

M.G.L. c. 273, Section 125  
Acts of 1994  
Establishing

**SPRINGFIELD TECHNICAL COMMUNITY COLLEGE  
ASSISTANCE CORPORATION**

Section 125. (a) It is hereby found and declared that:

(1) The Springfield Technical Community College is a critical element of the commonwealth's higher education system and fulfilling the mission of Springfield Technical Community College to provide educational resources to the citizens of the commonwealth is essential to providing students with the skills and opportunities necessary to a full and productive life.

(2) Providing physical and financial resources necessary to meet the needs of the Springfield Technical Community College now and in the future is critical to the ability of Springfield Technical Community College to fulfill its mission including providing the work force with skills necessary to allow for the maintenance and expansion of the industrial, technological and manufacturing sectors of the commonwealth's economy.

(3) There exists within the city of Springfield a site of approximately thirty-seven and one-half acres, which was formerly the site of the Digital Equipment Corporation plant, located proximately between the north and south campuses of Springfield Technical Community College.

(4) Creation of a nonprofit assistance corporation with certain statutory authority would provide a vehicle with the necessary flexibility to prudently pursue such opportunities for the benefit of Springfield Technical Community College, its present and future students and the commonwealth.

(5) It is therefore expressly declared that the provisions of this section constitute a needed program in the public interest in furtherance of an essential governmental function and serve a necessary and valid public purpose for which public money may be expended or invested.

(b) As used in this section the following terms shall, unless otherwise required, have the following meanings:

"board of directors", board of directors of the Springfield Technical Community college assistance corporation;

"board of trustees", board of trustees of the Springfield Technical Community College;

"college", Springfield Technical Community College or, should Springfield Technical Community College be dissolved or fail to qualify either as a political subdivision of the commonwealth or an educational institution exempt from federal income tax under Section 501(c) (3) of the Code, then such other educational institution of higher learning

established and operating in the commonwealth as shall be designated by the council, which is either such a political subdivision or such an exempt organization;

"Code", the Internal Revenue Code of 1986, as the same may, from time to time, be amended;

"corporation", Springfield Technical Community College Assistance Corporation created by subsection (c);

"the council", the Higher Education Coordinating Council established pursuant to section four of chapter fifteen A of the General Laws;

"educational institution", an educational organization within the meaning of section 170(b)(1)(A)(ii) of the Code;

"site", the thirty-seven and one-half-acre site, within the City of Springfield, which was formerly the site of the Digital Equipment Corporation plant, located proximately between the north and south campuses of Springfield Technical Community College, to be designated as the Massachusetts Center for Telecommunications and Information Technology at Springfield Technical Community College. Said Center shall be authorized, among other activities, to: take advantage of the unparalleled telecommunications and information technology in western Massachusetts and beyond; to retain and attract telecommunications-intensive companies and content providers for the information superhighway; to offer and attract cable television networks, office space, studio space and satellite up-link antennas; to create a network for the region's software firms and the Computer Science Department of the University of Massachusetts at Amherst for applied research and development, basic research and technology transfer projects; to establish a market manager component to recruit administrative and back-office operations to the area; to coordinate projects with the Center for Advanced Fiberoptic Applications; and to provide job training and skills enhancement programs.

(c)(1) There is hereby created a body politic and corporate to be known as the Springfield Technical Community College Assistance Corporation. The Corporation is not and shall not be deemed a public agency or state agency within the meaning of such terms in chapter seven of the General Laws for any purpose.

(2) The Corporation shall be governed by a board of eleven directors, four of whom shall be appointed by the board of trustees, three of whom shall be appointed by the governor, one of whom shall be the President of the college ex officio, one of whom shall be the mayor of the City of Springfield, ex officio, or his designee, one of whom shall be the planning director of the City of Springfield, ex officio, and one of whom shall be appointed by the Springfield Chamber of Commerce. Of the governor's appointees at least one shall be a person experienced in financial aspects of real estate development and management, at least one shall be a person experienced in planning, and at least one shall be a person experienced in college administration.

(3) Directors shall serve for a term of three years provided, however, of those initially appointed by the board of trustees two shall be appointed for one year, and one for two years, and of those initially appointed by the governor one shall be appointed for one year and one for two years and the individual initially appointed by the chamber of commerce

shall be appointed for two years. Vacancies arising from other than the expiration of the term shall be filled by the party responsible for the initial appointment. Directors shall serve without compensation but may be reimbursed for expenses necessarily incurred in the performance of their duties.

(4) The board of trustees from time to time shall designate one of the directors to serve as chairman. The directors shall from time to time elect from among themselves a vice-chairman and a secretary. The secretary shall be the custodian of all books, documents and papers of the corporation and of its minute book and seal. Unless otherwise provided in by-laws adopted by the board of directors, the number of directors required to constitute a quorum shall be a majority of the directors then in office. If a quorum is present, a majority of the directors present may take any action on behalf of the board of directors except to the extent that a larger number is required by this section, other applicable laws or by-laws adopted by the board of directors.

(5) The purposes of the corporation shall be to (i) promote the orderly growth and development of the college; (ii) to assist the college in securing physical and financial resources necessary for the acquisition and development of the site.

(6) In furtherance of such purposes the corporation shall, subject only to the restrictions and limitations hereinafter contained, have the following powers:

A. To make and execute contracts and any other instruments necessary or convenient for the exercise of its powers or the discharge of its duties and incur liabilities for any other purposes of the corporation;

B. To have a corporate seal which it may alter at its pleasure;

C. To adopt by-laws for the regulation of its affairs;

D. To accept, acquire, receive, take, and hold by bequest, devise, grant, gift, purchase, exchange, lease, transfer, judicial order or decree or otherwise, for any of its objects and purposes, any property both real and personal reasonably related to the acquisition and development of the site;

E. To sue or be sued, provided, however, a director or officer of the corporation shall not be liable for the performance of his duties if he acts in compliance with section six C of chapter one hundred and eighty of the general laws;

F. To sell, convey, mortgage, lease, transfer, exchange or otherwise dispose of any such property, both real and personal, as the objects and purposes of the corporation may require;

G. To borrow money, and from time to time, to make, accept, endorse, execute, and issue promissory notes, bills of exchange, and other obligations of the corporation for

monies borrowed or in payment for property acquired or for any of the other purposes of the corporation, and to secure the payment of any such obligation by mortgage, pledge, deed, agreement, or other instrument of trust, or other lien upon, assignment of, or agreement in regard to all or any part of the property rights or privileges of the corporation, whether now owned or hereafter to be acquired.

H. To receive stocks, bonds, donations, gifts and to otherwise raise money for the corporation's purposes;

I. To elect, appoint and employ officers, agents and employees; to fix their compensation and define their duties and obligations and to indemnify corporate personnel;

J. To enter into agreements for other transactions with any person, including, without limitation, any governmental instrumentalities or agencies in connection with any of its powers or duties and any governmental agency is hereby authorized to enter into such agreements or transactions with the corporation;

K. To do all acts and things necessary or convenient to the exercise of any power or the discharge of any duty provided for by this section.

(d) The corporation is hereby deemed to be an "institution for higher education" solely for the purposes such term is used in chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight. Any acquisition of property by purchase, lease, or other method by the corporation shall be deemed a "project" as such term is used in chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight. The corporation shall be fully eligible to receive any and all assistance from the Massachusetts health and education facilities authority created by chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight in the same manner as any institution for higher education.

(e) The corporation shall assess the space needs of the college on a regular basis and shall lease or rent land or space in any facility under the control of the corporation to any entities other than the college only after making a determination that the college does not have a foreseeable need for such space or land for the term of the lease or rental agreement. In no event shall the corporation sell, convey, transfer, exchange or otherwise dispose of any real property without notifying in writing and consulting with the board of trustees and the council, and after such consultation making a determination that such sale, conveyance, transfer or exchange is in the best interests of the college. Any such sale, conveyance, transfer or exchange shall require a vote of two thirds of the members of the board of directors.

(f) The college or any state agency or entity acting on the college's behalf, may enter into an agreement to rent, lease or otherwise utilize any facility owned by, or under the control of the corporation. The corporation shall be paid rent and costs for such facilities at a rate agreed to by the corporation and college or state agency or entity entering into an

agreement on the college's behalf, provided that such amount may not exceed the fair market value for the use of such facilities at the time the agreement is made. Subject to this limitation, the college's determination to rent, lease or otherwise utilize any facility owned or under the control of the corporation and any agreement related thereto shall not be subject to chapter seven of the General Laws.

(g) The corporation shall not have the authority to engage in any activities which are not in furtherance of its corporate purposes or to support or benefit any organization other than the college, and all of the powers granted under this section to the corporation shall be exercised in a manner consistent therewith.

Notwithstanding any other provision herein contained, neither the directors and officers of the corporation nor the corporation shall participate in any "prohibited transaction" within the meaning of Section 503 of the Code, nor shall the corporation be operated at any time for the primary purpose of carrying on a trade or business for profit.

Subject to the other provisions of this section, the corporation shall use and/or distribute all property from time to time held by the corporation solely in the furtherance of its corporate purposes in such manner as the board of directors shall determine; no part of the assets or net earnings, if any, of the corporation shall inure to the benefit of, or be distributable to its directors, its officers or any private individual, except that the corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of its corporate purposes; and the corporation shall not directly or indirectly participate in or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office, and no substantial part of the activities of the corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation (except to the extent the corporation makes expenditures for purposes of influencing legislation in conformity with the requirements of Section 501(h) of the Code). If the corporation is deemed to be a private foundation as defined in Section 509 of the Code, the provisions of chapter sixty eight A of the General Laws shall apply to it.

(h) The operation and maintenance of projects by the corporation shall constitute the performance of an essential governmental function, and the corporation shall not be required to pay any taxes or special, betterment or other assessments within the commonwealth, including, without limitation, taxes on real or personal property and any ad valorem taxes upon any property owned, constructed, acquired, leased or used by it under the provisions of this section. The corporation shall not be subject to any taxes based upon or measured by income which may be enacted by the commonwealth. Obligations issued by the corporation under this section, and any income derived therefrom, including any sale, exchange or transfer of such obligation, shall at all times be free from taxation within the commonwealth.

Land, buildings and tangible personal property of the corporation, if leased to the extent permitted pursuant to this section for any activity or transaction entered into by the lessee for financial profit or gain, shall be taxed or assessed by the city or town in which such land, buildings and tangible personal property may be situated to the lessees thereof

respectively, in the same manner as such land, buildings and tangible personal property would be taxed or assessed to such lessees if they were owners thereof, except as follows:

(1) the payment of the tax or assessment shall not be enforced by any lien upon or sale of such land or buildings, but for the purpose of enforcing the payment of such taxes or assessments by such lessees to the city or town in which such land or buildings are situated, a sale of the leasehold interest therein may be made by the collector of the city or town in the manner provided by law for selling real estate for the nonpayment of real estate taxes.

(2) such land, buildings and tangible personal property leased to any political subdivision of the commonwealth or to any public charity described in section eight of chapter twelve of the General Laws for its charitable purposes shall not be taxed or assessed to any such lessees.

(3) that in lieu of such taxes, and any betterment of special assessments, the city of Springfield may determine a sum to be paid to it annually in any year or period of years, such sum to be in any year equal to or less than the amount that would be levied at the then current tax rate upon the then current assessed value of such real estate, including buildings and other structures, the valuation for each year being reduced by all abatements thereon. In no event, however, shall any amount be due prior to the first year in which the corporation has leased some portion of the real property to a third party and has received rental payments for fees in return therefore and any amount so due shall be prorated based upon the percentage of the property for which rental payments or fees have been received.

If any such lessee is subject to the excise levied under the provisions of sections thirty to forty-two B, inclusive, of chapter sixty-three of the General Laws, such tangible personal property shall be treated as though it were owned by such lessee for the purposes of such excise, and it shall be valued at eight times its annual rental rate, unless and to the extent that such property is treated by the lessee as owned by it for federal income tax purposes, in which case its value shall be its adjusted bases, as defined in the applicable provisions of the Code.

All tangible property, real or personal, so leased shall be considered tangible property owned or rented and used in the commonwealth by such lessee for the purposes of section thirty-eight of chapter sixty-three of the General Laws.

(i) Upon or dissolution of the corporation after payment of all of the liabilities of the corporation or due provision therefor, all of the assets of the corporation shall be distributed to the council, to be held in trust for the benefit and purposes of the college, and shall not inure to the benefit of or be distributed to any private individual.

(j) None of the powers, duties, actions, responsibilities, or authorities of whatever kind or nature which are vested or created in the corporation or college by this section, either explicitly or implicitly, shall be legally valid nor may said powers, duties, actions, responsibilities, or authorities be exercised in the absence of review and comment by the

inspector general of the commonwealth of the propriety of any proposed action and further specific legislative authorization.

(k) The provisions of this section are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.