

# SENATE, No. 2209

## **AN ACT** MAKING PROVISION FOR THE MANAGEMENT AND OPERATION OF THE WALLACE CIVIC CENTER AND PLANETARIUM IN THE CITY OF FITCHBURG

*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. It is hereby declared that the refurbishment, maintenance and operation of  
2 the George R. Wallace civic center and the Alice G. Wallace planetarium in the city of  
3 Fitchburg is necessary to promote the welfare of the inhabitants of the Commonwealth,  
4 including most especially the inhabitants of said city and its environs; that the  
5 refurbishment, maintenance and operation thereof will contribute to the economic vitality  
6 of said city and will enhance the recreational, educational and economic well-being of  
7 said inhabitants; and that the enactment of this act is a public necessity. The provisions  
8 of this act shall be liberally construed to effectuate its purpose.

9 SECTION 2. For the purpose of this act, the following terms shall have the following  
10 meanings unless the context clearly requires otherwise:

11 “Civic Center:” the George R. Wallace civic center and the Alice G. Wallace  
12 planetarium, including all buildings and facilities that are a part thereof or appurtenant  
13 thereto and further including the parcel of land described in section 3.

14 “College:” the board of trustees of Fitchburg state college or any person duly  
15 authorized to act for said board.

16 “Commissioner:” the commissioner of the division of capital asset management  
17 and maintenance.

18 “Division:” the division of capital asset management and maintenance.

19 SECTION 3. The city of Fitchburg is hereby authorized to lease to the commonwealth,  
20 acting on behalf of the college, the parcel of land, together with any improvements  
21 thereon, that is described in chapter 437, section 1, of the acts of 1969; and the division,  
22 acting for the commonwealth on behalf of the college, is hereby authorized to lease said  
23 parcel from the city of Fitchburg. Any such lease so made shall be for a term of ninety-  
24 nine years, shall be contingent on the payment of one dollar, and shall be further  
25 contingent on the making of, and be coterminous with, the lease between the  
26 commonwealth and the board of trustees of the Wallace civic center, so called, as the  
27 same is authorized to be made by chapter 122, section 2E, item 7004-0097, of the acts of  
28 2006.

29 SECTION 4. Upon the making of any lease between the commonwealth, acting on  
30 behalf of the college, and the city of Fitchburg pursuant to section 3 of this act, the  
31 college shall, any other general or special law to the contrary notwithstanding, have full  
32 authority for the management, maintenance and operation of the civic center, including,  
33 at all times and from time to time, the following authorities:

- 34 (a) to establish all user or other fees, charges and assessments pertaining to  
35 the civic center;
- 36 (b) to establish all rules and regulations for the use of the civic center or  
37 access thereto;
- 38 (c) to establish the priority and schedule of uses with respect to the whole or  
39 any portions of the civic center;
- 40 (d) to enter into agreements with vendors, concessionaires, management  
41 companies and any other person or entity, public or private, for the  
42 provision of any goods or services in connection with the management,  
43 maintenance and operation of the civic center; and
- 44 (e) to do any and every other act or deed deemed necessary or appropriate by  
45 it for the management, maintenance and operation of the civic center.

46 Nothing in this section 4 shall be deemed to prohibit the college, whether pursuant to any  
47 management or other agreement or any lease made pursuant to section 6, from conferring  
48 on any other party to such agreement or lease any or all of its authorities under this act  
49 and to do so upon such terms and subject to such requirements or limitations as it may  
50 deem necessary or appropriate.

51 SECTION 5. The college is hereby authorized and directed, upon the making of a lease  
52 between the commonwealth and the city of Fitchburg pursuant to section 3 of this act, to  
53 establish and maintain a trust fund for the purpose of holding, applying and expending  
54 the corpus thereof, including any earnings thereon, for the management, maintenance and  
55 operation of the civic center. In doing so, the college may segregate funds or other assets  
56 in various accounts or sub-accounts, including reserve accounts or sub-accounts, all in  
57 such manner as it may deem appropriate from time to time.

58 All moneys or other things of value paid to or received by the college or the  
59 commonwealth in connection with the management, maintenance and operation of the  
60 civic center, whether pursuant to any management or other agreement, any lease made  
61 pursuant to section 6, or otherwise, shall be paid into, held upon and applied pursuant to  
62 the terms of the above described trust fund for the management, maintenance and  
63 operation of the civic center. The college is hereby authorized to expend moneys from  
64 the trust fund to reimburse itself and the commonwealth, as may be appropriate, for costs  
65 either will or did incur, whether before or after the enactment of this act, in connection  
66 with the management, maintenance and operation of the civic center, including costs  
67 incurred in connection with the maintenance and management of said trust fund.

68 Any balance in the trust fund at the end of a fiscal year shall continue to be held in  
69 such trust fund, shall remain available for expenditure in subsequent fiscal years, and  
70 shall not revert to the General Fund. Such trust fund shall be subject to audit by the state  
71 auditor.

72 SECTION 6. Any other general or special laws to the contrary notwithstanding, the  
73 commissioner, on behalf of, at the request of and in consultation with the college, is  
74 hereby authorized, at any time and from time to time, using such competitive proposal

75 process as the commissioner deems necessary or appropriate, to lease, for a term in each  
76 case not to exceed twenty-five years, for, in each case, all or any portion or portions of  
77 the civic center so as to provide for the continued use, operation, maintenance, repair and  
78 improvement of the civic center on such terms as the commissioner, in consultation with  
79 the college, shall determine, subject only to the requirements of this act.  
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81 All such leases shall be on terms acceptable to the commissioner after consultation  
82 with the college and, notwithstanding the provisions of any general or special law to the  
83 contrary, shall provide that the lessee manage, operate, improve, repair and maintain all  
84 or any portion or portions of the civic center. Any such lease requiring capital  
85 improvements to be made to any portion of the civic center shall include a description of  
86 the required capital improvements and, at a minimum, performance specifications. Any  
87 such lease shall provide that any benefits to the commonwealth and the costs of  
88 improvements and repairs made to the civic center by the lessee shall be taken into  
89 account as part of the consideration for such lease. All consideration received from any  
90 such lease shall be payable into the trust fund established pursuant to section 5 of this act  
91 and shall be held, applied and expended in accordance with the terms thereof. Any such  
92 lease shall contain a provision that requires the lessee to carry comprehensive general  
93 liability insurance naming the commonwealth as a co-insured, protecting the  
94 commonwealth and the college against all personal injury or property damage at the civic  
95 center.

96 The lessee shall bear all costs deemed necessary or appropriate by the  
97 commissioner for the transaction, including, without limitation, all costs for legal work,  
98 surveys, title examinations and the preparation of plans and specifications.

99 The commissioner, in consultation with and on behalf of the college, shall, in  
100 connection with the making of any such lease, solicit proposals through a request for  
101 proposals which shall include key contractual terms and conditions to be incorporated  
102 into the lease, including but not limited to (1) a comprehensive list of all rinks or other  
103 facilities operated by the responsive bidder or offeror in the preceding four years, (2)  
104 other facilities management or experience of the responsive bidder or offeror, (3) other

105 skating or hockey management experience of the responsive bidder or offeror, (4)  
106 proposed reasonable rates that will ensure continued public access, (5) required financial  
107 audits, (6) policies to encourage use of the rink by persons of all races and nationalities,  
108 and (7) safety and security plans.

109           The provisions of any general or special law or rule or regulation relating to the  
110 advertising, bidding or award of contracts, to the procurement of services or to the  
111 construction and design of improvements shall not be applicable to any selected offeror  
112 that is awarded a contract or lease pursuant to this section.

113 SECTION 7. Neither any lessee with a lease made pursuant to section 6 of this act nor  
114 any other person occupying the whole or any portion of the civic center pursuant to an  
115 agreement with the college shall be assessed any tax upon the whole or any portion of the  
116 real or personal property that constitutes the civic center.