

HOUSE No. 33

By Mr. Jones of North Reading, petition of Bradley H. Jones, Jr., and others relative to golf courses owned by the Commonwealth. Bonding, Capital Expenditures and State Assets.

The Commonwealth of Massachusetts

PETITION OF:

Bradley H. Jones, Jr.	Elizabeth A. Poirier
Mary S. Rogeness	Karyn E. Polito
George N. Peterson, Jr.	Susan Williams Gifford
John A. Lepper	Jeffrey Davis Perry
Viriato Manuel deMacedo	Paul J. P. Loscocco
Paul K. Frost	Donald F. Humason, Jr.
Robert S. Hargraves	

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO GOLF COURSES OWNED BY THE COMMONWEALTH.

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. The commissioner of the division of capital asset
- 2 management and maintenance, hereinafter referred to as the com-
- 3 missioner, on behalf of and in consultation with the department of
- 4 conservation and recreation, hereinafter referred to as the depart-
- 5 ment, is hereby authorized, notwithstanding sections 40E to 40J,
- 6 inclusive, of chapter 7 of the General Laws and section 54 of said
- 7 chapter, and using such competitive proposal process as the commis-
- 8 sioner of said division deems necessary or appropriate, to enter into
- 9 lease or other agreements, for terms not to exceed 25 years, to pro-
- 10 vide for the continued use, operation, maintenance, repair and
- 11 improvement of the following state-owned structures and facilities
- 12 together with the land and appurtenances associated therewith:
- 13 Ponkapoag Golf Course, Canton, and Leo J. Martin Memorial Golf
- 14 Course, Weston, both of which hereinafter referred to as the proper-
- 15 ties.
- 16 Any such lease shall or agreement shall contain a provision
- 17 requiring the lessee to carry comprehensive general liability insur-

18 ance with the commonwealth named as a co-insured and protecting
19 the commonwealth against any and all personal injury or property
20 damage on the land during the term of the lease.

21 Such leases and other agreements shall be on terms acceptable to
22 the commissioner after consultation with the department, and
23 notwithstanding any general or special law to the contrary, shall pro-
24 vide for the management, operation, improvement, repair, and main-
25 tenance of the properties. Any provisions in such leases or
26 agreements relative to capital improvements to the properties shall
27 include (i) a description of the required capital improvements and
28 (ii) performance specifications. Such leases and other agreements
29 shall provide that any benefits to the commonwealth and the costs of
30 improvements and repairs made to the properties provided by the
31 tenants or the recipients of the properties shall be taken into account
32 in determining the amount of lease payments. The commissioner, in
33 consultation with the department, shall structure each lease or other
34 agreement to minimize disturbance of the current rights of any ten-
35 ants who may currently use any part of properties, whether under a
36 written lease or other arrangement. All consideration paid in con-
37 nection with any lease of the properties shall be deposited in the
38 General Fund. The lessees of the properties shall bear all costs
39 deemed necessary or appropriate by the commissioner of the divi-
40 sion of capital asset management and maintenance for the transac-
41 tion, including, without limitation, all costs for legal work, survey,
42 title and the preparation of plans and specifications.

43 The division of capital asset management and maintenance, in
44 consultation with and on behalf of the department of conservation
45 and recreation, shall solicit proposals through a request for proposals
46 which shall include key contractual terms and conditions to be incor-
47 porated into the contract, including but not limited to (1) a compre-
48 hensive list of all golf courses operated by the responsive bidder in
49 the last four years, (2) other facilities management or experience of
50 the responsive bidder, (3) other sports management experience of the
51 responsive bidder, (4) a residential discount program, (5) reservation
52 policies, (6) proposed reasonable rates that will ensure continued
53 public access, (7) required financial audits, (8) policies to encourage
54 use of the course by persons of all races and nationalities, (9) safety
55 and security plans, (10) seasonal opening and closing dates, and (11)
56 hours of operation.

57 The inspector general shall review and approve any request for
58 proposal issued by the division before issuance.

59 The division, in consultation with the department, when evalu-
60 ating proposals that are otherwise comparable, shall prefer any pro-
61 posal to lease a course that is submitted by a city or town where the
62 course is located.

63 It shall be a mandatory term of any request for proposals issued
64 by the commissioner and of any contract entered into by the com-
65 monwealth with any party regarding the subject matter of this
66 section that any party which has entered into a contract pursuant to
67 this section with the commonwealth shall require, in order to main-
68 tain stable and productive labor relations and to avoid interruption of
69 the operation of the courses and to preserve the safety and environ-
70 mental conditions of those courses, that all employees currently
71 working on the operation and maintenance of the courses be offered
72 employment by any party entering into a contract pursuant to this
73 section. Upon the execution of any agreements authorized by this
74 section, the department of conservation and recreation shall reassign
75 or relocate those employees who do not accept employment with the
76 lessor, to comparable positions within the department subject to
77 applicable collective bargaining agreements.

78 The provisions of any general or special law or rule or regulation
79 relating to the advertising, bidding or award of contracts, to the pro-
80 curement of services or to the construction and design of improve-
81 ments shall not be applicable to any selected lessee which is
82 awarded a contract pursuant to this section, except as provided in
83 this section.