

**HOUSE . . . . . No. 4252**

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The Commonwealth of Massachusetts

PRESENTED BY:

*John J. Lawn, Jr.*

*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 city of Waltham.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Michael Barrett</i>	<i>Third Middlesex</i>
<i>Thomas M. Stanley</i>	<i>9th Middlesex</i>

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By Mr. Lawn of Watertown, a petition (subject to Joint Rule 12) of John J. Lawn, Jr., Michael Barrett and Thomas M. Stanley for legislation to authorize the Commissioner of Capital Asset Management and Maintenance to convey certain parcels of land in the city of Waltham. State Administration and Regulatory Oversight.

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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 city of Waltham.

*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, section 402 of chapter 149 of the acts of 2004 or any other general or special law to the  
27 contrary, the commissioner of capital asset management and maintenance, hereinafter referred to  
28 as the commissioner, may convey 1 or more parcels of land located at the state facility in  
29 Waltham known as the Fernald developmental center to the city of Waltham. The parcels are  
30 shown on a plan entitled “Plan of Land in the City of Waltham, Massachusetts, Middlesex  
31 County owned by the Commonwealth of Massachusetts and prepared for the Division of Capital  
32 Asset Management and Maintenance on behalf of the Department of Mental Health”, dated  
33 February 20, 2013, prepared by by Nitsch Engineering, Inc., on file with the division of capital  
34 asset management and maintenance. The exact location and boundaries of the parcels to be  
35 conveyed shall be determined by the commissioner, in consultation with the city of Waltham.  
36 The use of the parcels to be conveyed to the city shall not be restricted to use for municipal or  
37 other specific uses; provided, however, that the city may so restrict the parcels at a later date, in  
38 accordance with applicable general and special law. The parcels shall be conveyed by deed  
39 without warranties or representations by the commonwealth.

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

52 SECTION 4. In the event that the city of Waltham sells or leases any portion of the  
53 parcels described in section 2, the net proceeds from such sale or lease as determined by the city  
54 and agreed to by the commissioner, shall be allocated between the city of Waltham and the  
55 commonwealth in equal shares; provided, however, that the commissioner may agree to reduce  
56 the share of the commonwealth’s proceeds to not less than 30 per cent of net proceeds in order to  
57 provide certain incentives to the city of Waltham to sell or lease some or all of the parcels  
58 described in section 2 expeditiously or to facilitate the development of some or all of the parcels  
59 in accordance with smart growth principles in chapter 40R of the General Laws or promulgated

60 by the governor and secretaries of energy and environmental affairs and housing and economic  
61 development; provided further that the commissioner may agree to reduce the share of the  
62 commonwealth's proceeds by an additional 10 per cent of net proceeds or up to not less than 20  
63 per cent of net proceeds if some or all parcels described in section 2 are developed into  
64 affordable housing as defined in section 2 of chapter 40R of the General Laws. In the event that  
65 the net proceeds, as so determined, is a negative amount, the commonwealth shall not be  
66 required to make any payments to the city of Waltham. Any proceeds received by the  
67 commonwealth pursuant to this section shall be deposited into the Health and Human Services  
68 Capital Projects Trust Fund established pursuant to section 2LLLL of chapter 29 of the General  
69 Laws.

70 SECTION 5. Notwithstanding any general or special law to the contrary, the city of  
71 Waltham shall pay for all costs and expenses of the transactions authorized in this act as  
72 determined by the commissioner including, but not limited to, the costs of any recording fees and  
73 deed preparation related to the conveyances and for all costs, liabilities and expenses of any  
74 nature and kind related to the city's ownership of the parcels; provided, however, that such costs  
75 shall be included for the purposes of determining the net proceeds of the city's sale or lease of  
76 any portion of the parcels described in section 2. Amounts paid by the city of Waltham pursuant  
77 to section 3 shall not be included for the purposes of determining the net proceeds from a sale or  
78 lease.

79 SECTION 6. (a) In the event that the city of Waltham does not complete its purchase of  
80 the property described in section 2 on or before June 30, 2014, notwithstanding sections 33 to 38,  
81 inclusive, of chapter 7C of the General Laws or any other general or special law to the contrary,  
82 the commissioner may sell, lease for terms up to 99 years, including all renewals and extensions,  
83 or otherwise grant, convey or transfer to purchasers or lessees an interest in the property  
84 described in section 2 or portions thereof, subject to this section and on such terms and  
85 conditions that the commissioner considers appropriate; provided, however, that the purchase by  
86 the city of Waltham shall be considered complete upon the transfer of title to the parcel or  
87 parcels described in section 2 to the city. The commissioner shall dispose of the property, or  
88 portion thereof, using appropriate competitive bidding processes and procedures. At least 30  
89 days before the date on which bids, proposals or other offers to purchase or lease a property, or  
90 any portion thereof, are due, the commissioner shall place a notice in the central register  
91 published by the state secretary pursuant to section 20A of chapter 9 of the General Laws stating  
92 the availability of the property, the nature of the competitive bidding process and other  
93 information that the commissioner considers relevant, including the time, place and manner for  
94 the submission of bids and proposals and the opening of the bids or proposals.

95 (b) Notwithstanding any general or special law to the contrary, the grantee or lessee of all  
96 or any portion of the property described in section 2 and subject to this section shall be  
97 responsible for costs and expenses including, but not limited to, costs associated with deed

98 preparation and recording fees related to the conveyances and transfers authorized in this section  
99 as such costs may be determined by the commissioner.

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

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

107 SECTION 7. In any disposition pursuant to section 2 or section 6, the commissioner may  
108 retain, accept or acquire by purchase, transfer, lease, eminent domain, pursuant to chapter 79 of  
109 the General Laws or otherwise, and may grant by deed, transfer, lease or otherwise any rights-of-  
110 way or easements, in, over or beneath any parcel or portions thereof, or any other portions of the  
111 Fernald developmental center, as the commissioner deems necessary and appropriate for the  
112 continued access to, egress from and use of portions of the Fernald developmental center by the  
113 general public or other state agencies or to carry out this act; provided however that in any  
114 disposition pursuant to section 2, such retention, acceptance, acquisition, or grant of any rights-  
115 of-way or easements in, over or beneath the parcels or any portions thereof shall be subject to the  
116 approval of the city of Waltham.