

SENATE No. 1423

The Commonwealth of Massachusetts

PRESENTED BY:

Brian A. Joyce

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 passage of the accompanying bill:

An Act authorizing the leasing of the Leo J. Martin Memorial golf course.

PETITION OF:

NAME:

Brian A. Joyce

DISTRICT/ADDRESS:

Norfolk, Bristol and Plymouth

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT AUTHORIZING THE LEASING OF THE LEO J. MARTIN MEMORIAL GOLF COURSE.

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. (a) Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55,
2 inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary,
3 the division of capital asset management and maintenance, on behalf of and in consultation with
4 the department of conservation and recreation may, using such competitive proposal process as
5 the division deems necessary or appropriate, lease and enter into other agreements, for terms not
6 to exceed 25 years with 1 or more operators, for the Leo J. Martin Memorial golf course in the
7 town of Weston so as to provide for the continued use, operation, maintenance, repair and
8 improvement of the golf courses, practice greens, driving range, restaurant or any other structure
9 and associated lands which constitute the facilities of the Leo J. Martin Memorial golf course,
10 hereinafter referred to as the golf course; provided, however, that the division of capital asset
11 management and maintenance, in consultation with the department of conservation and
12 recreation shall prefer any proposal submitted by the town of Weston, or by a non-profit
13 organization within the town of Weston, which complies with the requirements of this section;

14 and provided further, that the division of capital asset management and maintenance shall
15 provide the town of Weston no less than 180 days to determine whether said town shall submit a
16 proposal prior to soliciting proposals pursuant to subsection (b); and provided further, that if said
17 town of Weston executes a lease of the golf course pursuant to this section it shall not assign or
18 otherwise transfer the lease to any third party.

19 There shall be an option for renewal or extension for operations and maintenance services
20 not exceeding an additional 5 years. Such renewal or extension shall be at the discretion of the
21 division of capital asset management and maintenance in accordance with the original contract
22 terms and conditions or contract terms and conditions more favorable to the commonwealth. All
23 leases shall contain a provision that requires the lessee to carry comprehensive general liability
24 insurance with the commonwealth named as a co-insured, protecting the commonwealth against
25 all personal injury or property damage within the golf course or on the land of the golf course
26 during the term of the lease.

27 Such lease and other agreements shall be on terms acceptable to the commissioner of the
28 division of capital asset management and maintenance after consultation with the commissioner
29 of the department of conservation and recreation, and, notwithstanding any general or special
30 law to the contrary, shall provide for the lessee to manage, operate, improve, repair and maintain
31 the property. Any such lease or other arrangement shall stipulate that any required capital
32 improvements to the golf courses, practice greens, driving range, restaurant or any other structure
33 or associated lands which constitute the facilities of the golf course shall be made by the lessee
34 and shall include a description of the required capital improvements and without limitation
35 performance specifications. Said lease and other agreement shall provide that any benefits to the

36 commonwealth and the costs of improvements and repairs made to the properties by the lessee
37 shall be taken into account as part of the consideration for such leases or other agreements. All
38 consideration received from the leases or other agreements executed pursuant to this section shall
39 be payable to the department of conservation and recreation for deposit into the General Fund.

40 (b) If no lease agreement is reached with the town of Weston pursuant to subsection (a)
41 and not before April 1, 2009, the division of capital asset management and maintenance, in
42 consultation with and on behalf of the department of conservation and recreation, shall solicit
43 proposals through a request for proposals which shall include key contractual terms and
44 conditions to be incorporated into the contract, including but not limited to: (1) a comprehensive
45 list of all recreational facilities operated by the responsive bidder or offeror in the last 4 years;
46 (2) other facilities management or experience of the responsive bidder or offeror; (3) a
47 residential, senior citizen and children discount program; (4) reservation policies; (5) proposed
48 reasonable rates that will ensure continued public access; (6) required financial audits; (7)
49 policies to encourage use of the golf course by persons of all races and nationalities; (8) safety
50 and security plans; (9) seasonal opening and closing dates; (10) hours of operation; (11) holiday
51 recognition; (12) grievance processes; (13) clubhouse license; (14) a provision that the facility
52 shall be maintained as a 36 hole public golf course; (15) a provision that lessee shall not
53 construct any facilities on the grounds of the golf course or any property appurtenant thereto;
54 provided, however, that said lessee may construct facilities incidental to the operation of a golf
55 course with the written approval of the commissioner of the department of conservation and
56 recreation; (16) a provision that the town of Weston shall receive compensation from the lessee
57 in an amount equal to or greater than the amount said town would receive in property taxes if the
58 golf course were taxed as a commercial property as may be determined by the board of assessors

59 of the town of Weston. Any increase in fees including fees for season passes, and any increase
60 in charges for greens fees, golf cart or club rentals shall be approved in writing by the
61 commissioner of the department of conservation and recreation; provided, however, that in
62 considering any request for an increase in fees, the commissioner shall consider without
63 limitation: (i) any capital investment made by the contractor or lessee; (ii) the fees and charges at
64 other public golf courses within reasonable proximity; and (iii) the length of time since the last
65 fee increase.

66 It shall be a mandatory term of any request for proposals issued by the division of capital
67 asset management and maintenance and of any contract entered into by the commonwealth with
68 any party that any party which has entered into a contract pursuant to this section with the
69 commonwealth shall require, in order to maintain stable and productive labor relations and to
70 avoid interruption of the operation of the golf course and to preserve the safety and
71 environmental conditions of said golf course, that all employees currently working on the
72 operation and maintenance of the golf course be offered employment by any party entering into a
73 contract pursuant to this section. Upon the execution of any agreements authorized by this
74 section, the department of conservation and recreation shall reassign or relocate those employees
75 who do not accept employment with the lessee, to comparable positions within the department
76 subject to applicable collective bargaining agreements.

77 (c) The provisions of any general or special law or rule or regulation relating to the
78 advertising, bidding or award of contracts, to the procurement of services or to the construction
79 and design of improvements shall not be applicable to any party leasing the golf course pursuant
80 to this section.

81 (d) Notwithstanding any general or special law to the contrary, the inspector general shall
82 review and approve any lease executed pursuant to this section and the review shall include an
83 examination of the methodology utilized for establishing a lease price. Within 30 days of
84 receiving the lease, the inspector general shall prepare a report of his review and file the report
85 with the commissioner of the division of capital asset management and maintenance. Within 15
86 days of receiving the inspector general's report, the commissioner shall submit such report to the
87 house and senate committees on ways and means and the joint committee on bonding, capital
88 expenditures and state assets but no later than 15 days before the execution of any agreement or
89 other document relating to the lease.

90 (e) Notwithstanding any general or special law to the contrary, the lessee shall be
91 responsible for all costs and expenses, including but not limited to, costs associated with any
92 engineering, surveys, appraisals, and document preparation related to the contracts and leases
93 authorized pursuant to this section as such costs may be determined by the commissioner of the
94 division of capital asset management and maintenance. Upon conveyance of the parcel, the
95 lessee shall be solely responsible for all costs, liabilities and expenses of any nature and kind for
96 the development, maintenance, use and operation of the golf course.

97 (f) The division of capital asset management and maintenance and the department of
98 conservation and recreation shall report on the results of any requests for proposals and any
99 subsequent leases executed as a result of this section. The report shall include, but not be limited
100 to: the time required to conduct the request for proposals process; the quality and characteristics
101 of the bids received in response to the request; the criteria used to identify successful bidders; the
102 dates of any executed leases; any service changes resulting from executed leases; any increase or

103 decrease in the length of the season of operations for the golf course; the capital improvements
104 that have been completed, are under construction or are planned by the lessee; and the revenue
105 generated by any executed leases. The report shall be submitted to the clerks of the house and
106 senate and to the house and senate committees on ways and means no later than February 1,
107 2009.