

SENATE No. 01630

The Commonwealth of Massachusetts

PRESENTED BY:

Bruce E. Tarr

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 increasing government efficiency .

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>
<i>Richard J. Ross</i>	<i>Norfolk, Bristol, and Middlesex</i>
<i>Benjamin Swan</i>	<i>11th Hampden</i>

SENATE No. 01630

By Mr. Tarr, petition (accompanied by bill, Senate, No. 1630) of Swan, Ross and Tarr for legislation to increase government efficiency [Joint Committee on State Administration and Regulatory Oversight].

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act increasing government efficiency .

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 40F of Chapter 7 is hereby amended by inserting, after the sixth
2 paragraph, the following:-

3 In order to determine if specified real property is surplus to the current and foreseeable
4 needs of the commonwealth, the commissioner shall provide a suitable written notice and inquiry
5 to the several secretaries, with a date certain for any response. If no executive office responds in
6 writing by the date so specified that an agency has a current or foreseeable need for the real
7 property, then the commissioner may declare said property as surplus and dispose of same in
8 accordance with this section. Alternatively, if a written response is timely received specifying a
9 current or foreseeable need for the real property, the commissioner shall, in consultation with the
10 secretary of administration and finance and with those responding affirmatively, determine
11 whether the real property shall (a) be made available for current use by a state agency, (b) be

12 retained on account of a foreseeable use by a state agency, or (c) be declared surplus real
13 property which may be disposed of pursuant to this section.

14 When real property is determined to be surplus to current state needs but not to foreseeable state
15 needs, the commissioner shall take such necessary action to ensure that any disposition of the
16 real property is temporary and maintains the commissioner's ability to make such real property
17 available to a state agency as needed.

18 If the commissioner determines that the real property is surplus, he shall declare it
19 available for disposition and shall identify restrictions, if any, on its use and development
20 necessary to comply with established state plans and policies. The commissioner shall provide
21 written notice of his finding to the executive of the community in which the property is located
22 and upon the determination of a date for a public hearing on the disposition of the surplus real
23 property. The commissioner may conduct a public hearing to consider potential reuses and
24 appropriate restrictions. He shall ensure that any deed, lease or other disposition agreement shall
25 set forth all such reuse restrictions and shall provide for effective remedies on behalf of the
26 commonwealth; provided however, in the event of a failure to comply with the said reuse
27 restrictions by the grantee, lessee or other recipient, title or such lesser interest as may have been
28 conveyed, shall immediately revert to the commonwealth.

29 The commissioner shall establish the value of surplus real property using customarily
30 accepted appraisal methodologies. The value shall be calculated both for (1) the highest and best
31 use of the property as may be encumbered, and (2) subject to uses, restrictions and encumbrances
32 defined by the commissioner. In the event the commissioner receives three or more offers for
33 such property in response to a competitive disposition process, the value may be determined

34 based solely on such offers. In no instance in which the commonwealth retains responsibility for
35 maintaining the said property shall the terms provide for payment of less than the annual
36 maintenance costs.

37 The commissioner shall dispose of surplus real property utilizing such competitive
38 processes and procedures, as he deems appropriate. Such competitive processes may include, but
39 are not limited to, absolute auction, sealed bids, and requests for price and development
40 proposals.

41 At least 30 days before the date of an auction or the date on which bids or proposals or
42 other offers to purchase or lease surplus real property are due, the commissioner shall place a
43 notice in the central register published by the state secretary pursuant to section 20A of chapter 9
44 stating the availability of such property, the nature of the competitive process and other
45 information deemed relevant, including the time and location of the auction, the submission of
46 bids or proposals, and the opening thereof.

47 The commissioner shall place a notice in the central register identifying the individual or
48 firm selected as party to such real property transaction, along with the amount of such
49 transaction. If the commissioner accepts an amount below the value calculated under subsection
50 (f), he shall include the justification therefore specifying the difference between the calculated
51 value and the price received.

52 No agreement for the sale, lease, transfer, or other disposition of surplus real property
53 shall be valid unless the purchaser or lessee has executed and filed with the commissioner the
54 statement required by section 40J of chapter 7.

55 The grantee or lessee of any surplus real property shall be responsible for all costs
56 including but not limited to appraisals, surveys, plans, recordings and any other expenses relating
57 to the said transfer, as shall be deemed necessary by the commissioner.

58 This section shall not apply to the disposition of real property that is the subject of a
59 special act having an effective date prior to the enactment of this act.

60 SECTION 2. Paragraphs seven to fifteen, inclusive, of section 40F of chapter 7,
61 inclusive, are hereby repealed.

62 SECTION 3. The effective date of this act shall be July 1, 2011.