SENATE DOCKET, NO. 1203 FILED ON: 1/20/2011

# SENATE . . . . . No. 1583

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:

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

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Brian A. Joyce* | *Norfolk, Bristol, and Plymouth* |

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# SENATE . . . . . No. 1583

By Mr. Joyce, a petition (accompanied by bill, Senate, No. 1583) of Brian A. Joyce for legislation to authorize the leasing of the Leo J. Martin memorial golf course. State Administration and Regulatory Oversight.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
SENATE
, NO. *1423* OF 2009-2010.]

## The Commonwealth of Massachusetts

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:*

SECTION1. (a) Notwithstanding sections 40E to 40K, inclusive, and sections 52 to 55, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the division of capital asset management and maintenance, on behalf of and in consultation with the department of conservation and recreation may, using such competitive proposal process as the division deems necessary or appropriate, lease and enter into other agreements, for terms not to exceed 25 years with 1 or more operators, for the Leo J. Martin Memorial golf course in the town of Weston so as to provide for the continued use, operation, maintenance, repair and improvement of the golf courses, practice greens, driving range, restaurant or any other structure and associated lands which constitute the facilities of the Leo J. Martin Memorial golf course, hereinafter referred to as the golf course; provided, however, that the division of capital asset management and maintenance, in consultation with the department of conservation and recreation shall prefer any proposal submitted by the town of Weston, or by a non-profit organization within the town of Weston, which complies with the requirements of this section; and provided further, that the division of capital asset management and maintenance shall provide the town of Weston no less than 180 days to determine whether said town shall submit a proposal prior to soliciting proposals pursuant to subsection (b); and provided further, that if said town of Weston executes a lease of the golf course pursuant to this section it shall not assign or otherwise transfer the lease to any third party.

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

27 Such lease and other agreements shall be on terms acceptable to the
28 commissioner of the division of capital asset management and maintenance after consultation
29 with the commissioner of the department of conservation and recreation, and, notwithstanding
30 any general or special law to the contrary, shall provide for the lessee to manage, operate,
31 improve, repair and maintain the property. Any such lease or other arrangement shall stipulate
32 that any required capital improvements to the golf courses, practice greens, driving range,
33 restaurant or any other structure or associated lands which constitute the facilities of the golf
34 course shall be made by the lessee and shall include a description of the required capital
35 improvements and without limitation performance specifications. Said lease and other agreement
36 shall provide that any benefits to the commonwealth and the costs of improvements and repairs
37 made to the properties by the lessee shall be taken into account as part of the consideration for
38 such leases or other agreements. All consideration received from the leases or other agreements
39 executed pursuant to this section shall be payable to the department of conservation and
40 recreation for deposit into the General Fund.

41 (b) If no lease agreement is reached with the town of Weston pursuant to
42 subsection (a) and not before April 1, 2012, the division of capital asset management and
43 maintenance, in consultation with and on behalf of the department of conservation and
44 recreation, shall solicit proposals through a request for proposals which shall include key
45 contractual terms and conditions to be incorporated into the contract, including but not limited
46 to: (1) a comprehensive list of all recreational facilities operated by the responsive bidder or
47 offeror in the last 4 years; (2) other facilities management or experience of the responsive bidder
48 or offeror; (3) a residential, senior citizen and children discount program; (4) reservation
49 policies; (5) proposed reasonable rates that will ensure continued public access; (6) required
50 financial audits; (7) policies to encourage use of the golf course by persons of all races and
51 nationalities; (8) safety and security plans; (9) seasonal opening and closing dates; (10) hours of
52 operation; (11) holiday recognition; (12) grievance processes; (13) clubhouse license; (14) a
53 provision that the facility shall be maintained as a 36 hole public golf course; (15) a provision
54 that lessee shall not construct any facilities on the grounds of the golf course or any property
55 appurtenant thereto; provided, however, that said lessee may construct facilities incidental to the
56 operation of a golf course with the written approval of the commissioner of the department of
57 conservation and recreation; (16) a provision that the town of Weston shall receive compensation

58 from the lessee in an amount equal to or greater than the amount said town would receive in
59 property taxes if the golf course were taxed as a commercial property as may be determined by
60 the board of assessors of the town of Weston. Any increase in fees including fees for season
61 passes, and any increase in charges for greens fees, golf cart or club rentals shall be approved in
62 writing by the commissioner of the department of conservation and recreation; provided,
63 however, that in considering any request for an increase in fees, the commissioner shall consider
64 without limitation: (i) any capital investment made by the contractor or lessee; (ii) the fees and
65 charges at other public golf courses within reasonable proximity; and (iii) the length of time
66 since the last fee increase.

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

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

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

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

96 lessee shall be solely responsible for all costs, liabilities and expenses of any nature and kind for
97 the development, maintenance, use and operation of the golf course.

98 (f) The division of capital asset management and maintenance and the
99 department of conservation and recreation shall report on the results of any requests for
100 proposals and any subsequent leases executed as a result of this section. The report shall include,
101 but not be limited to: the time required to conduct the request for proposals process; the quality
102 and characteristics of the bids received in response to the request; the criteria used to identify
103 successful bidders; the dates of any executed leases; any service changes resulting from executed
104 leases; any increase or decrease in the length of the season of operations for the golf course; the
105 capital improvements that have been completed, are under construction or are planned by the
106 lessee; and the revenue generated by any executed leases. The report shall be submitted to the
107 clerks of the house and senate and to the house and senate committees on ways and means no
108 later than February 1, 2013.