

SENATE NO. 727

AN ACT RELATING TO BCC

*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 the provisions of section 40F of chapter 7 of the
2 General Laws or any other special or general law to the contrary, the commissioner of the
3 division of capital asset management, hereinafter the “commissioner”, may negotiate and enter
4 into a lease of up to 20 years, including such options for the commonwealth to extend the term
5 as the commissioner may determine, after consulting with the president of Bristol Community
6 College, hereinafter the “college”, for land, buildings and improvements in the Commercial
7 Area Revitalization Central Business district, so-called, in the city of New Bedford.

8 The lease shall be for the use of property by the college for a campus facility in
9 downtown New Bedford. The developer selected pursuant to the provisions of this subsection
10 shall be the landlord under the lease and shall be obliged to construct the improvements required
11 under this section. Funding for the lease shall be subject to appropriation by the general court.

12 The commissioner is hereby authorized to select the developer of the property. The
13 commissioner shall establish competitive and public processes for the selection of the developer
14 including the following: the issuance of requests for proposals containing the date, time and
15 place for the submission of proposals, the developer selection criteria, and the required content
16 for the proposals; public advertisement for the issuance of requests for proposals; and the use of
17 selection criteria which shall include the experience, qualifications, capability and financial
18 viability of the developer, designer or construction contractor, the cost to the commonwealth,

19 and the financial and other benefits to the commonwealth and the local community. The
20 commissioner shall also select the designer and construction contractor.

21 The acquisition, lease, construction, renovation, design, development, and management
22 of the property as authorized by this section, and contract relating thereto, shall be exempt from
23 the provisions of said chapter 7, section 39M of chapter 30 of the General Laws, sections 44A to
24 44J, inclusive, of chapter 149 of the General Laws, and any other general or special law or
25 regulation governing, acquisition, leasing, construction, renovation, design, development, and
26 management of real or personal property by or for the commonwealth or municipality.

27 Notwithstanding the foregoing, all contractors or subcontractors engaged in the construction or
28 renovation of improvements at the property shall pay the wages determined under the provisions
29 of sections 26 to 27H, inclusive, of said chapter 149.

30 (b) The lease authorized in this section shall include final plans and specifications at 100
31 percent design stage, ready for construction, and containing such improvements to the property
32 as are necessary for the college for its downtown New Bedford campus facility as determined
33 by the commissioner in consultation with the president of the college. The plans and

34 specifications shall be prepared by the designer selected pursuant to the provisions of subsection
35 (a). The lease shall require the developer to construct the improvements shown in the plans and
36 specifications and the lease shall not be executed until the completion and incorporation of such
37 plans and specifications.

38 (c) The lease authorized by this section shall contain an option for the commonwealth to
39 purchase the property which shall be exercisable during the lease term, or at the end of the lease
40 term, or any extension thereof. The commonwealth, if it exercises its option to purchase, may
41 purchase the property, subject to appropriation, for not more than the fair market value of the

42 property at the time of exercise of the option, taking into account any rental and other payments
43 made by the commonwealth under the terms of the lease. The commissioner is hereby
44 authorized, notwithstanding said chapter seven, to exercise said option and to acquire the
45 property on behalf of the commonwealth.

46 (d) The developer who is the landlord under the lease authorized by this section shall
47 pay for the surveys, plans, and specifications and other costs and expenses associated with the
48 improvements to the property required under the lease and all costs and expenses associated
49 with the leasing process as required by the commissioner. The developer shall also be
50 responsible for the payment of all real estate taxes on the property during the lease term. The
51 developer shall be responsible for, and indemnify the commonwealth from and against, all costs
52 and liabilities associated with, the environmental condition of the property.

53 (e) The lease authorized by this section shall be in the form approved by the attorney
54 general. The negotiated lease price for any parcel or site pursuant to this section shall be for not
55 more than fair market value determined by independent appraisal, for the uses described in
56 subsection (a). The inspector general shall review and approve the appraisal and the review
57 shall include an examination of the methodology utilized for the appraisal. In order to protect
58 the public interest, the inspector general shall review and approve the reasonableness and
59 appropriateness of the process and criteria established by the commissioner for the selection of
60 any developer, designer and construction contractor pursuant to the provisions of subsection (a).
61 The inspector general shall prepare a report of his review and file the report with the
62 commissioner, the house and senate committees on ways and means and the joint committee on
63 state administration. The commissioner, in consultation with the president of the college, shall

64 have authority to approve or disapprove the developer's initial operating budget and any
65 changes thereafter.

66 (f) The commissioner shall, 30 days before the execution of any lease agreement
67 authorized by this section, or any subsequent amendment thereof, submit the agreement or
68 amendment and a report thereon to the inspector general for his review and approval. The
69 inspector general shall issue his review and comment within 15 days of receipt of any
70 agreement or amendment. The commissioner shall submit the agreement and any subsequent
71 amendments thereof, the reports, and the comments of the inspector general, if any, to the house
72 and senate committees on ways and means and the joint committee on state administration at
73 least 15 days prior to execution.

74 (g) The president of the college shall submit 60 days after the lease is submitted to
75 DCAM for approval, but in no event after the inspector general receives the lease agreement
76 pursuant to the provisions of subsection (f), a financial plan and an operating plan for any
77 property used, owned, leased or maintained by the college in the city of New Bedford after the
78 effective date of this act. The plans shall include, but not be limited to:

79 (1) A financial and operating plan for the continued use or discontinued use by the
80 college of any property in the city of New Bedford in use on the effective date of this act,
81 including current and estimated future fiscal year costs of such usage and any savings resulting
82 from the discontinued use of the property;

83 (2) A financial plan for any new property lease pursuant to this section, including the
84 estimated future fiscal year lease payments, utility costs, maintenance and operating costs and
85 capital replacement reserves;

86 (3) Revenue sources proposed to fund any net increase in lease, maintenance and
87 operating costs resulting from the newly leased property in excess of the amounts paid by the
88 college as identified in clause (1);

89 (4) An operating plan for any new property leased pursuant to this section detailing the
90 proposed usage and hours of operation of the property, the programs, services and
91 administrative operations proposed to be located at the new property, any proposed subleases of
92 the new property to parties other than the college and revenues resulting from the subleases and
93 the full-time or contracted personnel proposed to maintain and operate the new property.

94 The future fiscal year cost projections required by clauses (1) and (2) shall be for the
95 term of any lease authorized in this section.