

SENATE No. 1691

The Commonwealth of Massachusetts

PRESENTED BY:

Mark C. Montigny

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 to further expand Bristol Community College in downtown New Bedford.

PETITION OF:

NAME:

Mark C. Montigny

Antonio F. D. Cabral

DISTRICT/ADDRESS:

Second Bristol and Plymouth

13th Bristol

SENATE No. 1691

By Mr. Montigny, a petition (accompanied by bill, Senate, No. 1691) of Mark C. Montigny and Antonio F. D. Cabral for legislation to further expand Bristol Community College in downtown New Bedford. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act to further expand Bristol Community College in downtown New Bedford.

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) To provide additional facilities for the Bristol Community College in the
2 downtown area of the city of New Bedford, the
3 commissioner of the division of capital asset management and maintenance
4 notwithstanding any general or special law to the contrary is hereby authorized,
5 notwithstanding the provisions of chapter seven of the General Laws to the contrary, to
6 negotiate and enter into a lease having a term of up to twenty years, including such
7 options
8 for the commonwealth to extend said term as the commissioner may determine, after
9 consulting with president of the Bristol Community College, for land,

10 buildings and improvements in the downtown district, so-called, of said city of New
11 Bedford.

12 Said lease shall be for use of the property by said university for a campus facility in
13 the downtown area of said city of New Bedford. The developer selected pursuant to the
14 provisions of this subsection shall be the landlord under the lease and shall be obliged to
15 construct the improvements required under this section. Funding for said lease shall be
16 subject to annual appropriation by the general court and to annual authorization for
17 expenditure of said funds by the secretary of administration and finance and the board of
18 trustees of the Bristol Community College, and shall contain such other terms as shall be
19 required by the commissioner.

20 The commissioner is hereby authorized to select the developer of the property. Said
21 commissioner shall establish competitive and public processes for the selection of said
22 developer, which processes shall include: the issuance of requests for proposals
23 containing
24 the date, time and place for the submission of proposals, the developer selection criteria,
25 and
26 the required content for proposals; public advertisement for the issuance of said requests
27 for

28 proposals; and the use of selection criteria which shall include the experience,
29 qualifications,
30 capability and financial viability of the developer, designer or construction contractor as
31 the
32 case may be, the cost to the commonwealth, and the financial and other benefits to the
33 commonwealth and the local community. Said commissioner shall also select the
34 designer
35 and construction contractor pursuant to the process established by said commissioner.
36 (b) The lease authorized in this section shall include final plans and specifications
37 at one-hundred percent design stage, ready for construction, and containing such
38 improvements to the property as are necessary for the Bristol Community College for its
39 downtown New Bedford campus facility as determined by the
40 commissioner in consultation with the president of said university. Such plans and
41 specifications shall be prepared by the designer selected pursuant to the provisions of
42 subsection (a). Said lease shall require the developer to construct the improvements
43 shown
44 in said plans and specifications and said lease shall not be executed until the completion
45 and
46 incorporation of such plans and specifications.

47 (c) The lease authorized by this section shall contain an option for the
48 commonwealth to purchase the property which shall be exercisable during the lease term,
49 or at the end of the lease term, or any extension thereof. The commonwealth, if it
50 exercises
51 said option to purchase, may purchase the property, [subject to appropriation, for not
52 more
53 than the fair market value of the property at the time of exercise of the option, taking into
54 account any rental and other payments made by the commonwealth under the terms of
55 said
56 lease. Said commissioner is hereby authorized, notwithstanding said chapter seven, to
57 exercise said option and to acquire the property on behalf of the commonwealth.

58 (d) The developer who is the landlord under the lease authorized by this section shall
59 pay for all surveys, plans and specifications and other costs and expenses associated with
60 the
61 improvements to the property required under the lease and all costs and expenses
62 associated
63 with the leasing process as required by the commissioner, and shall be responsible for,
64 and

65 indemnify the commonwealth from and against, all costs and liabilities associated with,
66 the
67 environmental condition of the property.

68 (e) The lease authorized by this section shall be in a form approved by the attorney
69 general. The negotiated lease price for any parcel or site pursuant to this section shall be
70 for

71 not more than fair market value determined by independent appraisal, for the uses
72 described

73 in subsection (a). The inspector general shall review and approve said appraisal and said
74 review shall include an examination of the methodology utilized for said appraisal. Said
75 inspector general shall review and approve the reasonableness and appropriateness of the
76 process and criteria, as such protect the public interest, established by the commissioner
77 of

78 the division of capital planning and operations for the selection of any developer,
79 designer

80 and construction contractor pursuant to the provisions of subsection (a). Said inspector

81 general shall prepare a report of his review and file said report with the commissioner, the

82 house and senate committees on ways and means and joint committee on state

83 administration and regulatory oversight.

84 (f) Said commissioner shall, thirty days before the execution of any lease agreement
85 authorized by this section, or any subsequent amendment thereof, submit the agreement
86 or
87 amendment and a report thereon to the inspector general for his review and approval.
88 Said
89 inspector general shall issue his review and comment within fifteen days of receipt of any
90 agreement or amendment. Said commissioner shall submit the agreement and any
91 subsequent amendments thereof, the reports, and the comments of the inspector general,
92 if
93 any, to the house and senate committees on ways and means and the chairmen of the joint
94 committee on state administration and regulatory oversight at least fifteen days prior to
95 execution.

96 (g) The president of Bristol Community College shall submit
97 sixty days after the effective date of this act, but in no event after the inspector general
98 receives the lease agreement pursuant to the provisions of subsection (f), a financial plan
99 and
100 an operating plan for any property used, owned, leased or maintained by said university
101 in

102 said city of New Bedford after the effective date of this act. Said plans shall include, but
103 not
104 be limited to:

105 (1) A financial and operating plan for the continued use or discontinued use by said
106 university campus of any property in said city of New Bedford in use on the effective
107 date
108 of this act, including current and future fiscal year costs of such usage and any savings
109 resulting from the discontinued use of said property;

110 (2) A financial plan for any new property lease pursuant to this section, including
111 current and future fiscal year lease payments, utility costs, maintenance and operating
112 costs
113 and capital replacement reserves;

114 (3) Revenue sources proposed to fund any net increase in lease, maintenance and
115 operating costs resulting from said newly leased property in excess of the amounts paid
116 by
117 the said university as identified by clause (1);

118 (4) An operating plan for any new property leased pursuant to this section detailing
119 the proposed usage and hours of operation of said property, the programs, services and

120 administrative operations proposed to be located at said new property, any proposed
121 subleases of said new property to parties other than the said Bristol Community College
122 campus
123 and revenues resulting from said subleases and the full-time or contracted personnel
124 proposed to maintain and operate said new property'
125 The future fiscal year cost projections required by clauses (1) and (2) shall be for the
126 term of any lease authorized by this section.