
or selectmen file a sufficient map or set of maps for the purpose, the holding governmental body or approving secretary or commission may do so.

SECTION 8. Clause (iii) of paragraph (a) of section 4 of chapter 527 of the acts of 1983 is hereby amended by inserting after the word "paragraph (b)", in lines 9 and 10, the words:- ; provided, however, that the case of a unit where a local housing authority created pursuant to chapter one hundred and twenty-one B of the General Laws, or a city or town has a right of first refusal to purchase the unit for the purpose of providing affordable housing said right of first refusal shall supercede the right of first refusal of said tenant.

Approved January 2, 1991.

Chapter 521. AN ACT RELATIVE TO CHILD CARE IN THE COMMONWEALTH.

Be it enacted, etc., as follows:

SECTION 1. Chapter 28A of the General Laws is hereby amended by inserting after section 5 the following section:-

Section 5A. There shall be established and set up on the books of the commonwealth a separate fund to be known as the Child Care Affordability Scholarship Assistance Fund, in this section referred to as the fund, which shall be subject to appropriation and shall consist of revenues received from (1) state appropriations; (2) gifts, grants and donations from public or private sources; (3) interest earned from fund reserves; (4) federal reimbursements, grants-in-aid and other receipts which can be used for funding child care services and (5) any other monies credited or transferred to the fund from any other source pursuant to law. Up to eighty per cent of the monies deposited annually in the fund shall be allocated to the office and administered by the day care affordability task force established by section fifty-three of chapter two hundred and six of the acts of nineteen hundred and eighty-six, or any successor body so designated by the director, in order to provide funding for child care services to children of families whose income is not more than one hundred and ten per cent of the median income of families in the commonwealth. The remaining monies of the fund shall be used in accordance with the provisions of this section. The books and records of the fund shall be subject to a biennial audit by the state auditor.

SECTION 2. Section 3 of chapter 40A of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting after the second paragraph the following paragraph:-

No zoning ordinance or bylaw in any city or town shall prohibit, or require a special permit for, the use of land or structures, or the expansion of existing

structures, for the primary, accessory or incidental purpose of operating a child care facility; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking and building coverage requirements. As used in this paragraph, the term "child care facility" shall mean a day care center or a school age child care program, as those terms are defined in section nine of chapter twenty-eight A.

SECTION 3. Said chapter 40A is hereby further amended by inserting after section 9B the following section:-

Section 9C. As used in this section, the term "child care facility" shall mean a day care center or a school age child care program, as those terms are defined in section nine of chapter twenty-eight A.

When any zoning ordinance or bylaw in any city or town limits the floor area of any structure, such floor area shall be measured exclusive of any portion of such structure in which a child care facility is to be operated as an accessory or incidental use, and the otherwise allowable floor area of such structure shall be increased by an amount equal to the floor area of such child care facility up to a maximum increase of ten per cent. In any case where the otherwise allowable floor area of a structure has been increased pursuant to the provisions of this section, the portion of such structure in which a child care facility is to be operated as an accessory or incidental use shall not be used for any other purpose unless, following the completion of such structure, the board authorized to grant variances under such zoning ordinance or bylaw shall have determined, with the written concurrence of the office for children, that the public interest and convenience do not require the operation of such facility. The procedures governing the granting of variances, including all rights of appeal, shall apply to any such determination.

The owner of a building as to which the allowable floor area has been increased pursuant to this section shall be allowed to charge the operator of the child care facility for the following: the cost of utilities used by the child care facility, a reasonable building operating fee for the costs of maintenance, cleaning and security, and real estate taxes for the portion of the building which is the child care facility, if such facility is operated by a for-profit provider. The owner shall not impose a charge for the cost of alterations necessary to meet the requirements of the office for children regarding the physical facility of a day care center. Any person operating a child care facility in a portion of a structure which is to be used only for such purpose pursuant to the provisions of this section shall use best efforts to assure that at least fifty per cent of the children utilizing such facility are from families whose income is not more than one hundred and ten per cent of the median family income of the commonwealth.

SECTION 4. Paragraph (1) of section 1 of chapter 40D of the General Laws, as appearing in the 1988 Official Edition, is hereby amended by inserting, in line

70, after the word "facility.", the following sentence:- Industrial enterprise shall also include the operation of a day care center or a school age child care program, as those terms are defined in section nine of chapter twenty-eight A.

SECTION 5. Chapter 59 of the General Laws is hereby amended by inserting after section 3E the following section:-

Section 3F. For the purpose of this chapter and any other general or special law classifying real property for the purpose of taxation and in order to assist in the provision of child care, cities and towns shall classify that portion of any such property operated as a child care facility pursuant to section nine C of chapter forty A in the same category as property used or held for human habitation.

SECTION 6. Chapter 231 of the General Laws is hereby amended by inserting after section 85X the following section:-

Section 85Y. Notwithstanding any general or special law to the contrary, the owner of any property containing premises operated by a person other than such owner as a child care facility shall not be subject to any claim, liability or penalty arising from or based upon any injury to person or loss or damage to property sustained or occurring on or about such premises unless such injury, loss or damage is proximately caused by the negligence or misconduct of such owner or its agents, contractors or employees. This section shall not be deemed to limit or otherwise modify the provisions of any lease or other contract between such owner and the operator of such child care facility. As used in this section, the term "child care facility" shall mean a day care center or a school age child care program, as those terms are defined in section nine of chapter twenty-eight A.

SECTION 7. A qualified employer, as used in this section, shall mean an employer who has established, in accordance with the applicable requirements of section one hundred and twenty-nine of the Federal Internal Revenue Code of 1986, or any successor section, as amended and in effect for the taxable year, either a dependent care assistance program or a cafeteria plan whose benefits include a dependent care assistance program. On or before July first, nineteen hundred and ninety-one, the commonwealth and every authority established as a body politic and corporate and constituted as a public instrumentality of the commonwealth, shall meet the requirements of a qualified employer as defined herein. On or after September first, nineteen hundred and ninety-one, no contract for goods and services of any type shall be awarded by the commonwealth or any such authority to an employer having fifty or more employees unless such employer is a qualified employer, or offers child care tuition assistance or on-site or near-site subsidized child care placements except in cases of special emergency certified by the governor to involve the health or safety of the people or their property. The office for children shall by regulation specify minimum standards for child care tuition assistance and on-site or near-site subsidized child care placements as used in this section. The secretary of administration and finance shall prepare a plan to

implement the provisions of this section. Such plan shall be transmitted to the senate and house committees on ways and means no later than May first, nineteen hundred and ninety-one.

SECTION 8. On or before July first, nineteen hundred and ninety-one, the division of capital planning and operations shall compile a list of sites and structures owned or leased by the commonwealth suitable for the operation of a child care facility. Said list shall be filed with the senate and house committees on ways and means.

SECTION 9. Notwithstanding any general or special law to the contrary, the term "any city or town" as used in sections two and three of this act and the term "cities and towns" as used in section five of this act shall include every city and town of the commonwealth.

Approved January 2, 1991.

Chapter 522. AN ACT PERTAINING TO THE APPOINTMENT OF INSPECTORS OF PLUMBING AND INSPECTORS OF GASFITTING IN CITIES WITH POPULATIONS OF OVER SEVENTY-FIVE THOUSAND.

Be it enacted, etc., as follows:

Chapter 142 of the General Laws is hereby amended by inserting after section 11 the following section:-

Section 11A. In any city with a population over seventy-five thousand which accepts the provisions of this section, notwithstanding the provisions of section eleven or any other general or special law or ordinance to the contrary, inspectors of plumbing and the inspectors of gasfitting shall be appointed by the mayor, subject to the provisions of chapter thirty-one of the General Laws.

Approved January 2, 1991.

Chapter 523. AN ACT AUTHORIZING AND DIRECTING THE DIVISION OF CAPITAL PLANNING AND OPERATIONS TO LEASE CERTAIN LAND IN THE CITY OF MEDFORD.

Be it enacted, etc., as follows:

SECTION 1. The deputy commissioner of the division of capital planning and operations, in consultation with the metropolitan district commission, is hereby authorized subject to the provisions of section forty F 1/2 of chapter seven of the