

# **HOUSE . . . . . No. 4358**

---

---

## The Commonwealth of Massachusetts

---

HOUSE OF REPRESENTATIVES, July 28, 2014.

The committee on Ways and Means to whom was referred the Bill authorizing the commissioner of capital asset management and maintenance to convey certain parcels of land in the city of Waltham (House, No. 4252), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4358).

For the committee,

BRIAN S. DEMPSEY.

**The Commonwealth of Massachusetts**

\_\_\_\_\_  
**In the Year Two Thousand Fourteen**  
\_\_\_\_\_

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. Notwithstanding sections 32 to 37, inclusive, of chapter 7C of the General  
2 Laws, section 402 of chapter 149 of the acts of 2004 or any other general or special law to the  
3 contrary, the commissioner of capital asset management and maintenance, hereinafter referred to  
4 as the commissioner, may convey 1 or more parcels of land located at the state facility in  
5 Waltham known as the Fernald developmental center to the city of Waltham. The parcels are  
6 shown on a plan entitled “Plan of Land in the City of Waltham, Massachusetts, Middlesex  
7 County owned by the Commonwealth of Massachusetts and prepared for the Division of Capital  
8 Asset Management and Maintenance on behalf of the Department of Mental Health”, dated  
9 February 20, 2013, prepared by by Nitsch Engineering, Inc., on file with the division of capital  
10 asset management and maintenance. The exact location and boundaries of the parcels to be  
11 conveyed shall be determined by the commissioner, in consultation with the city of Waltham.  
12 The use of the parcels to be conveyed to the city shall not be restricted to use for municipal or  
13 other specific uses; provided, however, that the city may so restrict the parcels at a later date, in  
14 accordance with applicable general and special law. The parcels shall be conveyed by deed  
15 without warranties or representations by the commonwealth.

16           SECTION 2. As consideration for the conveyance of the parcels described in section 1,  
17 the city of Waltham shall pay the commonwealth an amount equal to certain costs related to the  
18 closure of the Fernald developmental center in Waltham including, but not limited to, the costs  
19 of removing combustible materials, disconnecting certain utilities, and otherwise closing those  
20 buildings located on the parcels conveyed, routine security, and other capital expenditures and  
21 operating expenses incurred by the commonwealth in preparation for or following the closure of  
22 the Fernald developmental center, as determined by the commissioner and agreed to by the city.  
23 The city of Waltham may pay the amount so determined by the commissioner and agreed to by  
24 the city upon its purchase of the parcels described in section 1 or the city may pay the amount so

25 determined in 10 annual payments pursuant to section 20A of chapter 58 of the General Laws. If  
26 the city's payment of consideration pursuant to this section so requires, the city may seek voter  
27 approval pursuant to subsection (k) of section 21C of chapter 59 of the General Laws.

28 SECTION 3. In the event that the city of Waltham sells or leases any portion of the  
29 parcels described in section 1, the net proceeds from such sale or lease as determined by the city  
30 and agreed to by the commissioner, shall be allocated between the city of Waltham and the  
31 commonwealth in equal shares; provided, however, that the commissioner may agree to reduce  
32 the share of the commonwealth's proceeds to not less than 30 per cent of net proceeds in order to  
33 provide certain incentives to the city of Waltham to sell or lease some or all of the parcels  
34 described in section 1 expeditiously or to facilitate the development of some or all of the parcels  
35 in accordance with smart growth principles in chapter 40R of the General Laws or promulgated  
36 by the governor and secretaries of energy and environmental affairs and housing and economic  
37 development; provided further that the commissioner may agree to reduce the share of the  
38 commonwealth's proceeds by an additional 10 per cent of net proceeds or up to not less than 20  
39 per cent of net proceeds if some or all parcels described in section 1 are developed into  
40 affordable housing as defined in section 2 of chapter 40R of the General Laws. In the event that  
41 the net proceeds, as so determined, is a negative amount, the commonwealth shall not be  
42 required to make any payments to the city of Waltham.

43 SECTION 4. Notwithstanding any general or special law to the contrary, the city of  
44 Waltham shall pay for all costs and expenses of the transactions authorized in this act as  
45 determined by the commissioner including, but not limited to, the costs of any recording fees and  
46 deed preparation related to the conveyances and for all costs, liabilities and expenses of any  
47 nature and kind related to the city's ownership of the parcels; provided, however, that such costs  
48 shall be included for the purposes of determining the net proceeds of the city's sale or lease of  
49 any portion of the parcels described in section 1. Amounts paid by the city of Waltham pursuant  
50 to section 2 shall not be included for the purposes of determining the net proceeds from a sale or  
51 lease.

52 SECTION 5. (a) In the event that the city of Waltham does not complete its purchase of  
53 the property described in section 1 on or before September 30, 2015, notwithstanding sections 33  
54 to 38, inclusive, of chapter 7C of the General Laws or any other general or special law to the  
55 contrary, the commissioner may sell, lease for terms up to 99 years, including all renewals and  
56 extensions, or otherwise grant, convey or transfer to purchasers or lessees an interest in the  
57 property described in section 1 or portions thereof, subject to this section and on such terms and  
58 conditions that the commissioner considers appropriate; provided, however, that the purchase by  
59 the city of Waltham shall be considered complete upon the transfer of title to the parcel or  
60 parcels described in section 1 to the city. The commissioner shall dispose of the property, or  
61 portion thereof, using appropriate competitive bidding processes and procedures. At least 30  
62 days before the date on which bids, proposals or other offers to purchase or lease a property, or  
63 any portion thereof, are due, the commissioner shall place a notice in the central register

64 published by the state secretary pursuant to section 20A of chapter 9 of the General Laws stating  
65 the availability of the property, the nature of the competitive bidding process and other  
66 information that the commissioner considers relevant, including the time, place and manner for  
67 the submission of bids and proposals and the opening of the bids or proposals.

68 (b) Notwithstanding any general or special law to the contrary, the grantee or lessee of all  
69 or any portion of the property described in section 1 and subject to this section shall be  
70 responsible for costs and expenses including, but not limited to, costs associated with deed  
71 preparation and recording fees related to the conveyances and transfers authorized in this section  
72 as such costs may be determined by the commissioner.

73 (c) No agreement for the sale, lease, transfer or other disposition of the property  
74 described in section 1 and subject to this section, or any portion thereof, and no deed executed by  
75 or on behalf of the commonwealth, shall be valid unless the agreement or deed contains the  
76 following certification, signed by the commissioner:

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

80 SECTION 6. In any disposition pursuant to section 1 or section 5, the commissioner may  
81 retain, accept or acquire by purchase, transfer, lease, eminent domain, pursuant to chapter 79 of  
82 the General Laws or otherwise, and may grant by deed, transfer, lease or otherwise any rights-of-  
83 way or easements, in, over or beneath any parcel or portions thereof, or any other portions of the  
84 Fernald developmental center, as the commissioner deems necessary and appropriate for the  
85 continued access to, egress from and use of portions of the Fernald developmental center by the  
86 general public or other state agencies or to carry out this act; provided however that in any  
87 disposition pursuant to section 1, such retention, acceptance, acquisition, or grant of any rights-  
88 of-way or easements in, over or beneath the parcels or any portions thereof shall be subject to the  
89 approval of the city of Waltham.