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Third General Court
(2023-2024)**

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.”

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

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

15 "Authority", the Massachusetts Port Authority.

16 "Commissioner", the commissioner of the department.

17 "Department", the department of conservation and recreation.

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

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

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

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

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

29 "Plan", for the park(s) to be located on the Piers will consist of three phases. Phase I is
30 the existing waterfront park being commonly known as "Piers Park" and is located on pier 4 and

31 associated uplands areas as of the passage of this act. Phase II will be a waterfront park on
32 associated upland areas north of pier 3, as more fully described below. Phase III will be a
33 waterfront park on pier 3, as more fully described below. The authority has divided the
34 development of the Piers into three phases, Phase I, Phase II and Phase III, for planning purposes
35 and for review in accordance with sections sixty-one and sixty-two H, inclusive, of chapter thirty
36 of the General Laws with the approval of the secretary of energy and environmental affairs.

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

53 underneath said Pier 3, and the Phase II park shall include all Pier 3 upland areas located
54 southwest of Marginal Street.

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

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

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

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

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

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

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

74 (d) subject to the approval of the PAC, to convey or lease to an individual or entity other
75 than The Trustees of the Reservations, a Massachusetts nonprofit corporation, the Phase III park
76 or any part thereof, including all associated buildings and facilities and improvements thereon,
77 for design, construction, maintenance, operation and use as a public park for the benefit and
78 enjoyment of the general public; and

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

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

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

91 (b) Notwithstanding the provisions of this act or any other general or special law to the
92 contrary, any portion of the Phase III Park to be constructed pursuant to this act that is leased by
93 the authority for a period of not less than 99 years to an entity wholly owned by a nonprofit
94 corporation organized for conservation purposes or for the preservation of open space, the
95 construction of such park and the improvements to be located thereon by such nonprofit

96 corporation pursuant to such lease shall not constitute a public works pursuant to section 39M of
97 chapter 30 of the General Laws or a building project or construction of a building by a public
98 agency for purposes of sections 44 through 58, inclusive, of chapter 7C and sections 44A
99 through 44H, inclusive, of chapter 149 of the General Laws and chapter 149A of the General
100 Laws; provided, that the prevailing wage law pursuant to sections 26 to 27H, inclusive, of
101 chapter 149 of the General Laws shall apply.

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

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

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

117 the district city councilor. Except as otherwise provided herein, members of the PAC shall serve
118 for terms of three (3) years.

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

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

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

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

135 (iii) Class Three shall consist of seven (7) members, two (2) of whom shall be appointed
136 by the district's house of representatives member, two (2) of whom shall be appointed by the
137 district's senate member, and three (3) of whom shall be appointed by the district city councilor;
138 provided, however, that the term of the initial appointment of Class Three members shall be

139 through December 31, 2025; provided further, that subsequent Class Three members shall serve
140 for terms of three (3) years.

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

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

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

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

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

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

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

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

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

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

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

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

183 The authority shall have responsibility for the operation, security and maintenance of the
184 parks. The authority shall enter into a contract with the PAC setting forth the standards by which
185 said authority shall operate, secure and maintain the parks, such contracted standards shall be at
186 least comparable to operation, security and maintenance standards employed by similar
187 waterfront parks in the region. It shall be the responsibility of the authority, at all times, to
188 provide adequate staffing levels necessary to operate, secure and maintain the parks in
189 conformance with the contracted standards. Said contract shall provide that a penalty shall be
190 assessed against said authority for any failure to comply with said contracted standards. Any and
191 all such penalties shall be paid by said authority to the PAC to be placed in a separate account for
192 the maintenance of the Parks. The PAC and authority shall review the contract from time to time
193 and make amendments to any such contract that are reasonable and necessary in order to
194 maintain continued uninterrupted operation, security and maintenance of the parks in
195 conformance with the contracted standards. In the event that the term of any such contract
196 between the PAC and the authority concerning the operation, security and maintenance of the
197 parks expires before the PAC and the authority renew such contract or in the event that the
198 authority fails to renew any such contract with the PAC, the operation, security and maintenance
199 obligations of the authority as provided in the most recently executed contract between the PAC
200 and the authority shall continue until such time as a new or amended contract has been executed.

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

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

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

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

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

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