

SENATE No. 2270

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act promoting economic development throughout 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 The General Laws are hereby amended by inserting after Chapter 3 the
2 following chapter:-

3 CHAPTER 3A.

4 THE MASSACHUSETTS SUNSET ACT.

5 Section 1. There is hereby established a procedure for the identification and elimination
6 of waste, duplication, and inefficiency in state government agencies and authorities established
7 by statute, regulation or executive order to be known as the Massachusetts Sunset Act.

8 Section 2.

9 For the purpose of this chapter, the following definitions shall apply:

10 (a)“Advisory Committee”, a committee, council, commission or other entity created
11 under state law whose primary function is to advise a state agency;

12 (b)“Commission”, the Sunset Advisory Commission;

13 (c) "State Agency", an agency expressly made subject to this chapter;

14 (d) "State Authority", any body politic and corporate that is constituted as a public
15 instrumentality of the commonwealth and is established by an act of the general court to serve an
16 essential governmental function. A state authority shall not be a state agency or owned by a city
17 or town, and shall not be confined to a particular geographical region that is smaller than the
18 commonwealth.

19 Section 3.

20 Notwithstanding any other general or special law to the contrary, there is hereby
21 established a Massachusetts Sunset Advisory Commission, consisting of 5 members of the
22 senate, 4 of whom shall be appointed by the president of the senate and 1 of whom shall be
23 appointed by the minority leader of the senate, and 1 public member appointed by the president
24 of the senate and 5 members of the house of representatives, 4 of whom shall be appointed by the
25 speaker of the house of representatives, and 1 of whom shall be appointed by the minority leader
26 of the house, and 1 public member appointed by the speaker of the house of representatives. The
27 president of the senate and the speaker of the house may serve legislative appointees.

28 An individual is not eligible for appointment as a public member if the individual or the
29 individual's spouse is:

30 Regulated by a state agency that the commission will review during the term for which
31 the individual would serve;

32 Employed by, participating in the management of, or having, directly or indirectly, more
33 than a 10 per cent interest in a business entity or other organization regulated by a state agency
34 the commission will review during the term for which the individual would serve; or

35 Required to register as an executive or legislative agent under section 41 of chapter 3
36 because of the person's activities for compensation on behalf of a profession or entity related to
37 the operation of an agency under review.

38 A public member of the commission shall be removed if the member does not have the
39 qualifications required by subsection (b) for appointment to the commission at the time of
40 appointment or does not maintain the qualifications while serving on the commission. The
41 validity of the commission's action is not affected by the fact that it was taken when a ground for
42 removal of a public member from the commission existed.

43 Legislative members shall serve 2-year terms, conterminous with their service as elected
44 members of the legislature. If a legislative member ceases to be a member of the legislature, the
45 legislator's position shall be declared vacant, and the balance of the term filled by another
46 legislator appointed in the same manner as the previous appointee. If the president of the senate
47 or the speaker of the house serves on the commission, service continues until resignation from
48 the commission or until the individual ceases to hold the office. Public members shall serve 2-
49 year terms expiring January 1 of each odd-numbered year.

50 Members other than the president of the senate and the speaker of the house are subject to
51 the following restrictions:

52 After a public member serves 6 consecutive years on the commission, the individual is
53 not eligible for appointment to another term or part of a term until the expiration of 2 years;

54 A legislative member who serves a full term may not be appointed to an immediately
55 succeeding term; and

56 A public member may not serve more than 3 consecutive 2-year terms; provided,
57 however, that, for purposes of this prohibition, a member is considered to have served a term
58 only if the member has served more than half of the term.

59 The president of the senate and the speaker of the house shall make their appointments
60 before February 1 of each odd-numbered year.

61 If a legislative member ceases to be a member of the house from which he was appointed,
62 that member vacates his membership on the commission.

63 If a vacancy occurs, the appropriate appointing authority shall appoint a person to serve
64 for the remainder of the unexpired term in the same manner as the original appointment.

65 The commission shall have a chair and a vice-chair as presiding officers. The chair and
66 vice-chair positions must alternate every 2 years between the 2 membership groups appointed by
67 the president of the senate and the speaker of the house. The chair and vice-chair may not be
68 from the same membership group. The president of the senate shall designate a presiding officer
69 from the president's appointed membership group and the speaker shall designate the other
70 presiding officer from the speaker's appointed membership group.

71 Seven members of the commission constitute a quorum. A final action or
72 recommendation may not be made unless approved by a recorded roll call vote of a majority of
73 members appointed by the president of the senate and the speaker of the house. All other actions
74 by the commission shall be decided by a majority of the members present and voting.

75 Each member of the commission is entitled to reimbursement for actual and necessary
76 expenses incurred in performing commission duties. Each legislative member is entitled to
77 reimbursement from the appropriate fund of the member's respective house. Each public
78 member is entitled to reimbursement funds appropriated to the commission.

79 Section 4.

80 The commission shall employ an executive director to act as the executive head of the
81 commission.

82 The executive director shall employ persons necessary to carry out this chapter through
83 funds made available by the legislature.

84 The chair and vice-chair of the commission may each employ a staff person to work for
85 them on matters related to commission activities.

86 Section 5.

87 The commission shall adopt rules necessary to carry out this chapter.

88 Section 6.

89 Before July 1 of the odd-numbered year before the year in which a state agency subject to
90 this chapter is abolished, the agency shall report to the commission:

91 Information regarding the application to the agency of the criteria set forth in section 10;

92 and

93 Any other information that the agency considers appropriate or that the commission
94 requests.

95 Section 7.

96 Within 1 year of the appointment and qualification of the members of the commission,
97 and the organization of the commission staff, the commission shall assign sunset dates for each
98 agency, authority, and advisory committee of the commonwealth, and shall notify the head of
99 such agency, authority and advisory committee of the date selected. The commission shall then
100 file legislation with the general court to implement the abolition schedule.

101 Before January 1 of the year in which a state agency subject to this chapter and its
102 advisory committees are scheduled to be abolished, the commission shall:

103 Review and take action necessary to verify the reports submitted by the agency under this
104 chapter;

105 Consult the house and senate committees on post audit & legislative oversight, the state
106 auditor, the inspector general and the state comptroller, or their successors, on the application to
107 the agency of the criteria provided in section 10;

108 Conduct a review of the agency based on the criteria provided in section 10 and prepare a
109 written report; and

110 Review the implementation of commission recommendations contained in the reports
111 presented to the legislature during the preceding legislative session and the resulting legislation.

112 The written report prepared by the commission under clause (3) of subsection (b) shall be
113 a public record.

114 Section 8.

115 Before February 1 of the year a state agency subject to this chapter and its advisory
116 committees are abolished, the commission shall conduct public hearings concerning but not
117 limited to the application to the agency of the criteria provided in section 10.

118 The commission may hold the public hearings after the review of the agency required in
119 section 8 is complete and available to the public.

120 Section 9.

121 At each regular legislative session, the commission shall present to the legislature and the
122 governor a report on the agencies and advisory committees reviewed.

123 In the report the commission shall include:

124 Its findings regarding the criteria prescribed in section 10;

125 Its recommendations based on the matters prescribed in this chapter; and

126 Other information the commission considers necessary for a complete review of the
127 agency.

128 Section 10. The commission and its staff shall consider the following criteria in
129 determining whether a public need exists for the continuation of a state agency, authority or
130 advisory committee or for the performance of the functions of the agency, authority or advisory
131 committee:

132 The efficiency and effectiveness with which the agency, authority or advisory committee
133 operates;

134 an identification of the mission, goals, and objectives intended for the agency, authority,
135 or advisory committee and of the problem or need that the agency, authority, or advisory
136 committee was intended to address; and

137 the extent to which the mission, goals, and objectives have been achieved and the
138 problem or need has been addressed;

139

140 An identification of any activities of the agency or authority in addition to those granted
141 by statute and of the authority for those activities; and

142 The extent to which those activities are needed;

143 An assessment of authority of the agency or authority relating to fees, inspections,
144 enforcement and penalties;

145 Whether less restrictive or alternative methods of performing any function that the
146 agency or authority performs could adequately protect or provide service to the public;

147 The extent to which the jurisdiction of the agency or authority and the programs
148 administered by the agency authority overlap or duplicate those of other agencies or authorities,
149 the extent to which the agency or authority coordinates with those agencies or authorities, and
150 the extent to which the programs administered by the agency or authority can be consolidated
151 with the programs of other state agencies;

152 The promptness and effectiveness with which the agency or authority addresses
153 complaints concerning entities or other persons affected by the agency, including an assessment
154 of the agency's or authority's administrative hearings process;

155 An assessment of the agency's or authority's rulemaking process and the extent to which
156 the agency or authority has encouraged participation by the public in making its rules and
157 decisions and the extent to which the public participation has resulted in rules that benefit the
158 public;

159 The extent to which the agency or authority has complied with:

160 Federal and state laws and applicable rules regarding equality of employment opportunity
161 and the rights and privacy of individuals; and

162 State law and applicable rules of any state agency or authority regarding purchasing
163 guidelines and programs for historically underutilized businesses;

164 The extent to which the agency or authority issues and enforces rules relating to potential
165 conflicts of interest of its employees and chapter 268A;

166 The extent to which the agency or authority complies with chapters 66 and 66A and
167 follows records management practices that enable the agency to respond efficiently to requests
168 for public information; and

169 The effect of federal intervention or loss of federal funds if the agency is abolished.

170 Section 11. In its report on a state agency, the commission shall:

171 Make recommendations on the abolition, continuation or reorganization of each affected
172 state agency, authority or advisory committee, and on the need for performance of the functions
173 of the agency, authority or advisory committee;

174 Make recommendations on the consolidation, transfer, or reorganization of programs
175 within state agencies or authorities not under review when the programs duplicate functions
176 performed in agencies under review; and

177 Make recommendations to improve the operations of the agency, its policy body, and
178 authority or advisory committee, including management recommendations that do not require a
179 change in the agency's or authority's enabling statute.

180 The commission shall include the estimated fiscal impact of its recommendations and
181 may recommend appropriation levels for certain programs to improve the operations of the state
182 agency, to be forwarded to the house and senate committees on ways and means and the
183 executive office for administration and finance.

184 The commission shall have drafts of legislation prepared to carry out the commission's
185 recommendations under this section.

186 After the legislature acts on the report, the commission shall present to the secretary of
187 administration and finance, the commission's recommendations that do not require a statutory
188 change to be put into effect.

189 Section 12. In the 2-year period preceding the date scheduled for the abolition of a state
190 agency under this chapter, the commission may exempt certain agencies from the requirements
191 of this chapter relating to staff reports, hearings, and reviews.

192 The commission may only exempt agencies that have been inactive for a period of 2
193 years preceding the date the agency is scheduled for abolition or that have been rendered inactive
194 by an action of the legislature.

195 The commission’s action in exempting agencies or authorities under this section must be
196 done by an affirmative record vote and must be decided by a majority of all members present and
197 voting.

198 Section 13. During each legislative session, the staff of the commission shall monitor
199 legislation affecting agencies that have undergone sunset review and shall periodically report to
200 the members of the commission on proposed changes which would modify prior
201 recommendations of the commission.

202 Section 14. An advisory committee, the primary function of which is to advise a
203 particular state agency or authority, is abolished on the date set for abolition of the agency or
204 authority unless the advisory committee is expressly continued by law.

205 Section 15. During the annual session immediately before the abolition of a state agency,
206 authority or an advisory committee that is subject to this chapter, the legislature by law may
207 continue the agency, authority, or advisory committee for a period not to exceed 12 years.

208 This chapter shall not prohibit the legislature from:

209 Terminating a state agency, authority, or advisory committee subject to this chapter at a
210 date earlier than that provided in this chapter; or

211 Considering any other legislation relative to a state agency, authority or advisory
212 committee subject to this chapter.

213 Section 16. A state agency or authority that is abolished in an odd-numbered year may
214 continue in existence until June 30 of the following year to conclude its business. Unless the law
215 provides otherwise, abolition does not reduce or otherwise limit the powers and authority of the

216 state agency or authority during the concluding year. A state agency or authority is terminated
217 and shall cease all activities at the expiration of the 1-year period. Unless the law provides
218 otherwise, all rules that have been adopted by the state agency or authority expire at the
219 expiration of the 1-year period.

220 Any un-obligated and unexpended appropriations of an abolished agency or advisory
221 committee lapse on September 1 of the year after abolition.

222 Except as provided by subsection (f) or as otherwise provided by law, all money in a
223 dedicated fund of an abolished state agency, authority or advisory committee on September 1 of
224 the year after abolition is transferred to the General Fund. The part of the law dedicating the
225 money to a specific fund of an abolished agency becomes void on September 1 of the year after
226 abolition.

227 Unless the law or a specific provision in the General Appropriations Act provides
228 otherwise, an abolished state agency, authority or advisory committee funded in the General
229 Appropriations Act may not spend or obligate any of the money appropriated beyond one year
230 from the date of abolition.

231 Unless the governor designates an appropriate state agency as prescribed by subsection
232 (f), property and records in the custody of an abolished state agency, authority or advisory
233 committee on September 1 of the year after abolition shall be transferred to the state archives. If
234 the governor designates an appropriate state agency or authority, the property and records shall
235 be transferred to the designated state agency.

236 The legislature recognizes the state's continuing obligation to pay bonded indebtedness
237 and all other obligations, including lease, contract, and other written obligations, incurred by a

238 state agency or authority abolished under this chapter, and this chapter does not impair or impede
239 the payment of bonded indebtedness and all other obligations, including lease, contract and other
240 written obligations, in accordance with their terms. If an abolished state agency or authority has
241 outstanding bonded indebtedness or other outstanding obligations, including lease, contract or
242 other written obligations, the bonds and all other obligations, including lease, contract and other
243 written obligations, remain valid and enforceable in accordance with their terms and subject to
244 all applicable terms and conditions of the laws and proceedings authorizing the bonds and all
245 other obligations, including lease, contract and other written obligations. The governor shall
246 designate an appropriate state agency or authority that shall continue to carry out all covenants
247 contained in the bonds and in all other obligations, including lease, contract and other written
248 obligations, to complete the construction of projects or the performance of other obligations,
249 including lease, contract, and other written obligations. The designated state agency or authority
250 shall provide payment from the sources of payment of the bonds in accordance with the terms of
251 the bonds and shall provide payment from the sources of payment of all other obligations,
252 including lease, contract, and other written obligations, in accordance with their terms, whether
253 from taxes, revenues, or otherwise, until the bonds and interest on the bonds are paid in full and
254 all other obligations, including lease, contract and other written obligations, are performed and
255 paid in full. If the proceedings so provide, all funds established by laws or proceedings
256 authorizing the bonds or authorizing other obligations, including lease, contract, and other
257 written obligations, shall remain with the comptroller or the previously designated trustees. If
258 the proceedings do not provide that the funds remain with the comptroller or the previously
259 designated trustees, the funds shall be transferred to the designated state agency.

260 Section 17.

261 The commission may issue process to compel the attendance of witnesses and the
262 production of books, records, papers and other objects necessary or proper for the purposes of
263 the commission proceedings. The process may be served on a witness at any place in this state.

264 If a majority of the commission directs the issuance of a subpoena, the chairman shall
265 issue the subpoena in the name of the commission.

266 If the chairman is absent, the chairman's designee may issue a subpoena or other process
267 in the same manner as the chairman.

268 If necessary to obtain compliance with a subpoena or other process, the commission may
269 issue attachments. The attachments may be addressed to and served by any peace officer in this
270 state.

271 Testimony taken under subpoena must be reduced to writing and given under oath subject
272 to the penalties of perjury.

273 A witness who attends a commission proceeding under process is entitled to the same
274 mileage and per diem as a witness who appears before a grand jury in this state.

275 Section 18.

276 The commission may request the assistance of state agencies and officers. When
277 assistance is requested, a state agency or officer shall assist the commission.

278 In carrying out its functions under this chapter, the commission or its designated staff
279 member may inspect the records, documents and files of any state agency.

280 Section 19.

281 A working paper, including all documentary or other information, prepared and
282 maintained by the commission staff in performing its duties under this chapter or other law to
283 conduct an evaluation and prepare a report is exempted from the public disclosure requirements
284 of chapter 66.

285 A record held by another entity that is considered to be confidential by law and that the
286 commission receives in connection with the performance of the commission's functions under
287 this chapter or another law remains confidential and is exempted from the public disclosure
288 requirements of chapter 66.

289 Section 20.

290 If an employee is displaced because a state agency, authority, or advisory committee is
291 abolished, reorganized or continued, the state agency and the executive office of labor and
292 workforce development shall make a reasonable effort to relocate the disabled employee. Except
293 as otherwise expressly provided, abolition of a state agency does not affect the rights and duties
294 that matured, penalties that were incurred, civil or criminal liabilities that arose, or proceedings
295 that were begun before the effective date of abolition.

296 Section 21.

297 Each bill filed in a house of the legislature that would create a new state agency, a new
298 authority, or a new advisory committee to a state agency shall be reviewed by the commission.

299 The commission shall review the bill to determine if:

300 The proposed functions of the agency or committee could be administered by 1 or more
301 existing state agencies or advisory committees;

302 The form of regulation, if any, proposed by the bill is the least restrictive form of
303 regulation that will adequately protect the public;

304 The bill provides for adequate public input regarding any regulatory function proposed by
305 the bill; and

306 The bill provides for adequate protection against conflicts of interest within the agency or
307 committee.

308 On request, the commission shall forward a written comment on the legislation to the
309 author of the bill and to the presiding officer of the committee to which the bill is referred.

310 Section 22.

311 The commission may accept gifts, grants and donations from any organization described
312 in Section 501(c)(3) of the Internal Revenue Code for the purpose of funding any activity under
313 this chapter.

314 All gifts, grants, and donations must be accepted in an open meeting by a majority of the
315 voting members of the commission and reported in the public record of the commission with the
316 name of the donor and purpose of the gift, grant, or donation.

317 SECTION Subsection (a) of section 16G of chapter 6A of the General Laws, as
318 appearing in the 2008 Official Edition, is hereby amended by striking out, in line 2, the words “a
319 department” and inserting in place thereof the following words:- the Massachusetts office.

320 SECTION Said section 16G of said chapter 6A, as so appearing, is hereby further
321 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

322 (b) The following state agencies shall be within the Massachusetts office of business
323 development: the office of small business and entrepreneurship and the state office of minority
324 and women business assistance.

325 SECTION Said section 16G of said chapter 6A, as so appearing, is hereby amended by
326 striking out subsections (i) and (j) and inserting in place thereof the following 2 subsections:-

327 (i) The director of the Massachusetts office of business development shall operate and
328 administer an office of performance management and oversight within the executive office. The
329 director shall establish a performance measurement system for the office, which shall establish
330 program goals, measure program performance against those goals and report publicly on
331 progress to improve the effectiveness of the commonwealth's economic development efforts.
332 Performance measurements shall include at least the then-current fiscal year and the previous 5
333 fiscal years. The system shall be applicable to all agencies within the office, any private entities
334 with whom the office may contract to perform services on behalf of the office, and any public
335 authorities undertaking economic development efforts in the commonwealth on which the
336 secretary sits as a member of its board, including, but not limited to, the Health and Education
337 Facilities Authority, the Massachusetts Convention Center Authority, Massachusetts Port
338 Authority, Massachusetts Development Finance Agency, the Massachusetts Technology
339 Collaborative, the Massachusetts Marketing Partnership, the Massachusetts Small Business
340 Finance Corporation, the Massachusetts Technology Development Corporation and the
341 Massachusetts cultural council. All agencies to which the system applies shall report to the
342 office of performance management and oversight with regard to setting goals and establishing
343 performance measures to improve those agencies' operations in the commonwealth. Performance
344 measurements shall include both output measures, such as numbers of inquiries and referrals,

345 and outcome measures, such as jobs retained as a result of agency operations. All information in
346 the project information system shall be a public record unless otherwise exempted by law. An
347 annual report of performance measurements shall be published and made available to the public
348 not later than December 31. The report shall also be filed annually with the clerks of the senate
349 and house of representatives, the chairs of the house and senate committees on ways and means
350 and the house and senate chairs of the joint committee on economic development and emerging
351 technologies. The performance measurement system shall require each agency to which the
352 system applies to develop a strategic plan for program activities and performance goals. The
353 system shall require annual program performance reports which shall be submitted to the house
354 and senate committees on ways and means and the joint committee on economic development
355 and emerging technologies.

356 (j) The office of performance management shall annually re-evaluate the goals and
357 measures established by the office and its agencies and monitor the results reported. The office
358 shall recommend changes to proposed goals and measures as are appropriate to align goals and
359 measures with the statewide economic development plan required under subsection (l) of this
360 section. The office shall report regularly to the public on the progress the office and its agencies
361 are making towards achieving stated goals. The office shall be responsible for reporting
362 publicly and making all reports available on the internet. The director shall use the
363 performance criteria established in this section to determine the quality of service of all private
364 entities, including regional economic development organizations that perform economic
365 development services under contract with the office. The results of such performance measures
366 shall be criteria used in negotiating any contracts.

367 SECTION Subsection (k) of said section 16G of said chapter 6A, as so appearing, is
368 hereby further amended by striking out the sixth sentence.

369 SECTION Said section 16G of said chapter 6A, as so appearing, is hereby further
370 amended by adding the following 2 subsections:-

371 (l) During the first year of each new gubernatorial administration, the secretary, with the
372 assistance of a cabinet-level committee appointed under subsection (m), shall develop and
373 implement a written comprehensive economic development policy for the commonwealth. In
374 developing this policy, the secretary and the committee shall review any economic development
375 policy in effect at the commencement of the governor's term of office. The secretary shall make
376 such revisions to the existing policy as the secretary deems necessary to ensure that it is
377 appropriate for the commonwealth. Once the policy has been adopted by the secretary and the
378 committee and approved by the governor, it shall be published in writing and on the official
379 website of the commonwealth not later than December 31 of that year and submitted to the house
380 and senate for its consideration. The house and senate shall hold public hearings on the policy.

381 (m) During the first year of each new gubernatorial administration, the governor shall
382 issue an executive order creating a cabinet-level committee to assist the secretary in the
383 development of the comprehensive economic development policy for the commonwealth. The
384 secretary shall be the chairman of the committee, and the secretary of administration and finance,
385 and the secretaries of education, health and human services, energy and environmental affairs
386 and transportation shall serve as committee members. The governor may also appoint members
387 of regional and local economic development groups and members of the business community to
388 serve on the committee.

389 SECTION Section 35J of chapter 10 of the General Laws, as so appearing, is hereby
390 amended by striking out, in lines 16 and 17, the words “Massachusetts International Trade
391 Council” and inserting in place thereof the following words:- Massachusetts trade office.

392 SECTION Section 52 of said chapter 10, as so appearing, is hereby amended by striking
393 out, in line 1, the words “the treasurer” and inserting in place thereof the following words:- travel
394 and tourism established in chapter 23A.

395 SECTION Chapter 10 of the General Laws is hereby amended by inserting after section
396 56 the following section:-

397 Section 56A. The council shall be subject to section 56 of chapter 23A.

398 SECTION Section 9 of chapter 15A of the General Laws, as appearing in the 2008
399 Official Edition, is hereby amended by striking out, in lines 172 and 173, the words, “section
400 three of chapter six hundred and fourteen of the acts of nineteen hundred and sixty-eight” and
401 inserting in place thereof the following words:- section 2 of chapter 23K.

402 SECTION Said section 9 of said chapter 15A, as so appearing, is hereby further
403 amended by striking out, in lines 182 to 185, inclusive, the words, “their affiliated building
404 authorities, or any other organization affiliated therewith, as defined in paragraph (e) of said
405 section three of said chapter six hundred and fourteen” and inserting in place thereof the
406 following words:- as defined in section 2 of chapter 23K, or their affiliated building authorities,
407 or any other organization affiliated with the institutions of higher learning.

408 SECTION Section 10 of said chapter 15A, as so appearing, is hereby amended by
409 striking out the definition of “HEFA” and inserting in place thereof the following definition:- the
410 Health and Educational Facilities Authority, established by section 3 of chapter 23K.

411 SECTION Section 12 of said chapter 15A, as so appearing, is hereby amended by
412 striking out, in lines 23 and 24, the words, “pursuant to chapter six hundred and fourteen of the
413 acts of nineteen hundred and sixty-eight” and inserting in place thereof the following words:-
414 under chapter 23K.

415 SECTION Said section 12 of said chapter 15A, as so appearing, is hereby further
416 amended by striking out, in line 31, the words, “the provisions of said chapter six hundred and
417 fourteen” and inserting in place thereof the following words:- chapter 23K.

418 SECTION Section 1 of chapter 23A of the General Laws, as so appearing, is hereby
419 amended by striking out, in lines 2 and 3, the words, “department of business and technology in
420 this chapter called the department, which shall be under the control of the director of business
421 and technology” and inserting in place thereof the following words:- Massachusetts office of
422 business development, which shall be under the control of the director of business development.

423 SECTION Said section 1 of said chapter 23A, as so appearing, is hereby amended by
424 striking out subsection (b) and inserting in place thereof the following subsection:-

425 (b) There shall be within the Massachusetts office of business development the office of
426 small business and entrepreneurship and the office of minority and women business assistance.

427 SECTION Section 3A of said chapter 23A, as so appearing, is hereby amended by
428 inserting after the definition of “Facility” the following definition:-

429 “MOBD”, the Massachusetts office of business development created by section 1.

430 SECTION Section 3I of said chapter 23A of the General Laws, as amended by section
431 28 of chapter 25 of the acts of 2009, is hereby amended by striking out, in lines 2 and 33, the
432 words, “the department” and inserting in place thereof, in each instance, the following:-
433 Massachusetts office of business development.

434 SECTION Said chapter 23A, as so appearing, is hereby amended by inserting after
435 section 3I the following 3 sections:

436 Section 3J. (a) The Massachusetts office of business development shall contract with
437 eligible regional economic development organizations, as defined in section 3K, which shall
438 serve as the primary points of contact in the various regions of the state for businesses seeking
439 assistance, services or information from the commonwealth. The contract provisions and
440 reimbursements shall be designed to support regionally-based efforts to stimulate, encourage,
441 facilitate and nurture economic growth and prosperity in the commonwealth, including but not
442 limited to activities related to the growth and retention of existing businesses and the attraction
443 of new businesses into the commonwealth.

444 (b) Each contract shall include performance criteria specific to the contracting
445 organization developed under section 16G of chapter 6A and uniform standards for the use of
446 contract funds related to accounting procedures, personnel practices, purchasing procedures and
447 conflict of interest rules. As a condition to its receipt of funds, the contracting organization shall
448 agree to follow these standards and to perform the contracted services in conformity with conflict
449 of interest rules which shall include provisions requiring that in any matter where a person,
450 corporation or other business entity in which any partner is in any way interested such interest is

451 disclosed in advance and further, that no partner having such an interest may participate in a
452 decision relating to such person, corporation or other business entity. The contracting
453 organization shall also agree to a biennial audit and examination of its audited financial
454 statements conducted by the auditor of the commonwealth.

455 (c) The Massachusetts office of business development will establish standard governance
456 provisions to be required of regional economic development organizations that contract with the
457 commonwealth as provided in this section. The standards shall include the participation of local
458 government officials and a broad range of regional representatives of businesses, non-profit
459 organizations, higher education institutions, planning professionals, organizations and economic
460 and workforce development professionals.

461 Section 3K.(a) The Massachusetts office of business development shall issue a request
462 for proposals to provide regional business development services. Eligible organizations shall be
463 corporations, foundations, organizations or institutions that are exempt from federal taxation
464 under section 501(c) of the Internal Revenue Code. Eligible organizations must have a primary
465 focus on economic development. Governmental regional entities which serve as regional or
466 district planning commissions under chapter 40B, regional employment boards, tourism councils
467 under section 14 of chapter 23A, or entities which are a political subdivision of a municipality or
468 wholly owned by a municipality shall not be eligible.

469 Eligible applicants must demonstrate the following:

470 The applicant operates regionally and its service area or membership includes more than
471 3 contiguous cities or towns. The organization must articulate a comprehensive vision for
472 recognition of its contiguous member municipalities as a self identified region with interrelated

473 economic assets such as industrial base, public infrastructure, research, educational and financial
474 institutions and environmental characteristics.

475 The governance structure and leadership of the applicant organization complies with the
476 standards established by the Massachusetts office of business development.

477 The applicant is engaged primarily in activities intended to promote job and business
478 retention, creation and attraction across all industry sectors within its identified region.

479 The applicant has a history of collaboration with the area business community, local
480 officials, economic development organizations, higher education institutions and other public
481 and private organizations within the identified region. The applicant must describe a plan for a
482 formal program encouraging participation in activities by a wide variety of organizations,
483 governments and businesses operating in the identified region.

484 The applicant has received or has commitments to receive substantial financial and in
485 kind support from private sources or member municipalities.

486 (b) Preference in awarding contracts will be given to organizations that have prior
487 experience furnishing advice and assistance to businesses within or seeking to locate to the
488 identified region, a working knowledge of the region, its industrial base, its demographics and its
489 strengths and weaknesses and prior experience and involvement with regional governmental
490 entities, including but not limited to, regional competitiveness councils and regional employment
491 boards.

492 (c) Contracts for services entered into under this section shall include, but not be limited
493 to, the following required services to be performed by the organization on behalf of the
494 commonwealth:

495 Act as the primary contact for businesses seeking assistance from state or local
496 governments, including those seeking to locate within the region or expand existing operations;

497 Identify public funding sources for business activity and provide assistance in accessing
498 public tax incentive programs;

499 Identify potential sites for business development and maintain an inventory of key
500 development parcels;

501 Market the identified region in coordination with the Massachusetts marketing
502 partnership established pursuant to section 13A and compliance with the marketing materials
503 developed by said partnership;

504 Furnish advice and assistance to businesses and industrial prospects which may locate in
505 the region, furnish advice and assistance to existing businesses and industries, furnish advice and
506 assistance to persons seeking to establish new businesses or industries, and engage in related
507 activities;

508 Establish and maintain a network of public and private expertise related to regional
509 assets, industry clusters, workforce and education opportunities, and public tax and regulatory
510 incentive and capital access programs

511 Partner with the Massachusetts office of business development representative to the
512 region and representatives of quasi-public agencies and authorities engaged in economic

513 development activities to exchange information and provide direct consultation with businesses
514 seeking to expand or locate to the region.

515 Act as the primary contact for the region in instances where a business seeks state
516 assistance and incentives in a location decision.

517 Prepare an economic development plan for the region and establish strategies for
518 implementation. The plan shall include identification of industry clusters, initiatives for business
519 recruitment and retention, regional economy and competitiveness indicators, and a determination
520 of the assets, liabilities, and resources that the region contributes to the commonwealth. The plan
521 shall include the identification and prioritization of regional infrastructure and regulatory needs
522 as they relate to business attraction and retention.

523 Assist member municipalities with economic development efforts related to business
524 attraction and retention and with access to state economic development programs

525 Submit an annual report to the Massachusetts office of business development on the
526 grantee's business development activities. The report shall include: a summary of the preceding
527 year's program activities, objectives and accomplishments; a description of how the grantee's
528 programs and marketing strategy aligns with the commonwealth's overall economic development
529 and strategies; an analysis of how the grantee's involvement in promotion activities has
530 generated prospective business expansion and relocation clients; and a summary of the grantee's
531 efforts to obtain funds from local, private, and federal sources.

532 (d) Contracts entered into under this section may contain a term not greater than 3 years,
533 and may provide for the renewal of the contract at the discretion of the Massachusetts office of
534 business development, provided that said renewal shall not be longer than 2 years. Nothing in

535 this subsection shall preclude a regional organization from re-applying to provide services under
536 a new contract.

537 (e) The Massachusetts office of business development shall develop a formula to
538 determine funding for contractual reimbursements. That formula shall reflect demographic and
539 economic indicators as well as an assessment of regional needs and the priorities of the statewide
540 economic development plan created under section 16G of chapter 6A. Renewal contracts shall
541 also provide for additional payments to reward achievement in reporting in compliance with
542 performance measurements, and to reward achievement of specific performance goals.

543 (f) Organizations entering into contracts with the commonwealth under this section may
544 enter into additional contracts with the commonwealth to provide additional regional services
545 which do not constitute business assistance activities.

546 Section 3L. (a) The Massachusetts office of business development will provide business
547 assistance services in municipalities and regions not served by an eligible regional economic
548 development organization that has contracted with the commonwealth to provide services under
549 section 3J.

550 (b) The Massachusetts office of business development will provide initial assistance to
551 any business which contacts the office requesting service. The Massachusetts office of business
552 development will provide the business with information about the various regional economic
553 development organizations with which it has contracted and continue to serve as primary contact
554 for that business until the business has established a relationship with a particular region. The
555 Massachusetts office of business development shall notify all regional economic development

556 organizations, on a nondiscriminatory basis, of any business prospects that have expressed
557 interest to the Massachusetts office of business development in moving to the commonwealth.

558 (c) The Massachusetts office of business development shall partner with the regional
559 economic development organizations and locate staff throughout the regions of the
560 commonwealth in order to establish efficient and rapid access to all state government and quasi-
561 public business services. The Massachusetts office of business development will provide
562 information to the regional economic development organizations about state economic
563 development, business assistance, capital access and incentive programs, marketing activities
564 and programs offered by quasi-public agencies and authorities and private entities.

565 (d) The Massachusetts office of business development shall coordinate activity among
566 regional economic development organizations and between economic development organizations
567 and the commonwealth's economic development agencies and initiatives (i) to ensure that
568 initiatives led by the commonwealth or quasi-public economic development agencies receive
569 information and advice from the regional economic development organizations, and (ii) to ensure
570 that initiatives led by the regional economic development organizations receive information and
571 advice from agencies within the executive branch and from quasi-public economic development
572 agencies.

573 (e) The Massachusetts office of business development shall support the secretary of
574 housing and economic development in the creation of the statewide economic development plan
575 prepared under section 16G of chapter 6A and shall coordinate the inclusion of information and
576 strategies from the regional economic development plans.

577 SECTION Section 4 of chapter 23A, as so appearing, is hereby amended by striking the
578 word “department of economic development” and inserting in place thereof the following
579 words:- Massachusetts office of business development.

580 SECTION Said section 4 of said chapter 23A, as so appearing, is hereby amended by
581 adding at the end thereof the following sentence: The Massachusetts office of business
582 development shall locate staff throughout the regions of the commonwealth in order to partner
583 with the regional economic development organizations and establish efficient and rapid access
584 for businesses and regional organizations to all state government and quasi-public business
585 services.

586 SECTION Section 5 of said chapter 23A, as so appearing, is hereby amended by striking
587 out, in line 9, the words “, in the department of economic development”.

588 SECTION Section 6 of said chapter 23A, as so appearing, is hereby amended in line 2
589 by striking the words: “of economic development”.

590 SECTION Said section 6 of said chapter 23A, as so appearing, is hereby further
591 amended by adding at the end of the first paragraph the following sentence:

592 The director shall establish an advisory council that shall assist and advise the director on
593 matters related to the administration and evaluation of the regional business development
594 program created pursuant to section 3J.

595 SECTION Section 10A of said chapter 23A, as so appearing, is hereby amended by
596 striking out the words, “Said department” and inserting in place thereof the following:- the
597 Massachusetts office of business development.

598 SECTION Chapter 23A of the General Laws is hereby amended by striking out
599 sections 13A and 13B, as appearing in the 2008 Official Edition, and inserting in place thereof
600 the following 2 sections:-

601 Section 13A. For the purposes of sections 13A to 13Q, inclusive, the following words
602 shall, unless the context clearly requires otherwise, have the following meanings:

603 “Foreign offices”, foreign offices for international trade within the trade office.

604 “Partnership”, the Massachusetts marketing partnership created in this section.

605 “Tourism”, the office of travel and tourism.

606 In order to promote common, coordinated and concerted efforts on behalf of the
607 commonwealth, there shall be within the executive office of housing and economic development,
608 but not subject to the supervision or control of the executive office, the Massachusetts marketing
609 partnership which shall coordinate marketing efforts on behalf of the commonwealth and shall
610 oversee the activities of the agencies placed within it.

611 (a) The partnership shall consist of the secretary of housing and economic development,
612 who shall chair the partnership; the director of the Massachusetts office of business development
613 or the director’s designee; the executive director of the Massachusetts Convention Center
614 Authority or the executive director’s designee; the executive director of the Massachusetts Port
615 Authority or the executive director’s designee; and 5 individuals appointed by the governor for
616 terms of 5 years, as follows: 1 person from a list of 3 names submitted by the Associated
617 Industries of Massachusetts, each of whom shall be employed by a business that has a principal
618 place of business in the commonwealth and that exports goods to other countries; 1 person who

619 has significant experience with a public relations or advertising firm doing business in the
620 commonwealth; 1 person who shall be on the faculty of a public or private business school in the
621 commonwealth who is experienced in international business; and 2 persons who shall represent a
622 regional tourism council in the commonwealth outside of Suffolk County, Middlesex County and
623 Norfolk County. Of the initial appointed partners, 3 shall serve a term of 2 years and 2 shall
624 serve a term of 5 years.

625 At least 3 of the governor's 5 appointments shall reside outside of Suffolk County,
626 Middlesex County and Norfolk County. Not more than 5 of the partners shall be members of the
627 same political party. Each partner shall serve without compensation but may be reimbursed for
628 actual and necessary expenses reasonably incurred in the performance of the partner's duties,
629 including reimbursement for reasonable travel; provided, however that that such reimbursement
630 shall not exceed \$500 annually. A person appointed to fill a vacancy in the office of a partner
631 shall be appointed in a like manner and shall serve for only the unexpired term of the former
632 member. A partner shall be eligible for reappointment. A partner may be removed by the
633 governor for cause. The board shall annually elect 1 of its members to serve as vice-chairperson.

634 (b) Seven partners shall constitute a quorum and the affirmative vote of a majority of
635 partners present at a duly called meeting, if a quorum is present, shall be necessary for an action
636 to be taken by the partnership. An action required or permitted to be taken at a meeting of the
637 partners may be taken without a meeting if all of the partners consent, in writing, to the action
638 and that written consent is filed with the records of the minutes of the meetings of the
639 partnership. Such consent shall be treated for all purposes as a vote at a meeting. Each partner
640 shall make full disclosure, under subsection (c), of the partner's financial interest, if any, in
641 matters before the partnership by notifying the state ethics commission, in writing, and the

642 partner shall abstain from voting on a matter before the board in which the partner has a financial
643 interest, unless otherwise permitted under chapter 268A. (c) Chapters 268A and 268B shall
644 apply to all ex officio partners or the partners' designees and employees of the agencies within
645 the partnership. Chapters 268A and 268B shall apply to all other partners, except that the
646 agencies within the partnership may purchase from, sell to, borrow from, loan to, contract with
647 or otherwise deal with a person, corporation or other business entity in which any partner is in
648 any way interested or involved; provided, however, that such interest or involvement is disclosed
649 in advance to the members of the partnership and recorded in its minutes; and provided, further,
650 that no partner having such an interest or involvement may participate in a decision of the
651 partnership relating to such person, corporation or other business entity. Employment by the
652 commonwealth or service in an agency or political subdivision of the commonwealth shall not be
653 deemed to be such an interest or involvement.

654 (d) The partnership shall bi-annually elect 1 of its members as treasurer and 1 of its
655 members as secretary. The secretary of the partnership shall keep a record of its proceedings and
656 shall be custodian of all books, documents and papers filed by the partnership and of its minute
657 book and seal. The secretary of the partnership shall cause copies to be made of all minutes and
658 other records and documents of the partnership and shall certify that such copies are true copies
659 and all persons dealing with the partnership may rely upon such certification. (e) Partners
660 and employees of the agencies within the partnership having access to its cash or negotiable
661 securities shall give bond to the partnership at its expense in such amounts and with such surety
662 as the partnership may prescribe. The persons required to give bond may be included in 1 or
663 more blanket or scheduled bonds. (f) Board members and officers who are not compensated
664 employees of the department shall not be liable to the commonwealth, the department or any

665 other person as a result of their activities, whether ministerial or discretionary, as such board
666 members or officers except for willful dishonesty or intentional violations of law. Neither
667 members of the department nor a person executing bonds or policies of insurance shall be
668 personally liable on those bonds or policies or be subject to any personal liability or
669 accountability by reason of the issuance of those bonds or policies. The board of directors may
670 purchase liability insurance for board members, officers and employees and may indemnify the
671 board members against claims of others. (g) Upon the termination of the existence of the
672 partnership, all right, title and interest in and to all of its assets and all of its obligations, duties,
673 covenants, agreements and obligations shall vest in and be possessed, performed and assumed by
674 the commonwealth. (h) An action of the partnership may take effect immediately and need not
675 be published or posted unless otherwise provided by law. Meetings of the partnership shall be
676 subject to section 11A 1/2 of chapter 30A, except that said section 11A 1/2 shall not apply to any
677 meeting of members of the partnership serving ex officio in the exercise of their duties as
678 officers of the commonwealth so long as no matter relating to the official business of the
679 department is discussed and decided at the meeting. The partnership shall be subject to all other
680 provisions of said chapter 30A, and records pertaining to the administration of the partnership
681 shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the
682 partnership shall be considered to be public funds for purposes of chapter 12A.

683 (i) The partnership shall be subject to section 56 of chapter 23A.

684 Section 13B. There shall be within the partnership the following offices: the office of
685 travel and tourism, the Massachusetts trade office and the commonwealth marketing office.

686 SECTION Said chapter 23A is hereby amended by striking out section 13C, as amended
687 by section 29 of chapter 25 of the acts of 2009, and inserting in place thereof the following
688 section:-

689 Section 13C. The partnership shall have the power to:

690 (1) adopt and amend by-laws, regulations and procedures for the governance of its
691 affairs and the conduct of its business for the administration and enforcement of this sections
692 13A to 13Q, inclusive; provided, however, that regulations adopted by agencies within the
693 partnership shall be adopted under chapter 30A; (2) adopt an official seal and a functional
694 name;

695 (3) maintain offices at places within the commonwealth as it may determine and to
696 conduct meetings of the partnership in accordance with the by-laws of the partnership;

697 (4) enter into agreements and transactions with federal, state and municipal agencies and
698 other public institutions and private individuals, partnerships, firms, corporations, associations
699 and other entities on behalf of the partnership;

700 (5) sue and be sued in its own name, plead and be impleaded;

701 (6) act as the central entity and coordinating organization for marketing initiatives on
702 behalf of the commonwealth and to work in collaboration with governmental entities, regional
703 economic development organizations, bodies, centers, institutes and facilities to advance the
704 commonwealth's interests and investments in travel and tourism, international trade and
705 economic development;

706 (7) appear in its own behalf before boards, commissions, departments or other agencies
707 of municipal, state or federal government;

708 (8) obtain insurance;(9) apply for and accept subventions, grants, loans, advances and
709 contributions from any source of money, property, labor or other things of value to be held, used
710 and applied for its corporate purposes;

711 (10) review and recommend changes in laws, rules, programs and policies of the
712 commonwealth and its agencies and subdivisions to further the marketing of the commonwealth
713 and economic development within the commonwealth; (11) enter into agreements with
714 public and private entities that deal primarily with economic development, in order to distribute
715 and provide leveraging of funds or services to further economic development in the
716 commonwealth and promote overall economic growth within the commonwealth by fostering
717 collaboration and investments in tourism and international trade initiatives in the commonwealth;

718 (12) provide and pay for such advisory services and technical assistance as may be
719 necessary or desired to carry out the purposes of this chapter;

720 (13) establish and collect such fees and charges as the department without further
721 appropriation shall determine to be reasonable and consistent with this sections 13A to 13Q,
722 inclusive; and to receive and apply revenues from fees and charges to the purposes of the
723 department or allotment by the commonwealth or any political subdivision of the
724 commonwealth;

725 (14) disburse, appropriate, grant, loan or allocate funds for the purposes of investing in
726 economic development initiatives as directed in sections 13A to 13Q, inclusive;

727 (15) provide assistance to local entities, local authorities, public bodies, regional
728 economic development organizations, and private corporations for the purposes of maximizing
729 opportunities for economic development initiatives in the commonwealth;

730 (16) prepare, publish and distribute, with or without charge, as the department may
731 determine, such studies, reports and bulletins and other material as the department deems
732 appropriate;

733 (17) exercise any other powers of a corporation organized under chapter 156B;

734 (18) develop a common Internet portal to be used by state agencies and state authorities
735 to promote the commonwealth's programs providing business assistance and to promote
736 economic development in the commonwealth;

737 (19) take any actions necessary or convenient to the exercise of any power or the
738 discharge of any duty provided for by sections 13A to 13Q, inclusive;

739 (20) enter into agreements or other transactions with any person including, without
740 limitation, a public entity or other governmental instrumentality or agency in connection with the
741 powers and duties provided to the partnership under sections 13A to 13Q, inclusive; and

742 (21) delegate any of the powers under this section to a director having charge of an
743 agency within the partnership.

744 SECTION Said chapter 23A, as appearing in the 2008 Official Edition, is hereby
745 amended by striking out sections 13D and 13E and inserting in place thereof the following 14
746 sections:-

747 Section 13D. (a) The partnership and the agencies within the partnership shall, for the
748 purposes of compliance with state finance law, operate as a state agency as defined in section 1
749 of chapter 29 and shall be subject to the laws applicable to agencies under the control of the
750 governor including, but not limited to, chapter 7, chapter 7A, chapter 10 and chapter 29;
751 provided, however, that the comptroller may identify additional instructions or actions necessary
752 for the partnership to manage fiscal operations in the state accounting system and meet statewide
753 and other governmental accounting and audit standards. Unless otherwise exempted by law or
754 the applicable central service agency, the partnership shall participate in other available
755 commonwealth central services including, but not limited, to the state payroll system under
756 section 31 of chapter 29, and may purchase other goods and services provided by state agencies
757 under the direction of the comptroller. The comptroller may chargeback the partnership for the
758 transition and ongoing costs for participation in the state accounting and payroll systems and
759 may retain and expend such costs without further appropriation for the purposes of this section.
760 The partnership shall be subject to section 5D of chapter 29 and subsection (f) of section 6B of
761 chapter 29.

762 (b) The office of the attorney general shall appear for the partnership, its partners and
763 agencies, in all suits and other civil proceedings in which the partnership is a party or interested,
764 or in which the official acts and doings of its partners and agencies are called into question, to
765 the same extent and in the same manner as provided to the commonwealth and state departments,
766 officers and commissions under section 3 of chapter 12. The partnership and its partners and
767 agencies shall be generally considered to be an agency of the commonwealth for purposes of
768 chapter 12.

769 (c) The Massachusetts office of business development may provide staff support for the
770 Massachusetts Marketing Partnership.

771 Section 13E. There shall be within the partnership an office of travel and tourism which
772 shall be under the supervision and control of an executive director. The powers and duties given
773 to the executive director of tourism in this chapter and in any other general or special law shall
774 be exercised and discharged subject to the direction, control and supervision of the partnership.

775 The executive director of tourism shall be appointed by the governor, and serve at the
776 pleasure of the governor. The position of executive director of tourism shall be classified under
777 section 45 of chapter 30 and the executive director of tourism shall devote full time during
778 business hours to the duties of the office of travel and tourism and shall give to the state treasurer
779 a bond for the faithful performance of those duties.

780 The executive director of tourism shall be the executive and administrative head of
781 tourism and shall be responsible for administering and enforcing the laws relative to tourism and
782 to any administrative unit of that office. Powers and duties given to an administrative unit of
783 tourism by a general or special law shall be exercised subject to the direction, control and
784 supervision of the executive director of tourism.

785 Section 13F. The office of travel and tourism shall serve as the principal agency for
786 promoting the recreational, cultural, historic and scenic resources of the commonwealth to
787 increase its desirability as a location for tourism, convention, travel and recreation-related
788 activities by providing informational, marketing and technical assistance to public and private
789 nonprofit entities organized for similar purposes.

790 Section 13G. The executive director of tourism may, subject to appropriation and with
791 the approval of the partnership, appoint and may, with like approval, remove all such employees
792 as may be necessary to carry out the work of tourism. Unless otherwise provided by law, all such
793 appointments and removals shall be made under chapter 31. The executive director may, subject
794 to appropriation and the laws and regulations pertaining to the employment of consultants,
795 employ such consultants as the executive director may deem necessary.

796 Section 13H. There shall be an advisory commission on travel and tourism to the
797 partnership to develop budget recommendations and marketing strategies for the promotion of
798 travel and tourism to the commonwealth. The executive director of tourism shall convene the
799 advisory commission quarterly. The advisory commission shall annually report its
800 recommendations to the partnership not later than November 1. The advisory commission shall
801 annually file its recommendations with the clerks of the senate and house of representatives not
802 later than November 1. The membership of the commission shall annually elect a chairperson.

803 The advisory commission shall have 28 members: 1 representative from each of the
804 following organizations: the Massachusetts Restaurant Association, the Massachusetts Lodging
805 Association, the Massachusetts Camping Ground Association, the New England Bus
806 Association, the Massachusetts cultural council and the Massachusetts historical commission; 1
807 representative of a professional sports franchise located in the commonwealth, 2 representatives
808 of the Massachusetts Visitor Industry Council; the executive director or the executive director's
809 designee of each of the following regional tourism councils: the Berkshire Hills Visitors Bureau,
810 the Bristol County Convention and Visitors Bureau, the Cape Cod Chamber of Commerce, the
811 Franklin County Chamber of Commerce, the Greater Boston Convention and Visitors Bureau,
812 the Worcester County Convention and Visitors Bureau, the Martha's Vineyard Chamber of

813 Commerce, the Greater Merrimack Valley Convention and Visitors Bureau, the Mohawk Trail
814 Association, the North of Boston Convention and Visitors Bureau, the Greater Springfield
815 Convention and Visitors Bureau, the Plymouth County Development Council, Inc., the
816 Nantucket Island Chamber of Commerce, the MetroWest Tourism and Visitor's Bureau and the
817 following individuals, who shall not serve as chair: the commissioner of conservation and
818 recreation or the commissioner's designee, the administrator of the highway division or the
819 administrator's designee, the Massachusetts state coordinator of the United States National Park
820 Service, and the house and senate chairs of the joint committee on tourism, arts and cultural
821 development.

822 Members of this commission shall receive no compensation for their services, but each
823 member shall be reimbursed the member's necessary expenses incurred while engaged in the
824 performance of the member's duties. This commission shall annually, not later than November 1,
825 make a report to the executive director and the secretary of housing and economic development,
826 and may make such special reports as the commission or the executive director of tourism may
827 deem desirable.

828 Section 13I. Tourism may accept gifts or grants of money or property from any source,
829 which shall be held in trust for the use of tourism by the treasurer of the partnership as custodian.

830 Section 13J. The following offices shall be within the office of travel and tourism: the
831 Massachusetts film office, which shall be the official and lead agency to facilitate motion picture
832 production and development within the commonwealth; the Massachusetts sports partnership,
833 which shall be the official and lead agency to facilitate and attract major sports events and

834 championships in the commonwealth; and the Massachusetts cultural council established under
835 section 52 of chapter 10.

836 Section 13K. There shall be within the partnership a Massachusetts trade office, which
837 shall be under the supervision and control of an executive director. The executive director shall
838 be appointed by the governor, and serve at the pleasure of the governor. The executive director
839 shall devote his full time during business hours to the duties of the Massachusetts trade office.
840 The executive director of the trade office shall be the executive and administrative head of the
841 office and shall be responsible for administering and enforcing the laws relative to the office and
842 to any administrative unit of the office.

843 The executive director shall also serve as the Massachusetts trade representative. The
844 purpose of the Massachusetts trade representative shall be to: (1) serve as the commonwealth's
845 official point of contact with the federal government on matters related to international trade; (2)
846 work with the executive office of housing and economic development and other appropriate state
847 agencies to analyze proposed and enacted international trade agreements and provide an
848 assessment of the impact of those agreements on the commonwealth's economy; (3) serve as the
849 designated recipient of federal requests for the commonwealth to agree to be bound by
850 investment, procurement, services or any other provisions of international trade agreements,
851 including those which may infringe upon state law or regulatory authority reserved to the
852 commonwealth; (4) serve as a liaison to the general court on matters of international trade policy
853 oversight including, but not limited to, reporting to members of the general court on a regular
854 basis on the status of ongoing international trade negotiations, international trade litigation, and
855 dispute settlement proceedings with implications for existing state laws, state regulatory
856 authority and international trade policy on the commonwealth's economy.

857 The trade representative shall, within 30 days of receipt, forward any requests or
858 communications received from the United States Trade Representative relative to any issue of
859 international trade, including requests seeking the commonwealth's consent to be bound by
860 international trade agreements, to the clerk of the house of representatives and the clerk of the
861 senate, who shall promptly refer the communications or requests to the joint committee on
862 economic development and emerging technologies. The joint committee shall, within 30 days of
863 receipt, conduct a public hearing on any request seeking the commonwealth's consent to be
864 bound by an international trade agreement. The joint committee may issue a report within 120
865 days of the public hearing including a resolution to the general court relative to the
866 recommendations of the committee on whether the commonwealth should consent to the
867 international trade agreement in question and memorializing the commonwealth's trade
868 representative and the governor to take appropriate measures within their power to advise the
869 United States Trade Representative of the recommendations of the general court.

870 Section 13L. There shall be within the trade office 1 or more foreign offices for
871 international trade. The foreign offices may be located in any far eastern or European country
872 that the executive director of the trade office determines to be best suited as the location for the
873 furthering of foreign trade opportunities for the businesses of the commonwealth. The foreign
874 offices shall encourage and further trade between foreign businesses and businesses in the
875 commonwealth. The foreign offices shall also promote investment opportunities in the
876 commonwealth for foreign businesses in order to encourage the location and establishment of
877 such businesses within the commonwealth. For the purposes of furthering foreign trade and
878 investment, the foreign offices, subject to appropriation and approval by the executive director of
879 the trade office, may contract for such advertising and other communication services as may be

880 necessary. The foreign offices shall maintain an updated list of businesses in the commonwealth
881 and foreign businesses which are or might become active in the import or export of their
882 products and services. The executive director shall consult with Massachusetts office of business
883 development and the regional economic development designated pursuant to section 3J in order
884 to ensure that the businesses and assets of all regions of the commonwealth are included in such
885 lists. The foreign office may also provide additional information and assistance to businesses in
886 the commonwealth that desire to export their goods and services.

887 The foreign offices shall maintain and give suitable publicity to an updated list of
888 available sites for the location of foreign based businesses in the commonwealth. The foreign
889 offices may make available technical assistance to foreign businesses interested in the
890 establishment of plants or facilities in the commonwealth.

891 The foreign offices shall, on a regular basis, make all foreign trade information available
892 to the executive director of the trade office, who shall publish and furnish such information to
893 regional economic development organizations designated under section 3J and to businesses and
894 corporations in the commonwealth which might be interested in, or benefit from the utilization of
895 such information. The executive director of the trade office may charge a fee not to exceed the
896 actual printing costs for such information, except that no fee shall be charged to regional
897 economic development organizations designated under section 3J.

898 Section 13M. There shall be a director of each foreign office appointed by the executive
899 director of the trade office, who shall be a person with at least 2 years of experience in
900 international trade, having had administrative or business experience in the country where the

901 office is located, who shall be fluent in at least 2 languages and who may be a foreign national.
902 The director shall not be subject to chapter 31 or section 9A of chapter 30.

903 Section 13N. The executive director of the trade office may, subject to appropriation,
904 enter into leases for office space as may be necessary and to purchase or lease equipment as may
905 be needed for the operation of foreign offices.

906 Section 13O. The executive director of the trade office may accept funds in the name of
907 the trade office and the foreign offices from private and public groups, agencies and persons,
908 which shall be held in trust for use by the treasurer of the partnership as custodian.

909 Section 13P. The executive director of the trade office and the director of any foreign
910 office shall annually file a financial report with the clerks of the house and senate and the joint
911 legislative committee on economic development and emerging technologies on the operation and
912 activities of the office. The report shall include a complete evaluation of the results of the
913 activities of the foreign offices and its effects on the business economy of the commonwealth,
914 especially in the areas of the export of goods and services and in the location of foreign
915 businesses in the commonwealth.

916 Section 13Q. The trade office shall operate a 1 or more centers, subject to appropriation,
917 for technical assistance to companies operating in the commonwealth that export products to
918 other countries.

919 SECTION Section 14 of said chapter 23A, as so appearing, is hereby amended by
920 inserting after the word "Bureau", in line 11, the words:- " , the MetroWest Tourism and Visitor's
921 Bureau".

922 SECTION Said section 14 of said chapter 23A, as so appearing, is hereby amended by
923 striking out, in lines 17 and 18, the words “director of economic development” and inserting in
924 place thereof the following words:-executive director of tourism.

925 SECTION Said section 14 of said chapter 23A, as so appearing, is hereby further
926 amended by striking out, in lines 55 and 56, the words “, subject to approval by the director of
927 economic development” and inserting in place thereof the following words:- of tourism.

928 SECTION Section 20 of said chapter 23A, as so appearing, is hereby amended in the
929 first paragraph by striking out the last sentence.

930 SECTION Said section 20 of said chapter 23A, as so appearing, is hereby further
931 amended by inserting after the first paragraph the following new paragraph:-

932 The director shall establish a program to support the provision of financial and
933 managerial consulting and technical assistance companies which receive financial assistance
934 from the commonwealth or any of the commonwealth’s public authorities. The program shall
935 support direct consulting work provided to individual companies and shall consult with the
936 commonwealth’s public authorities, private business associations and regional economic
937 development organizations to maintain a directory of organizations, experts and consultants
938 available to be engaged to offer financial or managerial consulting services.

939 SECTION Sections 23A to 28, inclusive, of chapter 23A of the General Laws are hereby
940 repealed.

941 SECTION Sections 39A to 39D, inclusive, of said chapter 23A are hereby repealed.

942 SECTION Said chapter 23A, as appearing in the 2008 Official Edition, is hereby
943 amended by striking out sections 40 to 43, inclusive, and inserting in place thereof the following
944 4 sections:-

945 Section 40. As used in sections 41 to 44, inclusive, the following words shall, unless the
946 context clearly requires otherwise, have the following meanings:-

947 “Director”, the director of SOMWBA.

948 “Minority business enterprise”, for the purpose of receipt of services from SOMWBA, a
949 business enterprise that is owned or controlled by 1 or more socially or economically
950 disadvantaged persons, which disadvantage may arise from cultural, racial, chronic economic
951 circumstances or background or other similar cause; provided, that persons shall include, but not
952 be limited to, African-Americans, Puerto Ricans, Spanish-speaking Americans, American
953 Indians, Eskimos and Aleuts.

954 “SOMWBA”, the state office of minority and women business assistance established in
955 section 41.

956 “Veteran business enterprise”, for the purpose or receipt of services from SOMWBA, a
957 business enterprise that is both owned and controlled by 1 or more veterans, as defined in section
958 7 of chapter 4, who have invested in an ongoing business free of conversion rights.

959 “Women business enterprise”, for the purpose or receipt of services from SOMWBA, a
960 business enterprise that is both owned and controlled, by 1 or more women who have invested in
961 an ongoing business free of conversion rights.

962 Section 41. There shall be a state office of minority and women business assistance
963 which shall be a division of the Massachusetts office of business development within the
964 executive office of housing and economic development.

965 Section 42. The director shall have all necessary authority to utilize existing staff in the
966 agencies within the executive office of housing and economic development to effect the purposes
967 of sections 39 to 44, inclusive, and shall have the authority to seek such funds, public or private,
968 as may be available and needed to carry out the intent of those sections.

969 Section 43. Subject to appropriation, SOMWBA shall have a director, assistant director
970 and such other specialists in minority and women business assistance. SOMWBA, may, either on
971 its own staff or by contract with community groups, private companies or public or nonprofit
972 agencies, have available community liaison officers, financial and marketing experts and persons
973 skilled in public and private contract procurement procedures.

974 SECTION Section 44 of said chapter 23A, as so appearing, is hereby amended by
975 striking out, in lines 6 and 7, the words, “ executive director of OMWBDE” and inserting in
976 place thereof the following words:- secretary of housing and economic development.

977 SECTION Said section 44 of said chapter 23A, as so appearing, is hereby further
978 amended by striking out, in lines 20 and 21, the words, “through the director of economic
979 development and the OMWBDE executive director, shall coordinate its activities with those of
980 other offices and activities of OMWBDE” and inserting in place thereof the following words:-
981 through the Massachusetts office of business development and the secretary of housing and
982 economic development, shall coordinate its activities with those of other offices and departments
983 within the executive office of housing and economic development.

984 SECTION Said section 44 of said chapter 23A, as so appearing, is hereby further
985 amended by striking out, in lines 67 and 68, the words, “executive director of OMWBDE and the
986 director of economic development” and inserting in place thereof the following words:-
987 Massachusetts office of business development.

988 SECTION Sections 46 to 55, inclusive, of said chapter 23A are hereby repealed.

989 SECTION Chapter 23A of the General Laws, as appearing in the 2008 Official Edition,
990 is hereby amended by striking out section 56 and inserting in place thereof the following
991 section:-

992 Section 56. (a) The secretary of housing and economic development shall coordinate the
993 quasi-public entities and public purpose agencies of the commonwealth as to their economic
994 development projects, programs and plans. These quasi-public entities and public purpose
995 agencies shall, within 90 days after the end of its fiscal year, submit a complete and detailed
996 annual report, in a form and manner prescribed by the secretary, setting forth: its operations and
997 accomplishments; its receipts and expenditures during its fiscal year; its assets and liabilities at
998 the end of its fiscal year; audited financial reports; the number, nature and amounts of
999 investments made and grants awarded; information detailing debt or equity investment; the
1000 number, nature and amounts of any loans, real estate loans, working capital loans and guarantees
1001 approved; other forms of financing or financial assistance that it provided; a report of patents or
1002 products resulting from funded activities; and a description of any technical assistance that it
1003 provided.

1004 (b) The secretary shall aggregate the data and shall, not later than December 31, submit
1005 an annual report to the secretary of administration and finance, the house and senate committees

1006 on ways and means, the joint committee on economic development and emerging technologies,
1007 the joint committee on labor and workforce development, the joint committee on small business
1008 and community development and the joint committee on higher education. The report shall
1009 include an analysis of all public lending activities to businesses with an assessment of the
1010 economic impact of those activities and an analysis evaluating public lending to small businesses
1011 as defined in section 57 of chapter 23A.

1012 (c) In order to fully utilize all appropriate measures to provide risk capital to small
1013 businesses in the commonwealth the Massachusetts Small Business Finance Corporation, the
1014 Massachusetts Development Finance Agency and the Massachusetts Technology Development
1015 Corporation may establish 1 or more small business investment corporations or special small
1016 business investment corporations as provided by the federal Small Businesses Equity
1017 Enhancement Act of 1992.

1018 (d) The books and records of the quasi-public entities and public purpose agencies of the
1019 commonwealth under this section shall be subject to a biennial audit by the auditor of the
1020 commonwealth and an annual audit conducted by an independent auditor. The results of both
1021 audits shall be published in conjunction with the publication of audited financial statements.

1022 SECTION Section 57 of said chapter 23A, as so appearing, is hereby amended by
1023 striking out subsection (i) and inserting in place thereof the following 2 subsections:-

1024 (i) No loan or loans in an aggregate principal amount in excess of \$500,000 shall be
1025 provided to a borrower under the program and no small business borrower under this program
1026 shall be provided a loan under the program for passive real estate purposes.

1027 (j) Any financial institution desiring to become a participating financial institution shall
1028 execute an agreement in such form as the agency or its agent may prescribe, which agreement
1029 shall contain the terms and provisions set forth in subsections (a) to (i), inclusive and such other
1030 terms and provisions as the agency or its agent may deem necessary or appropriate.

1031 SECTION Said section 57 of said chapter 23A, as so appearing, is hereby further
1032 amended by striking out the definition of “small business” and inserting in place thereof the
1033 following definition:-

1034 “Small business”, a business entity, including its affiliates, that: (i) is independently
1035 owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) if in a
1036 manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade
1037 industry, employs fewer than 100 full-time employees or, if in any other industry, receives less
1038 than \$7 million in annual receipts; provided, however, that for purposes of this definition, the
1039 industry of a business shall be classified according to the North American Industry Classification
1040 System.

1041 SECTION Said chapter 23A is hereby amended by striking out section 58, as so
1042 appearing, and inserting in place thereof the following section:-

1043 Section 58. The agency is hereby authorized to:

1044 (a) enter into a contract, after a competitive bidding process, with an organization to act
1045 as the agent of the agency with respect to the administration of the program; provided, however,
1046 that the contract shall: (1) be for a period of 2 years with such provisions for extension or
1047 renewal of the contract as the agency may agree to with the administering agent; and (2) provide
1048 for compensation and reimbursement of the agent on terms the agency may deem appropriate for

1049 the administration of the program, for any expenses incurred by the administering agent in
1050 connection with its services as agent and for such other services as the agency may deem
1051 appropriate including, but not limited to, the use of the premises, personnel and personal
1052 property of the administering agent;

1053 (b) conduct an annual review and assessment of the performance of the administering
1054 agent in its capacity as agent for the agency; provided, however, that the annual review shall be
1055 based on whether the administering agent has satisfactorily met the terms and conditions of the
1056 contract and on the program's effectiveness in achieving its intended goals;

1057 (c) make and publish rules and regulations respecting the implementation of the small
1058 business capital access program established by this section and any other rules and regulations
1059 necessary to fulfill the purposes of this section; and

1060 (d) do any and all things necessary or convenient to carry out its purposes and exercise
1061 the powers expressly given and granted in this section.

1062 SECTION Said chapter 23A is hereby amended by striking out section 61, as so
1063 appearing, and inserting in place thereof the following section:-

1064 Section 61. The Massachusetts office of business development or its successor may:

1065 (a) enter into a contract, after a competitive bidding process, with an organization to act
1066 as the agent of the agency with respect to the administration of the program; provided, however,
1067 that said contract shall: (1) be for a period of 2 years with such provisions for extension or
1068 renewal of the contract as the agency may agree to with the administering agent; and (2) provide
1069 for compensation and reimbursement of the agent on terms the agency may deem appropriate for

1070 the administration of the program, for any expenses incurred by the administering agent in
1071 connection with its services as agent and for such other services as the agency may deem
1072 appropriate including, but not limited to, the use of the premises, personnel and personal
1073 property of the administering agent;

1074 (b) conduct an annual review and assessment of the performance of the administering
1075 agent in its capacity as agent for the agency; provided, however, that the annual review shall be
1076 based on whether the administering agent has satisfactorily met the terms and conditions of the
1077 contract and on the program's effectiveness in achieving its intended goals;

1078 (c) make and publish rules and regulations respecting the implementation of the
1079 redevelopment access to capital program and any other rules and regulations necessary to fulfill
1080 the purposes of this section; and

1081 (d) do any and all things necessary or convenient to carry out its purposes and exercise
1082 the powers expressly given and granted in this section.

1083 SECTION Said chapter 23A is hereby amended by striking out section 62, as so
1084 appearing, and inserting in place thereof the following section:-

1085 Section 62. There shall be an interagency permitting board within the Massachusetts
1086 office of business development. The members of the board shall be comprised of the state permit
1087 ombudsman who will serve as the chair of the interagency permitting board, the secretary of
1088 housing and economic development, the secretary of transportation, the secretary of energy and
1089 environmental affairs, the secretary of public safety and security, the director of the department
1090 of housing and community development, the director of business development, the director of
1091 the department of workforce development, the director of the office of consumer affairs and

1092 business regulation, and the executive director of the Massachusetts Development Finance
1093 Agency; or their designees. Six members shall be a quorum for the transaction of business. The
1094 chair shall communicate with municipal officials responsible for local review procedures to
1095 determine the municipal perspective on the proposed project, and to facilitate communication
1096 between the municipality and state agencies. The interagency permitting board shall consult with
1097 each regional office of the Massachusetts office of business development as well as each regional
1098 planning agency, and regional economic development organizations with which the
1099 Massachusetts office of business development has contracted under this chapter in order to better
1100 serve local businesses. At the direction of the chair, the board shall meet no fewer than 8 times a
1101 year, and shall monitor the development of priority development sites under chapter 43D and
1102 investigate ways in which to expedite priority development site projects. The board shall
1103 evaluate state agency permit procedures and recommend changes for improved efficiency. The
1104 board shall administer the technical assistance grants program established in subsection (b) of
1105 section 3 of chapter 43D. The secretary of housing and economic development shall work with
1106 the chair of the interagency permitting board and senior staff members to develop a
1107 recommended format for an application form and procedure which shall be used by all executive
1108 offices when possible.

1109 SECTION Section 8 of chapter 23D of the General Laws, as amended by section 17 of
1110 chapter 27 of the acts of 2009, is hereby amended by striking out the first sentence and inserting
1111 in place thereof the following sentence:- There shall be in the executive office of housing and
1112 economic development, but not subject to its jurisdiction, an economic stabilization trust which
1113 shall be administered by the Massachusetts Small Business Finance Corporation established in
1114 chapter 40F.

1115 SECTION Said chapter 23D of the General Laws is further amended by striking out
1116 section 9, as appearing in the 2008 Official Edition, and inserting in place there of the following
1117 section:

1118 Section 9. The trust shall be governed and its powers exercised by the board of directors
1119 of the Massachusetts Small Business Financing Corporation established in chapter 40F.

1120 SECTION Said chapter 23D is hereby further amended by striking out section 10, as
1121 amended by section 19 of chapter 27 of the acts of 2009, and inserting in place thereof the
1122 following section:-

1123 Section 10. The offices of the trust shall be located within the Massachusetts Small
1124 Business Finance Corporation. The president of the Massachusetts Small Business Financing
1125 Corporation, shall appoint an executive director of the trust. The executive director shall serve as
1126 the administrative and operational officer of the trust, shall attend meetings of the trust and shall
1127 direct the resources and staff of the program to achieve the purposes of sections 8 to 16,
1128 inclusive.

1129 SECTION Said chapter 23D of the General Laws is hereby further amended by
1130 inserting after section 15 the following section:-

1131 Section 15A. The trust shall be subject to section 56 of chapter 23A.

1132 SECTION Said chapter 23D is hereby further amended in section 16 by striking out the
1133 words: “board of trustees of the Economic Stabilization Trust and inserting in place thereof the
1134 words: “board of directors of the Massachusetts Small Business Finance Corporation”.

1135 SECTION Said chapter 23D is hereby further amended in paragraph (b) of section 20 by
1136 striking out the word: ‘trustees’ and inserting in place thereof the word: ‘directors’.

1137 SECTION Chapter 23F of the General Laws is hereby repealed.

1138 SECTION Section 1 of chapter 23G of the General Laws, as appearing in the 2008
1139 Official Edition, is hereby amended by striking out in lines 117 to 124, inclusive, the words “;
1140 provided, however that the words ‘industrial enterprise’ shall also include an institution. For the
1141 purposes of this chapter and of said chapter 40D, as applied to the Agency, an institution shall
1142 not be deemed to constitute a commercial enterprise. The board shall not be required with
1143 respect to an institution to make the findings set forth in clauses (e) and (k) of said subsection (2)
1144 of said section 12 of said chapter 40D if the board finds that the issuance of the bonds will result
1145 in a public benefit”.

1146 SECTION Said section 1 of said chapter 23G, as so appearing, is hereby further
1147 amended by striking out the definition of the word “Institution”.

1148 SECTION Section 2 of said chapter 23G, as so appearing, is hereby amended by
1149 striking out, in line 12, the words “director of economic development” and inserting in place
1150 thereof the following words:- secretary of housing and economic development.

1151 SECTION Subsection (b) of said section 2 of said chapter 23G, as so appearing, is
1152 hereby further amended by striking out the sixth sentence and inserting in place thereof the
1153 following sentence:- The secretary of housing and economic development shall serve as
1154 chairperson.

1155 SECTION The first paragraph of subsection (a) of section 8 of said chapter 23G, as so
1156 appearing, is hereby amended by striking out the third sentence.

1157 SECTION Section 27 of said chapter 23G, as so appearing, is hereby amended by
1158 striking out the words “and (5)”, in line 58, and inserting in place thereof the following words:-

1159 (5) to make grants to the Massachusetts Technology Transfer Center, established by
1160 section 45 of chapter 75, to fund activities that facilitate the transfer of technology from the
1161 commonwealth’s research institutions to the commonwealth’s emerging technology industries,
1162 for productive use by such industries and to make targeted investments in proof of concept
1163 funding for emerging technologies; and (6).

1164 SECTION Said section 27 of said chapter 23G, as so appearing, is hereby further by
1165 inserting after the figure “(2)”, in line 90, the following words:- and (5).

1166 SECTION Section 28 of said chapter 23G, as so appearing, is hereby amended by
1167 striking out the words “business and technology”, in lines 2 and 4 and 5, each time it appears,
1168 and inserting in place thereof, in each instance, the following words:- the Massachusetts office of
1169 business development.

1170 SECTION The first paragraph of subsection (a) of said section 28 of said chapter 23G,
1171 as so appearing, is hereby amended by striking out the second sentence and inserting in place
1172 thereof the following sentence:- The executive director of the Massachusetts Technology Park
1173 Corporation and the executive director of the Massachusetts Technology Transfer Center shall
1174 serve as ex-officio members of the advisory committee.

1175 SECTION Chapter 23G of the General Laws is hereby amended by adding the following
1176 section:-

1177 Section 44. The agency shall be subject section 56 of chapter 23A.

1178 SECTION Section 6 of chapter 23I of the General Laws, as appearing in the 2008
1179 Official Edition, is hereby amended by inserting after the figure “75”, in line 82, the following
1180 words:- to fund activities that facilitate the transfer of technology from the commonwealth’s
1181 research institutions to the commonwealth’s life science industries, for productive use by such
1182 industries and to make targeted investments in proof of concept funding for emerging
1183 technologies.

1184 SECTION Section 12 of said chapter 23I, as so appearing, is hereby further amended by
1185 striking out the word “and”, in line 9, and inserting in place thereof the following words:- the
1186 executive director of the Massachusetts Technology Transfer Center and.

1187 SECTION Chapter 23I of the General Laws is hereby amended by adding the following
1188 section:

1189 Section 18. The center shall be subject to section 56 of chapter 23A.

1190 SECTION Section 2 of chapter 23J of the General Laws, as appearing in the 2008
1191 Official Edition, is hereby amended by striking out, in lines 61 and 62, the words “his designee
1192 shall serve as chairperson” and inserting in place thereof the following words:- the secretary’s
1193 designee and the secretary of housing and economic development, or the secretary’s designee
1194 shall serve as co-chairs.

1195 SECTION Chapter 23J of the General Laws is hereby amended by adding the following
1196 section:-

1197 Section 9. The center shall be subject to section 56 of chapter 23A.

1198 SECTION The General Laws are hereby amended by inserting after chapter 23J the
1199 following chapter:-

1200 CHAPTER 23K

1201 The Health and Educational Facilities Authority

1202 Section 1. This chapter may be referred to and cited as the "Health and Educational
1203 Facilities Authority Act."

1204 Section 2. In this chapter, the following words shall, unless the context clearly requires
1205 otherwise, have the following meanings:

1206 "Authority", the Health and Educational Facilities Authority created by section 3.

1207 "Bonds" or "revenue bonds", revenue bonds of the authority issued under this
1208 chapter, including revenue refunding bonds, notwithstanding that the same may be secured by
1209 any federally guaranteed security, whether acquired by the authority or by a participating
1210 institution, or by mortgage, the full faith and credit or by any other lawfully pledged security of 1
1211 or more participating institutions.

1212 "Cost", as applied to a project or any portion thereof financed under this chapter
1213 embraces all or any part of the cost of construction, acquisition, alteration, enlargement,
1214 reconstruction and remodeling of a project including all lands, structures, real or personal

1215 property, rights, rights of way, air rights, franchises, easements and interests acquired or used for
1216 or in connection with a project, the cost of demolishing or removing any buildings or structures
1217 on land so acquired, including the cost of acquiring any lands to which such buildings or
1218 structures may be moved, the cost of all machinery and equipment, financing charges, interest
1219 prior to, during and for a period after completion of such construction and acquisition,
1220 reasonably required amounts to make the project operational, provisions for reserves for
1221 principal and interest and for extensions, enlargements, additions, replacements, renovations and
1222 improvements, the cost of architectural, engineering, financial and legal services, plans,
1223 specifications, studies, surveys, estimates of cost and of revenues, administrative expenses,
1224 expenses necessary or incident to determining the feasibility or practicability of constructing the
1225 project and such other expenses as may be necessary or incident to the construction and
1226 acquisition of the project, the financing of such construction and acquisition and the placing of
1227 the project in operation.

1228 "Cultural institution", a nonprofit cultural or scientific institution within the
1229 commonwealth with respect to which the authority finds that the institution is a major regional
1230 resource, that it provides educational services to candidates for academic degrees for credit at
1231 other institutions or resources for research by scholars holding academic degrees or other
1232 education at an advanced level, and that it has demonstrated broad community support through
1233 giving for capital or current purposes.

1234 "Federally guaranteed security", any security, investment or evidence of indebtedness
1235 which is either directly or indirectly, insured or guaranteed, in whole or in part, as to the
1236 repayment of principal or interest or both by the United States or any instrumentality of the
1237 United States.

1238 "Federally insured project loan", a loan to finance or refinance the cost of a project for an
1239 institution which is either directly or indirectly, insured or guaranteed, in whole or in part, as to
1240 the repayment of the principal or interest or both by the United States or an instrumentality of the
1241 United States, or a commitment by the United States or an instrumentality of the United States to
1242 so insure or guarantee such a loan.

1243 "Hospital", a nonprofit hospital within the commonwealth licensed by the department of
1244 public health; or a nonprofit health maintenance organization within the commonwealth licensed
1245 by the commissioner of insurance; or an affiliated nonprofit corporation which is organized and
1246 operated for the benefit of, to perform 1 or more of the functions of, or to carry out 1 or more of
1247 the purposes of 1 or more licensed nonprofit hospitals or health maintenance organizations,
1248 including operation of a nursing home, comprehensive gerontology facility or congregate care
1249 facility; or any other nonprofit charitable institution in the commonwealth not otherwise eligible
1250 to participate under this chapter; provided, however, that such other nonprofit charitable
1251 institution may only undertake the financing and construction or acquisition of a project or
1252 undertake the refunding or refinancing of obligations or of a mortgage or of advances to the
1253 extent that such projects, obligations, mortgages, or advances consist of or result from the
1254 purchase of energy or from energy conservation or related projects of such other nonprofit
1255 charitable institution; and provided further, that such other nonprofit charitable institution
1256 participates in or is a member of a group power purchasing program organized and administered
1257 by or on behalf of the authority.

1258 "Institution", a hospital or a nonprofit corporation organized to operate a facility or
1259 facilities that provide cultural or educational services, including but not limited to an institution
1260 for higher education, a school for the developmentally disabled, or a cultural institution.

1261 "Institution for higher education", a public or a private, nonprofit educational institution
1262 within the commonwealth authorized by law to provide a program of education beyond the high
1263 school level, or any organization affiliated therewith; provided, that for the purposes of this
1264 definition an "organization affiliated" with such educational institution shall be any organization
1265 or association, in any form, the activities of which are a part of the activities of such educational
1266 institution and are subject to regulation by the trustees or other governing body of such
1267 educational institution, or any research foundation, teaching hospital and associated clinics, or
1268 other research or educational organization the operation of which in conjunction with such
1269 educational institution is approved by the trustees or other governing body of such educational
1270 institution, or any other entity whose activities are approved by the trustees or other governing
1271 body of such educational institution as furthering the purposes of the educational institution, or,
1272 in the case of a public institution for higher education, the advisory committee on education
1273 policy established under section 2 of chapter 15A.

1274 "Participating cultural institution", a cultural institution which, under this chapter,
1275 undertakes the financing and construction or acquisition of a project or undertakes the refunding
1276 of refinancing of obligations or of a mortgage or of advances as provided in this chapter.

1277 "Participating hospital", a hospital which, under this chapter, undertakes the financing
1278 and construction or acquisition of a project or undertakes the refunding or refinancing of
1279 obligations or of a mortgage or of advances as provided in this chapter.

1280 "Participating institution", a participating hospital or other participating nonprofit
1281 corporation organized to operate a facility or facilities that provide cultural or educational

1282 services, including but not limited to a participating institution for higher education, a
1283 participating school for the developmentally disabled, or a participating cultural institution.

1284 "Participating institution for higher education", an institution for higher education
1285 which, under this chapter, undertakes the financing and construction or acquisition of a project or
1286 undertakes the refunding or refinancing of obligations or of a mortgage or of advances as
1287 provided in this chapter.

1288 "Participating school for the developmentally disabled", a school for the
1289 developmentally disabled which, under this chapter, undertakes the financing and construction or
1290 acquisition of a project or undertakes the refunding or refinancing of obligations.

1291 "Project", in the case of a participating institution for higher education, participating
1292 institution for the developmentally disabled or other participating institution that offers
1293 residences to students, a structure or structures suitable for use as a dormitory or other multi-unit
1294 housing facility for students, faculty, officers or employees, a dining hall, student union,
1295 administration building, academic building, library, laboratory, research facility, classroom,
1296 athletic facility, health care facility, maintenance facility, storage or utility facility and other
1297 structures or facilities related to any of those structures or required or useful for the instruction of
1298 students or the conducting of research or the operation of an institution for higher education or
1299 participating institution for the handicapped or other participating institution, including parking
1300 and other facilities or structures essential or convenient for the orderly conduct of such institution
1301 for higher education or participating institution for the developmentally disabled or other
1302 participating institution; provided, however, that "project" shall also include landscaping, site
1303 preparation, furniture, equipment and machinery and other similar items necessary or convenient

1304 for the operation of a particular facility or structure in the manner for which its use is intended as
1305 well as any furnishings, equipment, machinery and other similar items necessary or convenient
1306 for the operation of an institution of higher education or participating institution for the
1307 handicapped or other participating institution, whether or not such items are related to a
1308 particular facility or structure financed under this chapter; provided, however, that “project” shall
1309 not include such items as books, fuel, supplies or other items the cost of which are customarily
1310 deemed to result in a current operating charge, and shall not include any facility used or to be
1311 used for sectarian instruction or as a place of religious worship nor any facility which is used or
1312 to be used primarily in connection with any part of the program of a school or department of
1313 divinity for any religious denomination; provided, further, that “project” shall include, in the case
1314 of a participating hospital, a structure or structures suitable for use as a hospital, clinic,
1315 comprehensive gerontology facility, nursing home, or other health care facility, laboratory,
1316 laundry, nurses or interns residence or other multi-unit housing facility for staff, employees,
1317 patients or relatives of patients admitted for treatment in such hospital, or for the aged, doctors
1318 office building, administration building, research facility, maintenance, storage or utility facility
1319 and other structures or facilities related to any of the foregoing or required or useful for the
1320 operation of a hospital, including parking and other facilities or structures essential or convenient
1321 for the orderly conduct of such hospital, and shall also include landscaping, site preparation,
1322 furniture, equipment and machinery and other similar items necessary or convenient for the
1323 operation of a particular facility or structure in the manner for which its use is intended and shall
1324 further include any furnishings, equipment, machinery and other similar items necessary or
1325 convenient for the operation of a hospital, whether or not such items are related to a particular
1326 facility or structure financed under this chapter, and may also include the issuance of tax exempt

1327 debt instruments for working capital and for the providing of such items as fuel, supplies or other
1328 items the cost of which are customarily deemed to result in a current operating charge; and in the
1329 case of a particular cultural institution, a structure or structures suitable for its purposes, whether
1330 or not to be used to provide educational services, or research resources; provided, further, that
1331 “project” shall also include supporting facilities, landscaping, site preparation, furniture,
1332 equipment, machinery and other related items and shall further include any furnishings,
1333 equipment, machinery and other similar items necessary or convenient for the operation of a
1334 cultural institution, whether or not such items are related to a particular facility or structure
1335 financed under this chapter, but shall not include books, works of art, or other items for display
1336 or exhibition, or items the cost of which are customarily deemed to result in a current operating
1337 charge; provided, further, that "project" may include any combination of 1 or more of the
1338 foregoing undertaken jointly by 1 or more participating institutions with each other or with other
1339 parties; and, notwithstanding anything in this definition to the contrary, "project" may also
1340 include any capital or operating expenditure which may legally be made by any participating
1341 institution and the thing produced or acquired by such expenditure.

1342 "School for the developmentally disabled", a nonprofit primary, secondary or post-
1343 secondary school within the commonwealth which: (i) serves students, at least 70 per cent of
1344 whom are developmentally disabled, as determined by 1 or more appropriate educational,
1345 rehabilitation, medical or mental health authorities; (ii) is accredited by a recognized accrediting
1346 body; and (iii) is determined by the authority to be a major resource of benefit to the
1347 developmentally disabled.

1348 Section 3. (a) There is hereby created a body politic and corporate to be known as the
1349 "Health and Educational Facilities Authority". The authority is constituted a public

1350 instrumentality and the exercise by the authority of the powers conferred by this chapter shall be
1351 deemed and held to be the performance of an essential public function. The authority shall
1352 consist of 9 members, to be appointed by the governor, who shall be residents of the
1353 commonwealth, 1 of whom shall be the secretary of housing and economic development and not
1354 more than 5 of whom shall be members of the same political party. At least 2 of the members
1355 shall be trustees, directors, officers or employees of institutions for higher education, at least 2
1356 shall be trustees, directors, officers or employees of hospitals, at least 1 shall be a person having
1357 a favorable reputation for skill, knowledge and experience in the field of state and municipal
1358 finance, either as a partner, officer or employee of an investment banking firm which originates
1359 and purchases state and municipal securities, or as an officer or employee of an insurance
1360 company or bank whose duties relate to the purchase of state and municipal securities as an
1361 investment and to the management and control of a state and municipal securities portfolio, and
1362 at least 1 shall be a person having a favorable reputation for skill, knowledge and experience in
1363 the building construction field. Upon the expiration of the term of any member, a successor shall
1364 be appointed for a term of 7 years. The governor shall fill any vacancy for the remainder of the
1365 unexpired term. Any member of the authority may be removed by the governor for misfeasance,
1366 malfeasance or willful neglect of duty or other cause after notice and a public hearing unless
1367 such notice and hearing shall be expressly waived in writing.

1368 (b) The secretary of the executive office of housing and economic development shall
1369 serve as the chairman of the authority. The authority shall annually elect 1 of its members as
1370 vice chairman. It may appoint an executive director and assistant executive director, who shall
1371 not be members of the authority, who shall serve at the pleasure of the authority. They shall
1372 receive such compensation as shall be fixed by the authority.

1373 (c) The executive director or assistant executive director or other person designated by
1374 resolution of the authority shall keep a record of the proceedings of the authority and shall be
1375 custodian of all books, documents and papers filed with the authority, the minute book or journal
1376 of the authority, and its official seal. The executive director or assistant executive director or
1377 other person may cause copies to be made of all minutes and other records and documents of the
1378 authority and may give certificates under the official seal of the authority to the effect that such
1379 copies are true copies, and all persons dealing with the authority may rely upon such certificates.

1380 (d) Five members of the authority shall constitute a quorum. The affirmative vote of a
1381 majority of all the members of the authority shall be necessary for any action taken by the
1382 authority. A vacancy in the membership of the authority shall not impair the right of a quorum to
1383 exercise all the rights and perform all the duties of the authority. An action taken by the authority
1384 under this chapter may be authorized by resolution at a regular or special meeting, and each such
1385 resolution shall take effect immediately and need not be published or posted.

1386 (e) Before the authority issues revenue bonds under this chapter, the chairman, vice
1387 chairman, executive director and assistant executive director and any other member of the
1388 authority authorized by resolution of the authority to handle funds or sign checks of the authority
1389 shall execute a surety bond in the penal sum of \$50,000, or in lieu thereof the chairman shall
1390 obtain a blanket position bond covering the executive director and every member and other
1391 employee of the authority in the penal sum of \$50,000. Each such bond shall be conditioned
1392 upon the faithful performance of the duties of the principal or the members, executive director
1393 and other employees, as the case may be, shall be executed, by a surety company authorized to
1394 transact business in the commonwealth as surety, shall be approved by the attorney general and

1395 shall be filed in the office of the state secretary. The cost of each such bond shall be paid by the
1396 authority.

1397 (f) The members of the authority shall receive no compensation for the performance of
1398 their duties under this chapter but each member shall be paid the member's necessary expenses
1399 incurred while engaged in the performance of the member's duties.

1400 (g) A member, officer, agent or employee of the authority who, directly or indirectly, has
1401 a financial interest in a property to be included in, or a contract for property or materials to be
1402 furnished or used in connection with, a project of the authority, shall be punished by a fine of not
1403 less than \$50 nor more than \$1,000, or by imprisonment for not more than 1 month, or both.

1404 (h) Members of the authority shall be considered state employees for the purposes of
1405 chapters 268A and 268B; provided, however, that notwithstanding subsection (g) or any other
1406 law to the contrary, it shall not be or constitute a conflict of interest or violation of paragraph (g)
1407 or any other law for a trustee, director, officer or employee of a participating institution or for a
1408 person having the required favorable reputation for skill, knowledge and experience in state and
1409 municipal finance or for a person having the required favorable reputation for skill, knowledge
1410 and experience in the building construction field to serve as a member of the authority; provided,
1411 further, that;

1412 (1) in each case to which this subsection is applicable, such trustee, director,
1413 officer or employee of such participating institution abstains from discussion, deliberation, action
1414 and vote by the authority in specific respect to an undertaking under this chapter in which such
1415 participating institution has an interest;

1416 (2) such person having the required favorable reputation for skill, knowledge and
1417 experience in state and municipal finance abstains from discussion, deliberation, action and vote
1418 by the authority in specific respect to any sale, purchase or ownership of bonds of the authority
1419 in which the investment banking firm or insurance company or bank of which such person is a
1420 partner, officer or employee has a past, current or future interest; or

1421 (3) such person having the required favorable reputation for skill, knowledge and
1422 experience in the building construction field abstains from discussion, deliberation, action and
1423 vote by the authority in specific respect to construction or acquisition of a project of the authority
1424 in which a partnership, firm, joint venture, sole proprietorship or corporation of which such
1425 person is an owner, venturer, participant, partner, officer or employee who has a past, current or
1426 future interest.

1427 Section 4. The purpose of the authority shall be to assist institutions in the acquisition,
1428 construction, financing and refinancing of projects. For that purpose the authority may:

1429 (a) adopt by-laws for the regulation of its affairs and the conduct of its business;

1430 (b) adopt an official seal and alter the same at its pleasure;

1431 (c) maintain an office at such place or places as it may designate;

1432 (d) sue and be sued in its own name, plead and be impleaded;

1433 (e) determine the location and character of a project to be financed under this chapter, and
1434 construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as
1435 lessee or lessor, and regulate the same, enter into contracts for any or all of such purposes, enter
1436 into contracts for the management and operation of a project, and designate a participating

1437 institution as its agent to determine the location and character of a project undertaken by such
1438 participating institution under this chapter and, as the agent of the authority, construct,
1439 reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or
1440 lessor, and regulate the same, and, as the agent of the authority, enter into contracts for any or all
1441 of such purposes, including contracts for the management and operation of such project;

1442 (f) issue bonds, bond anticipation notes and other obligations of the authority for any of
1443 its corporate purposes, and fund or refund bonds, bond anticipation notes and other obligations as
1444 provided in this chapter;

1445 (g) generally, fix and revise and charge and collect rates, rents, fees and charges for the
1446 use of and for the services furnished or to be furnished by a project or any portion of a project
1447 and contract with any person, partnership, association or corporation or other body public or
1448 private in respect thereof and designate a participating institution as its agent to fix, revise,
1449 charge and collect such rates, rents, fees and charges and make such contracts;

1450 (h) establish rules and regulations for the use of a project or any portion of a project and
1451 designate a participating institution as its agent to establish rules and regulations for the use of a
1452 project in which such participating institution is participating;

1453 (i) require, at the expense directly or indirectly of an institution intending to participate in
1454 a project, a report on the financial feasibility of such project to be financed; provided, however,
1455 that the report of an independent accountant or accounting firm or financial expert employed or
1456 selected by such institution with the approval of the authority shall be deemed to satisfy the
1457 requirement of such report, if such independent accountant, accounting firm or financial expert
1458 has demonstrated capability of preparing such financial feasibility reports; and provided, further,

1459 that the authority shall not unreasonably or arbitrarily withhold such approval and may
1460 promulgate regulations stipulating the form and content of such report;

1461 (j) employ and fix the compensation of consulting engineers, architects, attorneys,
1462 accountants, construction and financial experts, superintendents, managers, and other employees
1463 and agents as may be necessary in its judgment;

1464 (k) receive and accept from any public agency loans or grants for, or in aid of, the
1465 construction of a project or any portion of a project, and to receive and accept loans, grants, aid
1466 or contributions from any source of either money, property, labor or other things of value to be
1467 held, used and applied only for the purposes for which such loans, grants, aid and contributions
1468 are made;

1469 (l) mortgage a project and the site of the project for the benefit of the holders of revenue
1470 bonds issued to finance that project; provided, however, that the authority shall not mortgage any
1471 project undertaken on behalf of a public institution for higher education or the site of that project,
1472 and shall not convey that project or site except under section 7;

1473 (m) make loans to a participating institution for the cost of a project under an agreement
1474 between the authority and 1 or more participating institutions; provided, however, that no such
1475 loan shall exceed the total cost of the project as determined by the participating institution and
1476 approved by the authority;

1477 (n) make loans to participating institutions to refund outstanding obligations, mortgages
1478 or advances issued, made or given by the institutions for the cost of a project;

1479 (o) charge to and equitably apportion among participating institutions its administrative
1480 costs and expenses incurred in the exercise of the powers and duties conferred by this chapter;
1481 provided that the authority shall seek to contract with another public authority for the
1482 performance of core administrative functions by that authority, including but not limited to,
1483 human resources, financial management, information technology, legal, procurement and asset
1484 management, to minimize the administrative costs and expenses apportioned to participating
1485 institutions under this clause; provided, further, that the authority shall publish and disseminate
1486 through its website each fiscal year a schedule of fees or a methodology for determining fees to
1487 be charged under this clause, which shall result in similar charges for similarly-situated projects,
1488 regardless of the size of the participating institution;

1489 (p) acquire and enter into commitments to acquire a federally guaranteed security and
1490 pledge or otherwise use the federally guaranteed security in such manner as the authority shall
1491 approve to secure or otherwise provide a source of repayment on any of its bonds or to enter into
1492 an appropriate agreement with 1 or more participating institutions whereby the authority may
1493 make a loan to any such institution for the purpose of enabling such institution to fund or refund,
1494 directly or indirectly, the cost of acquiring or entering into commitments to acquire a federally
1495 guaranteed security; provided, however, that the federally guaranteed security is evidence of a
1496 federally insured project loan or, if not such evidence, that the authority determines that the
1497 federally guaranteed security has been issued to pass through a federally insured project loan;

1498 (q) issue electric rate reduction bonds, as defined in section 1H of chapter 164, for the
1499 benefit of any electric company, as defined in section 1 of said chapter 164, that is determined to
1500 be eligible for said bond financing by the department of energy resources under said chapter 164;
1501 provided, however, that such electric rate reduction bonds shall constitute bonds as defined in

1502 section 2; provided, further, that such an electric company shall be deemed to be a participating
1503 institution as defined in section 2; and provided further, that the financing or refinancing of
1504 transition costs or the acquiring of transition property as provided for in section 1H of said
1505 chapter 164 shall be deemed to be a project as defined in section 2; and

1506 (r) do all things necessary or convenient to carry out the purpose of this chapter.

1507 In carrying out the purposes of this chapter, the authority may undertake joint projects for
1508 2 or more participating institutions for higher education or 2 or more participating hospitals, or
1509 for any combination of participating institutions for higher education and participating hospitals,
1510 and, thereupon, all other provisions of this chapter shall apply to and for the benefit of the
1511 authority and the participants in such joint projects.

1512 The authority shall not undertake a project on behalf of a public institution for higher
1513 education except upon written request made by the advisory committee on education policy
1514 established under section 2 of chapter 15A.

1515 Section 5. All expenses incurred in carrying out this chapter shall be payable solely from
1516 funds provided under the authority of this chapter and no liability or obligation shall be incurred
1517 by the authority under this chapter beyond the extent to which moneys shall have been provided
1518 under this chapter.

1519 Section 6. The authority may, directly or by and through a participating institution, as its
1520 agent, acquire by purchase solely from funds provided under the authority of this chapter, or by
1521 gift or devise, and take title to such lands, structures, property, real or personal, rights, rights-of-
1522 way, air rights, franchises, easements and other interests in lands, including lands lying under
1523 water and riparian rights, which are located within the commonwealth as the authority may deem

1524 necessary or convenient for the acquisition, construction or operation of a project, upon such
1525 terms and at such prices as may be considered by the authority to be reasonable and can be
1526 agreed upon between the authority and the owner in the name of the authority or in the name of 1
1527 or more participating institutions as its agent.

1528 Section 7. When the principal of and interest on revenue bonds of the authority issued to
1529 finance the cost of a particular project for 1 or more participating institutions, including revenue
1530 refunding bonds issued to refund and refinance the revenue bonds, have been fully paid and
1531 retired or when adequate provision has been made to fully pay and retire the revenue bonds, and
1532 all other conditions of the resolution or trust agreement authorizing and securing the revenue
1533 bonds have been satisfied and the lien of the resolution or trust agreement has been released in
1534 accordance with the resolution or trust agreement, the authority shall promptly do such things
1535 and execute such deeds and conveyances as are necessary and required to convey title to the
1536 project to the participating institutions, all to the extent that title to the project is not, at the time,
1537 vested in the participating institutions.

1538 Section 8. The authority may issue negotiable notes for a corporate purpose and may
1539 renew notes by issuing new notes, whether the notes to be renewed have or have not matured.
1540 The authority may issue notes partly to renew notes or to discharge other obligations then
1541 outstanding and partly for any other purpose. The notes may be authorized, sold, executed and
1542 delivered in the same manner as bonds. A resolution authorizing notes of the authority or an
1543 issue of notes by the authority may contain provisions which the authority is authorized to
1544 include in a resolution authorizing revenue bonds of the authority or an issue of bonds by the
1545 authority, and the authority may include in a note any terms, covenants or conditions which it is
1546 authorized to include in any bonds. A resolution may delegate to the executive director, assistant

1547 executive director, or any member of the authority or any combination of them, the power to
1548 determine any of the details of the notes and to award the notes to a purchaser. All the notes
1549 shall be payable solely from the revenues of the authority, subject only to any contractual rights
1550 of the holders of any of its notes or other obligations then outstanding.

1551 Section 9. (a) The authority may issue revenue bonds for any corporate purpose and all
1552 the revenue bonds, notes, bond anticipation notes or other obligations of the authority issued
1553 under this chapter shall be negotiable for all purposes notwithstanding their payment from a
1554 limited source and notwithstanding any general or special law to the contrary. In anticipation of
1555 the sale of revenue bonds the authority may issue negotiable bond anticipation notes and may
1556 renew the notes from time to time, but the maximum maturity of a bond anticipation note,
1557 including renewals of that note, shall not exceed 5 years from the date of issue of the original
1558 note. Bond anticipation notes shall be paid from revenues of the authority available for that
1559 purpose and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the
1560 authority in anticipation of which they were issued. The notes shall be issued in the same manner
1561 as the revenue bonds. The notes and the resolution authorizing those notes may contain any
1562 provisions, conditions or limitations which a bond resolution of the authority may contain.

1563 (b) The revenue bonds and notes of every issue shall be payable solely out of revenues to
1564 the authority, subject only to any agreements with the holders of particular revenue bonds or
1565 notes pledging any particular revenues and subject to any agreements with any participating
1566 institution. Notwithstanding that revenue bonds and notes may be payable from a special fund,
1567 they shall be and be deemed to be, for all purposes, negotiable instruments, subject only to the
1568 provisions of the revenue bonds and notes for registration.

1569 (c) The revenue bonds may be issued as serial bonds or as term bonds, or the authority, in
1570 its discretion, may issue bonds of both types. The revenue bonds shall be authorized by
1571 resolution of the members of the authority and shall bear such date or dates, mature at such time
1572 or times, not exceeding 50 years from their respective dates, bear interest at such rate or rates,
1573 payable at such time or times, be in such denominations, be in such form, either coupon or
1574 registered, carry such registration privileges, be executed in such manner, be payable in lawful
1575 money of the United States of America at such place or places, and be subject to such terms of
1576 redemption, as such resolution or resolutions may provide. Such resolution or resolutions may
1577 delegate to the executive director, assistant executive director or any member of the authority or
1578 any combination of them, the power to determine any of the matters set forth in this section and
1579 the power to award the bonds to a purchaser or purchasers at public sale or to negotiate a sale to
1580 a purchaser or purchasers provided in the latter case that the bonds are to be reoffered to the
1581 public. The revenue bonds or notes may be sold at public or private sale for such price or prices
1582 as the authority shall determine. Pending preparation of the definitive bonds, the authority may
1583 issue interim receipts or certificates which shall be exchanged for such definitive bonds.

1584 (d) A resolution authorizing a revenue bond or an issue of revenue bonds may contain
1585 provisions, which shall be a part of the contract with the holders of the revenue bonds to be
1586 authorized, as to:

1587 (1) pledging all or any part of the revenues of a project, a revenue producing contract
1588 made by the authority with an individual, partnership, corporation or association or other body,
1589 public or private, or a federally guaranteed security and moneys received therefrom whether the
1590 security is acquired by the authority or a participating institution to secure the payment of the
1591 revenue bonds or of any particular issue of revenue bonds, subject to such agreements with

1592 bondholders as may then exist; (2) the rentals, fees and other charges to be charged, and the
1593 amounts to be raised in each year by those rentals, fees and charges, and the use and disposition
1594 of the revenues; (3) the establishment and setting aside of reserves or sinking funds, and the
1595 regulation and disposition of those reserves or sinking funds; (4) limitations on the right of the
1596 authority or its agent to restrict and regulate the use of the project; (5) limitations on the purpose
1597 to which the proceeds of sale of any issue of revenue bonds then or thereafter to be issued may
1598 be applied, including as authorized purposes, all costs and expenses necessary or incidental to the
1599 issuance of bonds, to the acquisition of or commitment to acquire a federally guaranteed security
1600 and to the issuance and obtaining of a federally insured mortgage note and pledging such
1601 proceeds to secure the payment of the revenue bonds or an issue of the revenue bonds; (6)
1602 limitations on the issuance of additional bonds, the terms upon which additional bonds may be
1603 issued and secured and the refunding of outstanding bonds; (7) the procedure, if any, by which
1604 the terms of a contract with bondholders may be amended or abrogated, the amount of bonds the
1605 holders of which must consent thereto, and the manner in which such consent may be given; (8)
1606 limitations on the amount of moneys derived from the project to be expended for operating,
1607 administrative or other expenses of the authority; (9) defining the acts or omissions to act which
1608 shall constitute a default in the duties of the authority to holders of its obligations and providing
1609 the rights and remedies of such holders in the event of a default; (10) the duties, obligations and
1610 liabilities of any trustee or paying agent; and (11) the mortgaging of a project and the site of the
1611 project for the purpose of securing the bondholders.

1612 (e) Neither the members of the authority nor a person executing the revenue bonds or
1613 notes shall be liable personally on the revenue bonds or notes or be subject to any personal
1614 liability or accountability due to the issuance of the bonds or notes.

1615 (f) The authority shall have power out of any funds available for the authority to
1616 purchase its bonds or notes. The authority may hold, pledge, cancel or resell those bonds or
1617 notes, subject to and in accordance with agreements with bondholders.

1618 Section 10. In the discretion of the authority a revenue bond issued under this chapter
1619 may be secured by a trust agreement by and between the authority and a corporate trustee, which
1620 may be a trust company or bank having the powers of a trust company under section 1A of
1621 chapter 172 or a savings bank under section 2 of chapter 167F within the commonwealth. The
1622 trust agreement or the resolution allowing the authority to issue those revenue bonds may pledge
1623 or assign the revenues to be received or proceeds of a contract pledged and may convey or
1624 mortgage the project or a portion of the project. A trust agreement or resolution allowing the
1625 authority to issue the revenue bonds may contain provisions for protecting and enforcing the
1626 rights and remedies of the bondholders as may be reasonable and proper and not in violation of
1627 law, including particularly provisions that are specifically authorized by this chapter to be
1628 included in a resolution of the authority authorizing revenue bonds of the authority. A bank, trust
1629 company or savings bank incorporated under the laws of the commonwealth which may act as
1630 depository of the proceeds of bonds or of revenues or other moneys may furnish the
1631 indemnifying bonds or pledge the securities as may be required by the authority. A trust
1632 agreement may set forth the rights and remedies of the bondholders and of the trustee, and may
1633 restrict the individual right of action by bondholders. A trust agreement or resolution may also
1634 contain other provisions as the authority may deem reasonable and proper for the security of the
1635 bondholders. All expenses incurred in carrying out the trust agreement or resolution may be
1636 treated as a part of the cost of the operation of a project.

1637 Section 11. Revenue bonds issued under this chapter shall not be deemed to constitute a
1638 debt or liability of the commonwealth or of any political subdivision of the commonwealth or a
1639 pledge of the faith and credit of the commonwealth or of any political subdivision of the
1640 commonwealth, but shall be payable solely from the funds provided for payment of those funds
1641 from revenues. A revenue bond shall contain on its face a statement to the effect that neither the
1642 commonwealth nor the authority shall be obligated to pay the revenue bond or the interest on the
1643 revenue bond except from revenues of the project or the portion of the project for which they are
1644 issued and that neither the faith and credit nor the taxing power of the commonwealth or of a
1645 political subdivision of the commonwealth is pledged to the payment of the principal of or the
1646 interest on the bond. The issuance of revenue bonds under this chapter shall not directly or
1647 indirectly or contingently obligate the commonwealth or a political subdivision of the
1648 commonwealth to levy or to pledge any form of taxation or to make an appropriation for their
1649 payment.

1650 Section 12. (a) The authority may fix, revise, charge and collect rates, rents, fees and
1651 charges for the use of and for the services furnished or to be furnished by each project and the
1652 authority may contract with any person, partnership, association or corporation, or other body,
1653 public or private, for those purposes.

1654 (b) The rates, rents, fees and charges shall be fixed and adjusted in respect of the
1655 aggregate of rates, rents, fees and charges from a project so as to provide funds sufficient with
1656 other revenues, if any: (1) to pay the cost of maintaining, repairing and operating the project and
1657 each and every portion thereof, to the extent that the payment of a cost has not otherwise been
1658 adequately provided for; (2) to pay the principal of and the interest on outstanding revenue bonds
1659 of the authority issued in respect of that project as the same shall become due and payable; and

1660 (3) to create and maintain reserves required or provided for in any resolution authorizing, or trust
1661 agreement securing, those revenue bonds of the authority.

1662 (c) The rates, rents, fees and charges shall not be subject to supervision or regulation by
1663 any department, commission, board, body, bureau or agency of this commonwealth other than
1664 the authority, except as provided in section 13.

1665 (d) A sufficient amount of the revenues derived in respect of a project, except the part of
1666 those revenues as may be necessary to pay the cost of maintenance, repair and operation and to
1667 provide reserves and for renewals, replacements, extensions, enlargements and improvements as
1668 may be provided for in the resolution authorizing the authority to issue revenue bonds of the
1669 authority or in the trust agreement securing the revenue bonds, shall be set aside at such regular
1670 intervals as may be provided in the resolution or trust agreement in a sinking or other similar
1671 fund which is hereby pledged to, and charged with, the payment of the principal of and the
1672 interest on the revenue bonds as the payment of the principal of and interest on the revenue
1673 bonds shall become due, and the redemption price or the purchase price of bonds retired by call
1674 or purchase as provided in the resolution or trust agreement. A pledge shall be valid and binding
1675 from the time when the pledge is made; the rates, rents, fees and charges and other revenues or
1676 other moneys so pledged and thereafter received by the authority shall immediately be subject to
1677 the lien of the pledge without any physical delivery of the lien or further act, and the lien of any
1678 such pledge shall be valid and binding as against all parties having claims of any kind in tort,
1679 contract or otherwise against the authority, irrespective of whether such parties have notice of the
1680 lien.

1681 (f) Neither the resolution nor a trust agreement by which a pledge is created need be filed
1682 or recorded except in the records of the authority. The use and disposition of moneys to the credit
1683 of such sinking or other similar fund shall be subject to the resolution authorizing the authority to
1684 issue the bonds or of the trust agreement.

1685 (g) Except as may otherwise be provided in a resolution or a trust agreement, a sinking
1686 or other similar fund shall be a fund for all the revenue bonds issued to finance a project at 1 or
1687 more participating institutions, without distinction or priority of one over another; provided,
1688 however, that the authority in a resolution or trust agreement may provide that the sinking or
1689 other similar fund shall be the fund for a particular project at an institution and for the revenue
1690 bonds issued to finance a particular project and may, additionally, permit and provide for the
1691 authority to issue revenue bonds having a subordinate lien in respect of the security authorized in
1692 this section to other revenue bonds of the authority and, in such case, the authority may create
1693 separate or other similar funds in respect of the subordinate lien bonds.

1694 Section 13. In the case of a project for a public institution for higher education, an
1695 establishment or revision of rules and regulations for the use of that institution and the fixing or
1696 revising of rates, rents, fees or other charges by the authority shall require the approval of the
1697 trustees. The trustees shall exercise their powers so that the aggregate of the rates, rents, fees and
1698 charges from the project with other revenues, if any, shall be sufficient: (1) to pay the cost of
1699 maintaining, repairing and operating the project and each and every portion of the project, to the
1700 extent that the payment of the cost has not otherwise been adequately provided for; (2) to pay the
1701 principal of and the interest on outstanding revenue bonds of the authority issued in respect of
1702 such project as the principal of and the interest on those bonds shall become due and payable;
1703 and (3) to create and maintain reserves required or provided for in any resolution authorizing, or

1704 trust agreement securing, such revenue bonds of the authority. Upon a failure of the trustees to
1705 exercise those powers, the authority may establish or revise such rules and regulations and fix or
1706 revise such rates, rents, fees or other charges without the approval of the trustees; provided,
1707 however, that in that case the trustees may propose alternative rules and regulations or scale of
1708 rates, rents, fees or other charges which shall then be adopted by the authority if they will
1709 produce sufficient aggregate revenues to meet the requirements. The rates, rents, fees or other
1710 charges shall not, except as expressly provided in this section with respect to the trustee, be
1711 subject to supervision or regulation of a department, division, commission, board, bureau or
1712 agency of the commonwealth or a political subdivision of the commonwealth.

1713 For the purpose of this section, the term "trustees" shall mean: (1) the advisory committee
1714 on education policy established in section 2 of chapter 15A, in the case of any state college, as
1715 listed in section 19 of chapter 73, or in the case of any community college, as defined in section
1716 10 of chapter 15A; or (2) the trustees of the public institution of higher education, or said
1717 advisory committee on education policy if authorized by the trustees, in the case of a public
1718 university.

1719 Section 14. Money received under the authority of this chapter, whether as proceeds from
1720 the sale of bonds or as revenues, shall be deemed to be trust funds to be held and applied solely
1721 as provided in this chapter. An officer with whom, or a bank or trust company with which, such
1722 money shall be deposited shall act as trustee of that money and shall hold and apply that money
1723 for the purposes provided in this chapter, subject to such regulations as this chapter and the
1724 resolution authorizing the bonds of an issue or the trust agreement securing those bonds may
1725 provide.

1726 Section 15. Any holder of revenue bonds, notes, bond anticipation notes, other notes or
1727 other obligations of the authority issued under this chapter or any of the coupons appertaining
1728 thereto, and the trustee or trustees under any trust agreement, except to the extent the rights
1729 herein given may be restricted by any resolution authorizing the issuance of, or any such trust
1730 agreement securing, such bonds or other obligations, may, either at law or in equity, by suit,
1731 action, mandamus or other proceedings, protect and enforce any and all rights under the laws of
1732 the commonwealth or granted hereunder or under such resolution or trust agreement, and may
1733 enforce and compel the performance of all duties required by this chapter or by such resolution
1734 or trust agreement to be performed by the authority or any officer, employee or agent thereof,
1735 including the fixing, charging and collecting of the rates, rents, fees and charges herein
1736 authorized and required by the provisions of such resolution or trust agreement to be fixed,
1737 established and collected.

1738 Section 16. The exercise of the powers granted by this chapter shall be for the benefit of
1739 the people of this commonwealth, for the increase of their commerce, welfare and prosperity,
1740 and for the improvement of their health and living conditions. The operation and maintenance of
1741 a project by the authority or its agent shall constitute the performance of an essential public
1742 function. Neither the authority nor its agent shall be required to pay a tax or assessment: (a)
1743 upon or in respect of a project or a property acquired or used by the authority or its agent under
1744 this chapter; or (b) upon the income from a project or a property acquired or used by the
1745 authority or its agent. The income from a bond issued or transferred under this chapter, including
1746 any profit made on the sale of the bond, shall at all times be free from taxation of every kind by
1747 the commonwealth and by the municipalities and other political subdivisions in the
1748 commonwealth.

1749 Section 17. (a) The authority may issue revenue bonds for the purpose of refunding
1750 outstanding revenue bonds of the authority, including the payment of a redemption premium on
1751 the bonds and any interest accrued or to accrue to the earliest or any subsequent date of
1752 redemption, purchase or maturity of the revenue bonds, and, if deemed advisable by the
1753 authority, for the additional purpose of paying all or any part of the cost of constructing and
1754 acquiring additions, improvements, extensions or enlargements of a project or any portion of a
1755 project.

1756 (b) The proceeds of revenue bonds issued to refund outstanding revenue bonds may, in
1757 the discretion of the authority, be applied to the purchase or retirement at maturity or redemption
1758 of such outstanding revenue bonds either on their earliest or any subsequent redemption date or
1759 upon the purchase or at the maturity of the bonds and may, pending such application, be placed
1760 in escrow to be applied to the purchase or retirement at maturity or redemption on a date as may
1761 be determined by the authority.

1762 (c) Escrowed proceeds, pending such use, may be invested and reinvested in direct
1763 obligations of the United States, or in certificates of deposit or time deposits secured by direct
1764 obligations of the United States, maturing at a time as shall be appropriate to assure the prompt
1765 payment, as to principal, interest and redemption premium, if any, of the outstanding revenue
1766 bonds to be so refunded. The interest, income and profits, if any, earned or realized on such an
1767 investment may also be applied to the payment of the outstanding revenue bonds to be so
1768 refunded. After the terms of the escrow have been fully satisfied and carried out, a balance of
1769 such proceeds and interest, income and profits, if any, earned or realized on the investments may
1770 be returned to the authority for use by it in any lawful manner.

1771 (d) The portion of the proceeds of a revenue bond issued for the additional purpose of
1772 paying all or any part of the cost of constructing and acquiring additions, improvements,
1773 extensions or enlargements of a project may be invested and reinvested in direct obligations of
1774 the United States, or in certificates of deposit or time deposits secured by direct obligations of
1775 the United States, maturing not later than the time when such proceeds will be needed to pay all
1776 or any part of such cost. The interest, income and profits, if any, earned or realized on such an
1777 investment may be applied to the payment of all or any part of such cost or may be used by the
1778 authority in any lawful manner.

1779 (e) All such revenue bonds shall be subject to this chapter in the same manner and to the
1780 same extent as other revenue bonds issued under this chapter.

1781 Section 18. Bonds issued by the authority under this chapter are hereby made securities in
1782 which all public officers and public bodies of the commonwealth and its political subdivisions,
1783 all insurance companies, trust companies, savings banks, co-operative banks, banking
1784 associations, investment companies, executors, administrators, trustees and other fiduciaries may
1785 properly and legally invest funds, including capital in their control or belonging to them. Such
1786 bonds are hereby made securities which may properly and legally be deposited with and received
1787 by any commonwealth or municipal officer or any agency or political subdivision of the
1788 commonwealth for any purpose for which the deposit of bonds or obligations of the
1789 commonwealth is now or may hereafter be authorized by law.

1790 Section 19. The authority shall be subject to section 56 of chapter 23A.

1791 Section 20. (a) The authority may take such action as it deems appropriate to enable its
1792 employees to come within the provisions and obtain the benefits of the federal social security act.

1793 If the employees of the authority shall come within the provisions of said social security act,
1794 their employment shall be included in the term "employment" as used in sections 1 to 7,
1795 inclusive, of chapter 151A.

1796 (b) Sections 26 to 29, inclusive, and sections 44A to 44M, inclusive, of chapter 149 and
1797 sections 39F to 39S, inclusive, of chapter 30 shall apply to the authority to the same extent and in
1798 the same manner as they are applicable to the commonwealth.

1799 (c) Notwithstanding chapter 106 or any other general or special law, the authority by the
1800 filing of financing statements, as provided in chapter 106, may perfect security interests in
1801 revenues and receipts of participating institutions, whether in the form of proceeds of accounts
1802 receivable or contract rights or otherwise, and in any rights to receive those revenues and
1803 receipts, and those perfected security interests shall take priority over any subsequently perfected
1804 security interests in those revenues, receipts or rights or in the accounts receivable, goods,
1805 contract rights, or other rights or personal property giving rise to the revenues, receipts or rights
1806 provided that the financing statements filed by the authority contain a reference to this section.

1807 (d) Real or personal property which forms or has formed any part of the cost of a project
1808 financed or refinanced in whole or in part by the authority shall be excluded from a calculation
1809 of real and personal property for any general or special law limiting the amount of real and
1810 personal property which may be owned or held by an institution.

1811 Section 21. Sections 1 to 20, inclusive, of this chapter shall be deemed to provide a
1812 complete, additional and alternative method for the doing of the things authorized thereby and
1813 shall be regarded as supplemental and additional to powers conferred by other laws; provided,
1814 however, that the issuance of revenue bonds and revenue refunding bonds under this chapter

1815 need not comply with the requirements of any other law applicable to the issuance of bonds
1816 including, chapter 106. Except as otherwise expressly provided in this chapter, none of the
1817 powers granted to the authority by this chapter shall be subject to the supervision or regulation or
1818 require the approval or consent of any municipality or political subdivision or any department,
1819 division, commission, board, body, bureau, official or agency of the municipality or political
1820 subdivision or of the commonwealth.

1821 Section 22. This chapter, being necessary for the welfare of the commonwealth and its
1822 inhabitants, shall be liberally construed to effect its purposes.

1823 Section 23. To the extent that this chapter is inconsistent with any general statute or
1824 special act or parts thereof, this chapter shall be deemed controlling.

1825 SECTION Chapter 25C of the General Laws is hereby amended by inserting after
1826 section 6 the following section:-

1827 Section 6A. (a) As used in this section, the following words and phrases shall, unless the
1828 context clearly requires otherwise, have the following meanings:

1829 “Internet Protocol-enabled service” or “IP-enabled service”, service, capability,
1830 functionality, or application provided using Internet Protocol, or any successor protocol, that
1831 enables an end user to send or receive a communication in Internet Protocol format or any
1832 successor format, regardless of whether the communication is voice, data or video; provided,
1833 however, that no service included within the definition of “Voice over Internet Protocol service”
1834 shall be included within this definition.

1835 "Voice-over-Internet Protocol Service" or "VoIP Service", service that:

1836 (i) enables real-time, 2-way voice communications that originate from or
1837 terminate to the user's location in Internet Protocol or any successor protocol;

1838 (ii) uses a broadband connection from the user's location; and

1839 (iii) permits users generally to receive calls that originate on the public switched
1840 telephone network and to terminate calls to the public switched telephone network.

1841 (b) Except as set forth in subsections (c), (d) and (e), and notwithstanding any other
1842 general or special law to the contrary, no department, agency, commission or political
1843 subdivision of the commonwealth, shall enact, adopt or enforce, either directly or indirectly, any
1844 law, rule, regulation, ordinance, standard, order or other provision having the force or effect of
1845 law that regulates, or has the effect of regulating, the entry, rates, terms or conditions of VoIP
1846 Service or IP-enabled service.

1847 (c) Subsection (b) shall not be construed to affect the authority of the attorney general to
1848 apply and enforce the law, including chapter 93A.

1849 (d) Subsection (b) shall not be construed to affect, mandate or prohibit the assessment of
1850 nondiscriminatory enhanced 911 fees or telecommunications relay service fees.

1851 (e) Subsection (b) shall not be construed to modify or affect the rights or obligations of
1852 any carrier under sections 251 or 252 of Title 47 of the United States Code.

1853 SECTION Section 1 of chapter 29 of the General Laws, as so appearing, is hereby
1854 amended by striking out the definition of "State authority," and inserting in place thereof the
1855 following definition:-

1856 "State authority" shall mean any body politic and corporate that is constituted as a public
1857 instrumentality of the commonwealth and is established by an act of the general court to serve an
1858 essential governmental function. A state authority shall not be a state agency or owned by a city
1859 or town, and shall not be confined to a particular geographical region that is smaller than the
1860 commonwealth.

1861 SECTION Chapter 29 of the General Laws is hereby amended by inserting after section
1862 30 the following section:-

1863 Section 30A. Notwithstanding section 50 of chapter 3, or any other general or special law
1864 to the contrary, a state agency or state authority shall not use state funds to pay for an executive
1865 or legislative agent, as defined in section 39 of chapter 3, unless the executive or legislative agent
1866 is a full-time employee of the state agency or state authority.

1867 SECTION Section 1 of chapter 30A of the General Laws, as appearing in the 2008
1868 Official Edition, is hereby amended by inserting after paragraph (4) the following paragraph:-

1869 (4A) "Proposed regulation", a proposal by an agency to adopt, amend or repeal an
1870 existing regulation.

1871 SECTION Said section 1 of said chapter 30A, as so appearing, is hereby further
1872 amended by inserting after paragraph (5) the following paragraph:-

1873 (5A) "Small business", a business entity, including its affiliates, that: (i) is independently
1874 owned and operated; (ii) has a principal place of business in the commonwealth; and (iii) if in a
1875 manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade
1876 industry, employs fewer than 100 full-time employees or, if in any other industry, receives less

1877 than \$7,000,000 in annual receipts; provided, however, that for purposes of this definition, the
1878 industry of a business shall be classified according to the North American Industry Classification
1879 System.

1880 SECTION Section 2 of said chapter 30A, as so appearing, is hereby amended by
1881 inserting after the third paragraph the following 2 paragraphs:-

1882 At least 21 days prior to the date of the public hearing, the agency shall file a small
1883 business impact statement considering the impact of the proposed regulation on small business
1884 with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall
1885 include the statement of small business consideration on the electronic website of the state
1886 secretary; provided, however, that the full text of the small business impact statement may be
1887 inspected and copied in the office of the state secretary during business hours.

1888 That small business impact statement shall include, but not be limited to, the following:

1889 (1) an estimate of the number of small businesses subject to the proposed regulation;

1890 (2) projected reporting, recordkeeping and other administrative costs required for
1891 compliance with the proposed regulation;

1892 (3) the appropriateness of performance standards versus design standards;

1893 (4) an identification of regulations of the promulgating agency, or of another agency or
1894 department of the commonwealth, which may duplicate or conflict with the proposed regulation;
1895 and

1896 (5) an analysis of whether the proposed regulation is likely to deter or encourage the
1897 formation of new businesses in the commonwealth;

1898 SECTION Section 3 of said chapter 30A, as so appearing, is hereby amended by
1899 inserting after the third paragraph the following 2 paragraphs:—

1900 At least 21 days prior to the date of the proposed action, the agency shall file a small
1901 business impact statement considering the impact of the proposed action on small businesses
1902 with the state secretary. Notwithstanding the provisions of section 6, the state secretary shall
1903 include the small business impact statement on the electronic website of the state secretary;
1904 provided, however, that the full text of the small business impact statement may be inspected and
1905 copied in the office of the state secretary during business hours.

1906 That small business impact statement shall include, but not be limited to, the following:

1907 (1) an estimate of the number of small businesses subject to the proposed regulation;

1908 (2) projected reporting, recordkeeping and other administrative costs required for
1909 compliance with the proposed regulation;

1910 (3) the appropriateness of performance standards versus design standards;

1911 (4) an identification of regulations of the promulgating agency, or of another agency or
1912 department of the commonwealth, which may duplicate or conflict with the proposed regulation;
1913 and

1914 (5) an analysis of whether the proposed regulation is likely to deter or encourage the
1915 formation of new businesses in the commonwealth;

1916 SECTION The second paragraph of section 5 of said chapter 30A, as so appearing, is
1917 hereby amended by striking out the third sentence.

1918 SECTION Said section 5 of said chapter 30A, as so appearing, is hereby further
1919 amended by inserting after the second paragraph the following 2 paragraphs:-

1920 Prior to the adoption of a proposed regulation, an agency shall consider, without
1921 limitation, whether any of the following methods of reducing the impact of the proposed
1922 regulation on small businesses would hinder achievement of the purpose of the proposed
1923 regulation:

1924 (1) establishing less stringent compliance or reporting requirements for small businesses;

1925 (2) establishing less stringent schedules or deadlines for compliance or reporting
1926 requirements for small businesses;

1927 (3) consolidating or simplifying compliance or reporting requirements for small
1928 businesses;

1929 (4) establishing performance standards for small businesses to replace design or
1930 operational standards required in the proposed regulation; and

1931 (5) exempting small businesses from all or any part of the requirements contained in the
1932 proposed regulation.

1933 An agency shall utilize regulatory methods that will accomplish the objectives of
1934 applicable statutes while minimizing adverse impact on small businesses.

1935 SECTION Said section 5 of said chapter 30A, as so appearing, is hereby further
1936 amended by adding the following sentence:-

1937 Failure to file a small business impact statement under this section shall not affect the
1938 validity or enforceability of a regulation.

1939 SECTION Said chapter 30A, as so appearing, is hereby amended by inserting after
1940 section 5 the following section:-

1941 Section 5A. Rules and regulations shall be reviewed at least once every 12 years after
1942 their publication as the final rules or regulations to ensure that those rules and regulations
1943 minimize economic impact on small businesses in a manner consistent with the stated objectives
1944 of applicable statutes.

1945 In reviewing a rule or regulation to minimize economic impact of the rule or regulation
1946 on small businesses, the agency shall consider the following factors:

1947 (1) the continuing need for the rule or regulation;

1948 (2) the nature of complaints or comments received concerning the rule or regulation from
1949 the public;

1950 (3) the complexity of the rule or regulation;

1951 (4) the extent to which the rule or regulation overlaps, duplicates or conflicts with other
1952 Federal, state, and local governmental rules and regulations;

1953 (5) the length of time since the rule or regulation has been enacted, changed, amended or
1954 modified; and

1955 (6) the degree to which technology, economic conditions or other factors have changed in
1956 the subject areas affected by the rule or regulation.

1957 SECTION Section 23 of chapter 32 of the General Laws, as so appearing, is hereby
1958 amended by inserting after the word “section;”, in line 361, the following words:-

1959 provided, however, that consistent with sound investment policy and in accordance with
1960 the procedures and processes employed to oversee the allocation of traditional investment of
1961 funds, the director shall whenever reasonably possible ensure that funds are invested in banks or
1962 financial institutions which directly or through any subsidiary may make loans to small
1963 businesses, as defined in subdivision (7)(a), and that when electing to make such investments the
1964 board shall review the guidelines for investing in small businesses contained in subdivision (7)
1965 and monies shall be invested as much as reasonably possible in such banks, financial institutions
1966 or companies which provide capital to small businesses under those guidelines so long as such
1967 use is consistent with sound investment policy;

1968 SECTION Said section 23 of said chapter 32, as so appearing, is hereby further amended
1969 by adding the following subdivision:

1970 (7) The guidelines for investing in small businesses with a principal place of business in
1971 the commonwealth shall be:

1972 For the purposes of this section small business shall be a business entity, including its
1973 affiliates, that (i) is independently owned and operated; (ii) has a principal place of business in
1974 the commonwealth; and (iii) if in a manufacturing industry, employs fewer than 500 full-time
1975 employees, if in a wholesale trade industry, employs fewer than 100 full-time employees or, if in
1976 any other industry, has less than \$7 million in annual receipts; provided, however, that for
1977 purposes of this definition, the industry of a business shall be classified according to the North
1978 American Industry Classification System.

1979 Investments shall be made by banks or financial institutions with demonstrated
1980 experience making capital available to small businesses with good management, which are fast
1981 growing and identify the potential to use increased capital to create jobs and which are
1982 experiencing difficulty in accessing capital.

1983 Capital shall be provided to small businesses in a variety of financial instruments,
1984 including but not limited to: working capital and expansion loans to businesses, both secured and
1985 non-secured; provide lines of credit; capital expenditure loans; term loans; project finance loans;
1986 grants; loan guarantees and mezzanine and structured finance loans.

1987 Capital shall only be provided in conjunction with the provision of financial and
1988 managerial advisory services to all businesses served.

1989 SECTION Section 59 of chapter 40 of the General Laws, as so appearing, is hereby
1990 amended by striking out clause (iii) and inserting in place thereof the following clause:-

1991 (iii) authorizes tax increment exemptions from property taxes, under clause Fifty-first of
1992 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
1993 property which is located in the TIF zone and for which an agreement has been executed with the
1994 owner of the real property under clause (v); provided, however, that the TIF plan shall specify
1995 the level of the exemptions expressed as exemption percentages, not to exceed 100 per cent to be
1996 used in calculating the exemptions for the parcel, and for personal property situated on that
1997 parcel, as provided under clause Fifty-first of said section 5 of said chapter 59; provided, further,
1998 that the exemption for each parcel of real property shall be calculated using an adjustment factor
1999 for each fiscal year of the specified term equal to the product of the inflation factors for each

2000 fiscal year since the parcel first became eligible for an exemption under this clause; provided,
2001 further that the inflation factor for each fiscal year shall be a ratio;

2002 (a) the numerator of which shall be the total assessed value of all parcels of commercial
2003 and industrial real estate that are assessed at full and fair cash value for the current fiscal year
2004 minus the new growth adjustment for the current fiscal year attributable to the commercial and
2005 industrial real estate as determined by the commissioner of revenue under subsection (f) of
2006 section 21C of chapter 59; and

2007 (b) the denominator of which shall be the total assessed value for the preceding fiscal
2008 year of all the parcels included in the numerator; provided, however, that the ratio shall not be
2009 less than 1;.

2010 SECTION Clause (iii) of subsection (a) of section 60 of said chapter 40, as so appearing,
2011 is hereby amended by striking out the introductory paragraph and inserting in place thereof the
2012 following introductory paragraph:-

2013 (iii) authorize tax increment exemptions from property taxes, under clause Fifty-first of
2014 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
2015 property which is located in the UCH-TIF zone and for which an agreement has been executed
2016 under clause (v); provided, however, that the UCH-TIF plan shall specify the level of exemptions
2017 expressed as exemption percentages, not to exceed 100 per cent to be used in calculating the
2018 exemptions for the parcel, and for personal property situated on that parcel, as provided under
2019 said clause Fifty-first of said section 5 of said chapter 59; provided, further, that the exemption
2020 for each parcel of real property shall be calculated using an adjustment factor for each fiscal year
2021 of the specified term equal to the product of the inflation factors for each fiscal year since the

2022 parcel first became eligible for such exemption under this clause; provided, further, that the
2023 inflation factor for each fiscal year shall be a ratio:—

2024 SECTION Clause (iii) of Section 60A of said chapter 40, as so appearing, is hereby
2025 amended by striking out the introductory paragraph and inserting in place thereof the following
2026 introductory paragraph: -

2027 (iii) authorize tax increment exemptions from property taxes, under clause Fifty-first of
2028 section 5 of chapter 59, for a specified term not to exceed 20 years, for any parcel of real
2029 property which is located in the MWT-TIF zone and for which an agreement has been executed
2030 with the owner of the parcel under clause (iv); provided, however, that the MWT-TIF plan shall
2031 specify the level of exemptions expressed as exemption percentages, not to exceed 100 per cent,
2032 to be used in calculating the exemptions for the parcel, and for personal property situated on that
2033 parcel, as provided under said clause Fifty-first of said section 5 of said chapter 59; provided,
2034 further, that the exemption for each parcel of real property shall be calculated using an
2035 adjustment factor for each fiscal year of the specified term equal to the product of the inflation
2036 factors for each fiscal year since the parcel first became eligible for such exemption pursuant to
2037 this clause; provided, further, that the inflation factor for each fiscal year shall be a ratio:

2038 SECTION Chapter 40E of the General Laws is hereby repealed.

2039 SECTION The General Laws are hereby amended by striking out chapter 40F and
2040 inserting in place thereof the following chapter:-

2041 Chapter 40F. Massachusetts Small Business Finance Corporation

2042 Section 1. For the purposes of this chapter the following words and terms shall, except
2043 where the context clearly indicates otherwise, have the following meanings:

2044 “Capital participation instruments”, purchase of stock, both common and preferred,
2045 convertible securities, warrants, subscriptions, options to acquire, capital loans, and working
2046 capital or inventory loans, royalties, and any other lawful derivations of the foregoing.

2047 “Community Development Corporation” or “CDC”, "CDC", a community development
2048 corporation, as defined in section 2 of chapter 40H.

2049 “Corporation” or “SBFC”, the Massachusetts Small Business Finance Corporation
2050 created by section 2.

2051 “Equity investment”, any of the following types of investment activity: (a) a purchase of
2052 stock; (b) a purchase of a partnership interest; (c) a purchase of a limited liability company
2053 membership interest; or (d) a loan made on such terms that it has sufficient characteristics of
2054 equity.

2055 “Financial products”, loans, equity investments and other similar financing activities
2056 including the purchase of loans originated by a certified community development financial
2057 institution, the provision of loan guarantees, or the provision of surety bond guarantees.

2058 “Project”, (a) the act of making available financial products to small businesses or (b)
2059 economic development activity involving the financing of commercial, industrial or other real
2060 estate activity.

2061 “Small business”, a business entity, including its affiliates, that (a) is independently
2062 owned and operated; (b) has a principal place of business in the commonwealth; and (c) if in a

2063 manufacturing industry, employs fewer than 500 full-time employees, if in a wholesale trade
2064 industry, employs fewer than 100 full-time employees or, if in any other industry, has less than
2065 \$7 million in annual receipts; provided, however, that for purposes of this definition, the industry
2066 of a business shall be classified according to the North American Industry Classification System.

2067 Section 2. (a) There is hereby created a body politic and corporate to be known as the
2068 Massachusetts Small Business Finance Corporation or SBFC. The SBFC is hereby constituted a
2069 public instrumentality and the exercise by the SBFC of the powers conferred by this chapter shall
2070 be deemed to be the performance of an essential governmental function.

2071 The SBFC is hereby placed in the executive office of housing and economic development
2072 but shall not be subject to the supervision and control of any executive office, department,
2073 division, commission, board, bureau or agency except to the extent and in the manner provided
2074 by law.

2075 (b)The corporation shall consist of 11 directors, 1 of whom shall be the secretary of
2076 housing and economic development, who shall serve as chair, and 1 of whom shall be the
2077 secretary of administration and finance, or the secretary's designee. The governor shall appoint
2078 the remaining 9 members, 3 of whom shall have served as trustees of the economic stabilization
2079 trust in 2009, 1 of whom shall be experienced in small business financing, 2 of whom shall be
2080 members of CDCs or residents of the municipalities served by a CDC, 1 of whom shall be a
2081 current or retired certified public accountant or chief financial officer, 1 of whom shall be a
2082 practicing or retired attorney with a business financing experience, and 1 of whom shall be a
2083 representative of organized labor. Each member appointed by the governor shall serve a term of
2084 5 years, except that in making his initial appointments the governor shall appoint 1 member to

2085 serve for a term of 1 year, 1 member to serve for a term of 2 years, 1 member for a term of 3
2086 years, 2 members for a term of 4 years, and 1 member for a term of 5 years.

2087 Any person appointed to fill a vacancy in the office of a member shall be appointed in a
2088 like manner and shall serve for only the unexpired term. A member shall be eligible for
2089 reappointment. A member may be removed from his appointment by the governor only for good
2090 cause. The directors shall annually elect one of their members as vice-chair and designate a
2091 secretary-treasurer who need not be a member of the board. The secretary-treasurer shall keep a
2092 record of the proceedings of the corporation and shall be the custodian of all books, documents,
2093 and papers filed with the corporation, the minute books of the corporation and of its official seal.

2094 (c) 6 of the directors of the corporation shall constitute a quorum and a majority vote of
2095 the directors shall be necessary for the transaction of business or the exercise of any power or
2096 function of the corporation. Each director shall be entitled to reimbursement for his actual and
2097 necessary expenses incurred in the performance of his official duties.

2098 The corporation, its directors, officers, and employees shall be subject to the provisions
2099 of sections 1 to 4, inclusive, of chapter 268A except that the corporation may purchase from, sell
2100 to, borrow from, loan to, contract with or otherwise deal with any public nonprofit community
2101 development corporation organized to carry out the purposes of this chapter of which any
2102 director of the corporation is also a member or officer provided that such interest is disclosed in
2103 advance to members of the board and recorded in the minutes of the corporation and, provided
2104 further, that no director having such a financial interest may participate in any decision affecting
2105 such transaction.

2106 (d) The president of the corporation shall be appointed and the president's salary
2107 established by the board of directors. The president shall be the chief administrative and
2108 operational officer of the corporation and shall direct and supervise administrative affairs and the
2109 general management of the corporation. The president may employ such other employees as
2110 shall be designated by the board of directors, shall attend meetings of the board of directors, shall
2111 cause copies to be made of all minutes and other records and documents of the corporation and
2112 shall certify that such copies are true copies, and all persons dealing with the corporation may
2113 rely upon such certification.

2114 Section 3. The SBFC shall have the power to:

2115 (a) Adopt by laws for the regulation of its affairs and the conduct of its business.

2116 (b) Adopt an official seal.

2117 (c) Sue and be sued in its own name.

2118 (d) Make and execute contracts and all other instruments necessary or convenient for the
2119 exercise of its power and functions; provided, however, that the corporation shall seek to contract
2120 with another public authority for the performance of core administrative functions by that
2121 authority, including but not limited to, human resources, financial management, information
2122 technology, legal, procurement and asset management, to minimize the administrative costs and
2123 expenses of the corporation.

2124 (e) Acquire, hold and dispose of personal property for its corporate purposes.

2125 (f) Enter into agreements or other transactions with any federal or state agency.

2126 (g) Acquire real property, or an interest in real property, by purchase or foreclosure,
2127 where such acquisition is necessary or appropriate to protect or secure any investment or loan in
2128 which the agency has an interest; to sell, transfer and convey any such property to a buyer and in
2129 the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a
2130 reasonable price, to lease such property to a tenant.

2131 (h) Invest any funds held in reserves or sinking funds, or any funds not required for
2132 immediate disbursement, in such investments as may be lawful for fiduciaries in the
2133 commonwealth.

2134 (i) Borrow money by the issuance of debt obligations whether tax exempt or taxable and
2135 secure such obligations by the pledge of its revenues or of the revenues, mortgages, and notes of
2136 others, provided that the corporation shall not issue debt obligations the principal amount of
2137 which, when added to the principal amount of the debt obligations theretofore issued by the
2138 corporation, excluding debt obligations previously refunded or being or to be refunded thereby,
2139 shall exceed 30 million dollars.

2140 (j) Employ a president, who shall be the chief executive officer of the corporation, and
2141 such other agents, employees, professional and business advisers as may from time to time be
2142 necessary in the judgment of the board of directors and to fix their compensation. The president,
2143 professional advisers and business advisers shall not be subject to the provision of chapter thirty-
2144 one or section 9A of chapter 30.

2145 (k) Appear in its own behalf before boards, commissions, departments or other agencies
2146 of government, municipal, state or federal.

2147 (l) Procure insurance against any loss in connection with its property in such amounts,
2148 and from such insurers, as may be necessary or desirable.

2149 (m) Consent, subject to the provisions of any contract with noteholders or bondholders,
2150 whenever it deems it necessary or desirable in the fulfillment of the purposes of this act, to the
2151 modification, with respect to rate of interest, time of payment of any installment of principal or
2152 interest, or any other terms, of any mortgage, mortgage loan, mortgage loan commitment,
2153 contract or agreement of any kind to which the SBFC is a party.

2154 (n) Do any and all things necessary or convenient to carry out its purposes and exercise
2155 the powers expressly given and granted in this act.

2156 (o) Receive and accept from any federal or state agency grants, loans or advances for or
2157 in aid of the purposes of this chapter and to receive and accept contributions from any source of
2158 either money, property, labor or other things of value, to be held, used and applied for said
2159 purposes.

2160 (p) Create, issue, buy and sell stock and other capital participation instruments; to hold
2161 such stock and capital participation instruments and to underwrite the creation of a capital market
2162 for these securities in a manner which is designed to enhance development of capital ownership
2163 in areas of the commonwealth where a majority of residents are low or moderate income.

2164 (q) Provide and pay for such advisory services and technical assistance as may be
2165 necessary or desirable to carry out the purposes of this act.

2166 (r) Exercise any other powers or rights or responsibilities of a corporation organized
2167 under chapter 156B.

2168 (s) In addition to the powers enumerated in paragraph (p), the Corporation is hereby
2169 authorized to create and issue shares which any person, firm or corporation may purchase. Each
2170 share issued shall be in the form of non-voting common stock with each share having a par value
2171 of 10 dollars. The total value of the shares issued shall not exceed 25 million dollars.

2172 Under no circumstances shall any debt obligation issued pursuant to paragraph (i), stock
2173 or capital participation instrument created pursuant to paragraph (p) or share issued pursuant to
2174 paragraph (s) be or become an indebtedness or obligation of the commonwealth of
2175 Massachusetts, and it shall be plainly stated on the face of each bond, capital participation
2176 instrument, share or other evidence of indebtedness that it does not constitute an indebtedness or
2177 obligation of the commonwealth of Massachusetts but is payable solely from the revenues or
2178 income of the Massachusetts Small Business Finance Corporation.

2179 Section 4

2180 The Corporation, subject to the restrictions as set forth in this section, may participate in
2181 a project; provided that, the Corporation shall find and incorporate in the official records of the
2182 Corporation that the project will be of a public benefit such that:

2183 The project is reasonably expected to support or promote community economic
2184 development, revitalization, or stability; or

2185 The project will promote employment opportunities for residents of the commonwealth;

2186 or;

2187 The project will promote the creation or retention of jobs; or,

2188 The project will support the creation or expansion of a business sector whose success will
2189 enhance the economic development of the commonwealth, enhance the quality of life of
2190 residents of the commonwealth, or enhance the employment opportunities for residents of the
2191 commonwealth.

2192 Funding for the project is not available in the traditional capital markets

2193 Whenever a CDC requests that SBFC participate in a project and the Corporation will
2194 make a determination of the likelihood that i) the project will provide employment opportunities
2195 to low and moderate income residents of the commonwealth, ii) is likely to enhance the quality
2196 of life of low and moderate income residents of the commonwealth, and iii) supports the creation
2197 or expansion of the business sector in the region served by the CDC. Whenever SBFC enters
2198 into an agreement to participate in such a project, the terms of the financial products made
2199 available shall be reflect the economic and social benefits which inures to the commonwealth
2200 from the project.

2201 Provision must be made in any contract for adequate reporting of financial and other data
2202 to the Corporation. The contract shall require that any business receiving financial products shall
2203 participate in financial and managerial consulting services and the contract shall include a
2204 requirement for an annual or other periodic audit of the project books.

2205 Section 5. The corporation shall endeavor to participate in projects each year that
2206 provide financial products, which in the aggregate total not less than 20 percent of the total
2207 capital committed by SBFC in that year, to minority-owned or women-owned contractors
2208 notwithstanding the conditions described in section 5, except that the SBFC must find (a) that the
2209 project plans conform to all applicable environmental, zoning, building, planning or sanitation

2210 laws, (b) that there is a reasonable expectation that the project will be successful, and (c) that its
2211 participation is necessary to the successful completion of the proposed project because funding
2212 for the project is unavailable in the traditional capital markets, or that credit has been offered on
2213 terms that would preclude the success of the project.

2214 Section 6. The SBFC is hereby specifically authorized to establish or to invest in the
2215 capital stock of one or more corporations organized for the purposes of increasing capital
2216 available to small businesses or furthering the objectives set forth in section one of chapter eight
2217 hundred and sixty-six of the acts of nineteen hundred and seventy-five. Without limitation, any
2218 such corporation may:

2219 (1) serve as a financial intermediary between entities undertaking projects and small
2220 businesses and public or private sources of capital including, without limitation, direct lenders,
2221 guarantors or grant makers. Any corporation so organized may accomplish its purposes by means
2222 of (i) investing in the equity capital of, (ii) making direct loans to, or (iii) issuing loan guarantees
2223 to entities undertaking projects or to small businesses; and

2224 (2) provide financial and managerial consulting services to entities undertaking projects,
2225 small businesses and minority-owned or women-owned contractors.

2226 The SBFC may have a controlling or a minority interest in any such corporation, as the
2227 board of directors of the SBFC shall determine in its discretion; provided, however, that at least
2228 one member of the board of directors of the SBFC shall sit on the board of directors of any such
2229 corporation.

2230 Any corporation established under the provisions of this section or in which the SBFC
2231 has invested pursuant to this section shall, prior to making any investment in the capital stock of,

2232 or loans or loan guarantees to entities undertaking projects or to small businesses, make the
2233 following findings:

2234 (1) That such action is consistent with the objectives of this section or as set forth in
2235 section 1 of chapter 866 of the acts of 1975 and may reasonably be expected to contribute to the
2236 redevelopment and economic well-being of the commonwealth or will create or retain jobs, or
2237 will assist minority or women-owned businesses.

2238 (2) That the funds provided by the SBFC will be used solely in connection with the costs
2239 of the project or the operation of the small business.

2240 (3) That provision is made in the contract for participation in a project for adequate
2241 reporting of financial data from the small business or project to such corporation. The contract
2242 shall require that any business receiving financial products shall participate in financial and
2243 managerial consulting services and the contract shall include a requirement for an annual or other
2244 periodic audit of the books of the project or the small business.

2245 (4) That its participation is necessary to the successful completion of the proposed project
2246 or to the success of the small business because funding for the project or small business is
2247 unavailable in the traditional capital markets, or that credit has been offered on terms that would
2248 preclude the success of the project or the small business.

2249 (5) That provision has been made that should the SBFC desire to sell or otherwise
2250 dispose of stock received pursuant to such a contract, that the small business or entity
2251 undertaking a project, or their nominee, shall within one hundred and twenty days have the right
2252 of first refusal upon said sale and the right to meet any subsequent bona fide offer by a third
2253 party.

2254 In no case shall the SBFC, or the SBFC in combination with such corporation, own more
2255 than forty-nine percent of the voting stock in any small business.

2256 Upon the request of the SBFC, the commissioner of banks is hereby specifically
2257 authorized and directed to examine the books of any corporation established or invested in by the
2258 SBFC pursuant to the provisions of this section in the event that such examination is a condition
2259 of the particular investment, lending, loan guaranty or grant program administered by such
2260 corporation.

2261 Section 7. The SBFC shall be subject to section 56 of chapter 23A.

2262 SECTION Section 3 of chapter 40F is hereby amended by striking paragraph (b) and
2263 inserting in place thereof the following:

2264 (b)The corporation shall consist of 11 directors, 1 of whom shall be the secretary of
2265 housing and economic development, who shall serve as chair, and 1 of whom shall be the
2266 secretary for administration and finance, or the secretary's designee. The governor shall appoint
2267 the remaining 9 members, 4 persons who together shall be experienced in small business
2268 financing, turnarounds of troubled businesses, the organization and operation of employee
2269 owned businesses, and business management, provided that each such director shall be
2270 experienced and knowledgeable in at least one such area, 2 of whom shall be members of CDCs
2271 or residents of the municipalities served by a CDC, 1 of whom shall be a current or retired
2272 certified public accountant or chief financial officer, 1 of whom shall be a practicing or retired
2273 attorney with a business financing experience, and 1 of whom shall be a representative of
2274 organized labor. Each member appointed by the governor shall serve a term of five years, except
2275 that in making his initial appointments the governor shall appoint one member to serve for a term

2276 of one year, one member to serve for a term of two years, one member for a term of three years,
2277 two members for a term of four years, and one member for a term of five years.

2278 Any person appointed to fill a vacancy in the office of a member shall be appointed in a
2279 like manner and shall serve for only the unexpired term. Any member shall be eligible for
2280 reappointment. Any member may be removed from his appointment by the governor only for
2281 good cause. The directors shall annually elect one of their members as vice-chairman and
2282 designate a secretary-treasurer who need not be a member of the board. The secretary-treasurer
2283 shall keep a record of the proceedings of the corporation and shall be the custodian of all books,
2284 documents, and papers filed with the corporation, the minute books of the corporation and of its
2285 official seal.

2286 SECTION Section 2 of chapter 40G of the General Laws, as appearing in the 2008
2287 Official Edition, is hereby amended by striking out, in lines 19 and 20, the words “eleven
2288 directors: the director of economic development, the secretary of administration” and inserting in
2289 place thereof the following words:- 11 directors: the secretary of housing and economic
2290 development, who shall serve as chair, the secretary of administration and finance.

2291 SECTION The fifth paragraph of said section 2 of said chapter 40G, as so appearing, is
2292 hereby amended by striking out the fourth sentence.

2293 SECTION Chapter 40G of the General Laws is hereby amended by adding the following
2294 section:-

2295 Section 11. The MTDC shall be subject to section 56 of chapter 23A.

2296 SECTION Section 2 of chapter 40H of the General Laws, as appearing in the 2008
2297 Official Edition, is hereby amended by striking out the definition of “CDC” and inserting in
2298 place thereof the following definition:-

2299 “CDC” or “Community Development Corporation” , a quasi-public corporation exempt
2300 from federal taxation under section 501(c) of the Internal Revenue Code and organized under
2301 chapter 180 to create, develop and sustain economically and ethnically diverse communities in
2302 urban, rural and suburban areas of the commonwealth where low and moderate income people
2303 have access to a full range of economic opportunities and to provide such persons the
2304 opportunity to work together to initiate and implement programs, projects and activities designed
2305 to improve their communities and expand their economic opportunities and with by-laws
2306 providing that:

2307 it is organized to operate in one or more neighborhoods, municipalities, or regions of the
2308 commonwealth with a population that is economically disadvantaged;

2309 membership in the corporation shall be open to all residents of said area who are eighteen
2310 years or older;

2311 a primary purpose of the organization is to engage local residents and businesses to work
2312 together to undertake programs, projects and activities which develop and improve urban, rural
2313 and suburban communities in sustainable ways that create and expand economic opportunities
2314 for low and moderate income people;

2315 the organization's constituency is meaningfully represented on the board of directors of
2316 the organization and directors include low and moderate income persons, appointees of elected

2317 state or local government officials, and appointees of other nonprofit organizations having as a
2318 purpose the promotion of community development in the designated region;

2319 At least a majority of the board of directors shall be elected by the full membership with
2320 each member having an equal vote. Elections shall be held annually for at least one-third of the
2321 members of the board of directors so that each elected director shall serve for a term of at least
2322 three years;

2323 SECTION The definition of “Eligible organization” in section 2 of chapter 40H is
2324 hereby amended by striking out the second sentence.

2325 SECTION Section 2 of chapter 40H is hereby amended by striking out the definition of
2326 “Target Area” and inserting in place thereof the following definition:-

2327 ““Target area” shall mean any contiguous geographic area in which the project is located
2328 in and is either (1) an economic target area as so designated pursuant to section three D of
2329 chapter 23A; or (2) the service area of community development corporation; or (3) a zip code
2330 whose current unemployment rate exceeds the state unemployment rate by at least twenty-five
2331 per cent or whose mean household income is at or below eighty per cent of the state mean
2332 household income as of the most recent decennial census.”

2333 SECTION Chapter 40H of the General Laws, is hereby amended by inserting, after
2334 Section 2, the following section:-

2335 Section 2A (a) The director of the department of housing and community development
2336 shall establish and maintain a list of organizations that have been certified as Community
2337 Development Corporations consistent with this chapter and develop a process for certifying said

2338 organizations, provided further that said organizations must be recertified at least once every four
2339 years. Said process shall include an analysis of the organization's governance and a
2340 determination of whether the organization's constituency, including low and moderate income
2341 people, is meaningfully represented on the board of directors of the organization. In making such
2342 determination, the director shall consider the following criteria: (a) the percentage, if any, of the
2343 board is elected by the general membership; (b) the percentage of the board members are
2344 residents of the service area; (c) the percentage of board members that are people of low or
2345 moderate income, (d) the racial and ethnic composition of the board in comparison to the racial
2346 and ethnic composition of the community being served, (e) other mechanisms, including
2347 committees, membership meetings, and others that the organization uses to ensure that their
2348 constituency has a meaningful role in the governance and direction of the organization, and (f)
2349 other criteria as determined by the director.

2350 (b) The director shall file an annual report on December 15 of each year to the speaker of
2351 the house of representatives, the president of the senate, the chairs of the house and senate
2352 committees on ways and means, the chairs of the joint committee on housing, and the chairs of
2353 the joint committee on community development and small business detailing the following:

2354 A list of certified CDCs in the Commonwealth;

2355 A summary of any programs, initiatives or partnerships operated by the Executive Office
2356 of Housing and Economic Development, its agencies and any quasi public agencies organized
2357 under the Executive Office, that are designed to build the capacity of CDCs, provide training or
2358 technical assistance to CDC employees or board members, provide funding to support CDCs and
2359 their programs, projects and initiatives, and otherwise help CDCs advance the purposes of

2360 section 1 of chapter 866 of the acts of 1975 together with recommendations for action to enhance
2361 the ability of CDCs to advance those purposes.

2362 SECTION Section 3 of chapter 40H of the General Laws, as appearing in the 2008
2363 Official Edition, is hereby amended by striking out, in line 13, the words “nine directors, four”
2364 and inserting in place thereof the following words:- 9 directors, 1 of whom shall be the secretary
2365 of the housing and economic development, who shall serve as chair, 3.

2366 SECTION Subsection (b) of said section 3 of said chapter 40H, as so appearing, is
2367 hereby amended by striking out the sixth sentence.

2368 SECTION Chapter 40H of the General Laws is hereby amended by adding the following
2369 section:-

2370 Section 9. CEDAC shall be subject to section 56 of chapter 23A.

2371 SECTION The third paragraph of section 3 of chapter 40J of the General Laws, as
2372 appearing in the 2008 Official Edition, is hereby amended by striking out the first sentence and
2373 inserting in place thereof the following 2 sentences:- The secretary of housing and economic
2374 development or his designee shall serve as chairperson. The board shall annually elect from
2375 among its members a vice-chairperson, and may designate a treasurer and a secretary, who need
2376 not be members of the board.

2377 SECTION Section 6A of said chapter 40J of the General Laws, as so appearing, is
2378 hereby amended by striking out, in line 16, the words, “undersecretary of business development”
2379 and inserting in place thereof the following words:- secretary of housing and economic
2380 development.

2381 SECTION Section 6B of said chapter 40J, as so appearing, is hereby amended by
2382 striking out, in line 32, the words “or his designee” and inserting in place thereof the following
2383 words:- who shall serve as chair.

2384 SECTION Subsection (c) of said section 6B of said chapter 40J, as so appearing, is
2385 hereby further amended by striking out the second sentence.

2386 SECTION Subsection (b) of section 6D of said chapter 40J, as so appearing, is hereby
2387 amended by striking out the second and third sentences and inserting in place thereof the
2388 following 2 sentences:-

2389 The council shall advise the institute on the dissemination of health information
2390 technology across the commonwealth, including the deployment of electronic health records
2391 systems in all health care provider settings that are networked through a statewide health
2392 information exchange. The council shall consist of 9 members; 1 of whom shall be the secretary
2393 of health and human services, who shall serve as the chair; 1 of whom shall be the secretary of
2394 administration and finance, or the secretary’s designee; 1 of whom shall be the executive director
2395 of the health care quality and cost council; 1 of whom shall be the director of the office of
2396 Medicaid; 1 of whom shall be the secretary of housing and economic development or the
2397 secretary’s designee; 4 of whom shall be appointed by the governor, of whom at least 1 shall be
2398 an expert in health information technology, 1 shall be an expert in law and health policy, and 1
2399 shall be an expert in health information privacy and security.

2400 SECTION Chapter 40J of the General Laws is hereby amended by adding the following
2401 section:-

2402 Section 13. The corporation shall be subject to section 56 of chapter 23A.

2403 SECTION Section 1 of chapter 40Q of the General Laws, as appearing in the 2008
2404 Official Edition, is hereby amended by inserting, in line 4, the following definition:-
2405 "Adjustment factor", for each fiscal year of the term of a given development program, the
2406 product of the inflation factors for each fiscal year subsequent to the first fiscal year immediately
2407 following the base date.

2408 SECTION Said section 1 of said chapter 40Q, as so appearing, is hereby further
2409 amended, in lines 31 and 32, by striking out the words, "(8) the duration of the program which
2410 shall not exceed 30 years from the date of designation of the district" and inserting in place
2411 thereof the following words:-

2412 (8) the duration of the program which shall not exceed the longer of (i) 30 years from the
2413 date of designation of the district or (ii) 30 years from project stabilization, as defined in the
2414 development program.

2415 SECTION Said section 1 of said chapter 40Q, as so appearing, is hereby amended by
2416 striking out the definition "Inflation factor" and inserting in place thereof the following
2417 definition:-

2418 "Inflation factor", a ratio: (1) the numerator of which shall be the total assessed value of
2419 all parcels of residential, commercial and industrial real estate that are assessed at full and fair
2420 cash value for the current fiscal year minus the new growth adjustment factor for the current
2421 fiscal year attributable to the residential, commercial and industrial real estate as determined by
2422 the commissioner of revenue under paragraph (f) of section 21C of chapter 59; and (2) the
2423 denominator of which shall be the total assessed value for the preceding fiscal year of all the
2424 parcels included in the numerator; provided, however, the ratio shall not be less than 1; provided,

2425 further that if the proposed Invested Revenue District does not include residential property, the
2426 assessed value attributable to residential property shall not be included in either the numerator or
2427 the denominator in calculating the inflation factor.

2428 SECTION Said section 1 of said chapter 40Q, as so appearing, is hereby further
2429 amended by striking out, in line 59, the word “and”.

2430 SECTION Said section 1 of said chapter 40Q, as so appearing, is hereby further
2431 amended by inserting, in line 61, after the word, “located” the following words:- ;and (8) if
2432 applicable, a statement of the city or town electing that the original assessed value not be
2433 increased by the adjustment factor.

2434 SECTION Said section 1 of said chapter 40Q, as so appearing, is hereby further
2435 amended by striking out the definition of “Original assessed value” and inserting in place thereof
2436 the following definition:-

2437 "Original assessed value", the aggregate assessed value of the invested revenue district as
2438 of the base date; provided, however, that if the city or town has not included an election
2439 statement in its investment district development program, the original assessed value in any year
2440 shall be equal to the original assessed value as of the base date multiplied by the adjustment
2441 factor for that fiscal year.

2442 SECTION Clause sixteenth of section 5 of chapter 59 of the General Laws, as appearing
2443 in the 2008 Official Edition, is hereby amended by striking out paragraph (3) and inserting in
2444 place thereof the following paragraph:-

2445 (3) In the case of (i) a manufacturing corporation or a research and development
2446 corporation, as defined in section 42B of chapter 63, or (ii) a limited liability company that; (a)
2447 has its usual place of business in the commonwealth; (b) is engaged in manufacturing in the
2448 commonwealth and whose sole member is a manufacturing corporation as defined by section
2449 42B of chapter 63 or is engaged in research and development in the commonwealth and whose
2450 sole member is a research and development corporation as defined in said section 42B; and (c)
2451 is a disregarded entity, as defined in paragraph 2 of section 30 of chapter 63, all property owned
2452 by the corporation or the limited liability company other than real estate, poles and underground
2453 conduits, wires and pipes; provided, however, that no property, except property entitled to a
2454 pollution control abatement under clause forty-fourth or a cogeneration facility, shall be exempt
2455 from taxation if it is used in the manufacture or generation of electricity and it has not received a
2456 manufacturing classification effective on or before January 1, 1996. For the purposes of this
2457 section, a cogeneration facility shall be an electrical generating unit having power production
2458 capacity which, together with any other power generation facilities located at the same site, is not
2459 greater than 30 megawatts and which produces electric energy and steam or other form of useful
2460 energy utilized for industrial, commercial, heating, or cooling purposes. This clause as it applies
2461 to a research and development corporation, as defined in section 42B of said chapter 63, and as it
2462 applies to a limited liability company that is a disregarded entity and whose sole member is a
2463 manufacturing corporation or a research and development corporation shall take effect only upon
2464 its acceptance by the city or town in which the real estate, poles and underground conduits, wires
2465 and pipes are located.

2466 SECTION Said section 5 of said chapter 59, as so appearing, is hereby amended by
2467 striking out the Fifty-first clause and inserting in place thereof the following new clause: -

2468 Fifty-first, the value of a parcel of real property which is included within an executed
2469 agreement under clause (v) of section 59, clause (v) of subsection (a) of section 60 or clause (iv)
2470 of subsection (a) of section 60A of chapter 40, and the value of personal property situated on that
2471 parcel, but taxes on real and personal property eligible for exemption under this clause shall be
2472 assessed only on that portion of the value of the property that is not exempt under section 59,
2473 section 60 or section 60A of chapter 40, and this exemption shall be for a term not longer than
2474 the period specified for the exemption in the agreement. The amount of the exemption under this
2475 clause for any parcel of real property shall be the exemption percentage adopted under clause
2476 (iii) of section 59, subsection (a) of section 60 or of section 60A of said chapter 40 multiplied by
2477 the amount by which the parcel's value exceeds the product of its assessed value for the last
2478 fiscal year before it became eligible for exemption under this clause multiplied by the adjustment
2479 factor determined under said section 59, section 60 or section 60A of said chapter 40. The
2480 amount of the exemption under this clause for personal property shall be the exemption
2481 percentage adopted under clause (iii) of section 59, subsection (a) of section 60 or of section 60A
2482 of said chapter 40 multiplied by the fair cash valuation of the personal property. Taxes on
2483 property eligible for exemption under this clause shall be assessed only on that portion of the
2484 value of the property that is not exempt under this clause.

2485 SECTION Section 45 of chapter 75 of the General Laws, as so appearing, is hereby
2486 amended by striking out, in line 15, the words, “director of business and technology” and
2487 inserting in place thereof the following words:- secretary of housing and economic development.

2488 SECTION Said section 45 of said chapter 75, as so appearing, is hereby further amended
2489 by striking out, in line 19, the words, “department of business technology” and inserting in place
2490 thereof the following words:- Massachusetts office of business development.

2491 SECTION Section 45 of chapter 75 of the General Laws, as appearing in the 2008
2492 Official Edition, is hereby amended by striking out, in lines 25 to 27, inclusive, the words
2493 “director of business and technology, or his designee, the director of science and technology
2494 within the department of business and technology and 7” and inserting in place thereof the
2495 following words:- “secretary of housing and economic development, who shall serve as chair,
2496 and 8”

2497 SECTION Said section 45 of said chapter 75, as so appearing, is hereby amended by
2498 inserting after the word “technology”, in line 27, the following words:- , the executive director
2499 of the Massachusetts development finance agency, the president of the Massachusetts life
2500 sciences center, the executive director of the Massachusetts clean energy center, the director of
2501 the John Adams Innovation Institute, the president of the Massachusetts Technology
2502 development corporation.

2503 SECTION Chapter 75 of the General Laws is hereby amended by inserting after section
2504 45 the following section:-

2505 Section 45A. The center shall be subject to section 56 of chapter 23A.

2506 SECTION Section 1H of chapter 164 of the General Laws, as appearing in the 2008
2507 official edition, is hereby amended by striking out the definition of the word “department” and
2508 inserting in place thereof the following definition:- “Department”, the department of energy
2509 resources.

2510 SECTION The second paragraph of section 14 of chapter 167, as so appearing, is hereby
2511 amended, in line 22, by striking out the words “paragraphs 8, 29 and 30” and inserting in place
2512 thereof the following words: -

2513 paragraphs 8, 29, 30 and 30A.

2514 SECTION Section 2 of chapter 167F of the General Laws as appearing in the 2008
2515 Official Edition is hereby amended by inserting after paragraph 30 the following paragraph: --

2516 30A. To participate in the activities of the Massachusetts Small Business finance
2517 corporation created pursuant to chapter 40F by making capital available to the corporation by
2518 making an investment or deposit in or grant to said corporation, an affiliate or subsidiary of said
2519 corporation, or any fund managed by said corporation.

2520 SECTION Paragraph 13 of section 2 of chapter 167f of the General Laws, as appearing
2521 in the 2008 Official Edition, is hereby amended by striking out the first sentence and inserting in
2522 place thereof the following sentence:- To act as trustee for the holders of any bond issued by the
2523 Massachusetts Industrial Finance Agency, under chapter 23A or by any industrial development
2524 authority of any city or town under chapter 40D or by the Massachusetts Health and Educational
2525 Facilities Authority, under chapter 23K.

2526 SECTION Section 21 of chapter 218 of the General Laws, as appearing in the 2008
2527 official edition, is hereby amended by striking out, in line 35, the following words, “two
2528 thousand dollars” and inserting in place thereof the following figure:- \$7,000.

2529 SECTION The second paragraph of section 2 of chapter 465 of the acts of 1956 is
2530 hereby amended by inserting after the second sentence the following sentence:- The secretary of
2531 housing and economic development and the secretary of transportation shall be members and
2532 serve as co-chairs of the Authority..

2533 SECTION Said section 2 of said chapter 465 is hereby amended by striking out the third
2534 paragraph, as appearing in section 12 of chapter 196 of the acts of 2004, and inserting in place
2535 thereof the following paragraph:- The Authority shall annually elect 1 of its members as vice
2536 chairman and shall also elect a secretary-treasurer who need not be a member of the Authority.

2537 SECTION Chapter 465 of the acts of 1956 is hereby amended by inserting after section
2538 21 the following section:-

2539 Section 21A. The authority shall be subject to section 56 of chapter 23A of the General
2540 Laws.

2541 SECTION Chapter 614 of the acts of 1968 is hereby repealed.

2542 SECTION Section 33 of chapter 190 of the acts of 1982 is hereby amended by striking
2543 out the second paragraph, as appearing in chapter 23 of the acts of 1998, and inserting in place
2544 thereof the following paragraph:-

2545 The authority shall consist of 13 members, 9 of whom shall be appointed by the
2546 governor, 1 of whom shall be the secretary of housing and economic development or the
2547 secretary's designee, who shall serve as chair, 1 of whom shall be appointed from a list of 3
2548 nominees recommended by the Massachusetts Visitors Industry Council, 1 of whom shall be
2549 appointed from a list of 3 nominees recommended by the Massachusetts Lodging Association, 1
2550 of whom shall be a resident of the city of Cambridge and 1 of whom shall be a resident of
2551 Hampden county. Two persons shall be appointed by the mayor of the city of Boston, 1 of whom
2552 shall be a resident of South Boston. The remaining 2 persons shall be the secretary of
2553 administration and finance or the secretary's designee and the collector-treasurer of the city of
2554 Boston or the collector-treasurer's designee, both of whom shall serve ex officio and shall have

2555 the right to exercise or vote on matters before the authority. Three of the members of the
2556 authority first appointed by the governor shall continue in office for a term expiring December
2557 31, 2000 and 3 members of the authority first appointed by the governor shall continue in office
2558 for a term expiring December 31, 2001 and 3 members of the authority first appointed by the
2559 governor shall continue in office for a term expiring December 31, 2003. The term of each such
2560 member shall be designated by the governor and shall continue until the member's successor is
2561 duly appointed and qualified. The members appointed by the mayor shall continue in office for a
2562 term expiring December 31, 1999, and shall continue until their successors are duly appointed
2563 and qualified. The successor of each such member shall be appointed for a term of 6 years and
2564 until his successor is duly appointed and qualified, except that any person appointed to fill a
2565 vacancy shall serve only for the unexpired term and until his successor is duly appointed and
2566 qualified. Each member of the authority shall be eligible for reappointment. Each member of the
2567 authority shall serve at the pleasure of the governor, if appointed by the governor, and each
2568 member of the authority may be removed by the governor, if appointed by the governor, or by
2569 the mayor, if appointed by the mayor. Each member of the authority before entering upon his
2570 duties shall take an oath before the governor to administer the duties of his office faithfully and
2571 impartially, and a record of such oaths shall be filed in the office of the secretary of the
2572 commonwealth. Members of the authority shall serve without compensation, but service as a
2573 member of the authority shall be credited to such member's years in service for pension and
2574 retirement purposes.

2575 SECTION Chapter 190 of the acts of 1982 is hereby amended by inserting after section
2576 40 the following section:-

2577 Section 40A. The Authority shall be subject to section 56 of chapter 23A of the General
2578 Laws.

2579 SECTION Section 9 of chapter 498 of the acts of 1993 is hereby amended by striking
2580 out clause (2) and inserting in place thereof the following 2 clauses:- (2) 1 of whom shall be the
2581 secretary of housing and economic development, who shall serve as chair; and (3) 5
2582 commissioners shall be appointed by the Governor of whom: (a) no 2 shall be legal residents of
2583 the same town; and (b) at least 3 shall reside in the Devens Region.

2584 SECTION Said section 9 of said chapter 498 is further amended by striking out the fifth
2585 sentence and in inserting in place thereof the following sentence:- The governor shall appoint 1
2586 commissioner to serve as vice-chairman of the commission.

2587 SECTION Chapter 498 of the acts of 1993 is hereby amended by inserting after section
2588 29 the following section:-

2589 Section 30. The Bank's and Commission's activities relating to Devens shall be subject
2590 to section 56 of chapter 23A of the General Laws.

2591 SECTION The second paragraph of section 64 of chapter 365 of the acts of 1996 is
2592 hereby amended by striking out the first sentence and inserting in place thereof the following
2593 sentence:-

2594 The corporation shall be governed by a board of directors consisting of the secretary of
2595 housing and economic development, who shall serve as chair, the secretary of labor and
2596 workforce development, the commissioner of the department of transitional assistance, the
2597 commissioner of the department of education, the chancellor of the board of higher education, or

2598 their respective designees, and 14 persons appointed by the governor, each of whom shall be
2599 appointed for a term of 4years, including persons having knowledge and experience in business
2600 and industry, skills training, education, labor organizations, and minority employment.

2601 SECTION Section 64 of chapter 365 of the acts of 1996, as amended by chapter 352 of
2602 the acts of 2004, is hereby amended by adding the following sentence:-

2603 The corporation shall be subject to section 56 of chapter 23A of the General Laws.

2604 SECTION Notwithstanding any general or special law to the contrary, certain regulatory
2605 approvals are hereby extended as provided in this section.

2606 (a) For purposes of this section, the following words shall have the following meanings:

2607 “Approval” except as otherwise provided in subsection (b), any permit, certificate, order,
2608 excluding enforcement orders, license, certification, determination, exemption, variance, waiver,
2609 building permit, or other approval or determination of rights from any municipal, regional or
2610 state governmental entity, including any agency, department, commission, or other
2611 instrumentality of the municipal, regional or state governmental entity, concerning the use or
2612 development of real property, including certificates, licenses, certifications, determinations,
2613 exemptions, variances, waivers, building permits, or other approvals or determination of rights
2614 issued or made under chapter 21, chapter 21A excepting section 16, chapter 21D, sections 61 to
2615 62H, inclusive, of chapter 30, chapters 30A, 40, 40A to 40C, inclusive, 40R, 41, 43D, section 21
2616 of chapter 81, chapter 91, chapter 131, chapter 131A, chapter 143, sections 4 and 5 of chapter
2617 249, or chapter 258, of the General Laws or chapter 665 of the acts of 1956, or any local by-law
2618 or ordinance.

2619 “Development”, division of a parcel of land into 2 or more parcels, the construction,
2620 reconstruction, conversion, structural alteration, relocation or enlargement of a building or other
2621 structure or facility, or any grading, soil removal or relocation, excavation or landfill or any use
2622 or change in the use of any building or other structure or land or extension of the use of land.

2623 “Tolling period”, the period beginning January 1, 2008 and continuing through January 1,
2624 2011.

2625 (b) (1) Notwithstanding any general or special law to the contrary, an approval in effect
2626 or existence during the tolling period shall be extended for a period of 3 years, in addition to the
2627 lawful term of the approval.

2628 (2) Nothing in this act shall be deemed to extend or purport to extend:

2629 (i) any permit or approval issued by the government of the United States or any agency or
2630 instrumentality of the government of the United States, or to any permit or approval, of which
2631 the duration of effect or the date or terms of its expiration are specified or determined by or
2632 under law or regulation of the federal government or any of its agencies or instrumentalities;

2633 (ii) an enforcement order issued by the department of environmental protection;

2634 (iii) any permit, license, privilege or approval issued by the division of fisheries and
2635 wildlife under chapter 131 for hunting, fishing or aquaculture;

2636 (3) Nothing in this section shall affect the ability of any municipal, regional or state
2637 governmental entity, including any agency, department, commission, or other instrumentality of
2638 any municipal, regional or state governmental entity to revoke or modify a specific permit or
2639 approval, or extension of a specific permit or approval under this section, when that specific

2640 permit or approval or the law or regulation under which the permit or approval was issued
2641 contains language authorizing the modification or revocation of the permit or approval.

2642 (4) In the event that an approval tolled under this section is based upon the connection to
2643 a sanitary sewer system, the approval's extension shall be contingent upon the availability of
2644 sufficient capacity, on the part of the treatment facility, to accommodate the development whose
2645 approval has been extended. If sufficient capacity is not available, those permit holders whose
2646 approvals have been extended shall have priority with regard to the further allocation of
2647 gallonage over those approval holders who have not received approval of a hookup prior to the
2648 effective date of this section. Priority regarding the distribution of further gallonage to a permit
2649 holder who has received the extension of an approval under this section shall be allocated in
2650 order of the granting of the original approval of the connection.

2651 (5) Nothing in this section shall be construed or implemented in such a way as to modify
2652 a requirement of law that is necessary to retain federal delegation to, or assumption by, the
2653 commonwealth of the authority to implement a federal law or program.

2654 SECTION Notwithstanding any general or special law to the contrary, within 4 years of
2655 the enactment of this law, each agency shall review all agency rules and regulations currently
2656 existing to determine whether such rules and regulations should be continued without change or
2657 should be amended or rescinded to minimize economic impact of those rules and regulations on
2658 small businesses in a manner consistent with the stated objective of applicable statutes. If the
2659 head of the agency determines that completion of the review of existing rules is not feasible by
2660 the established date the agency shall publish a statement certifying that determination. The
2661 agency may extend the completion date by 1 year at a time for a total of not more than 5 years.

2662 SECTION Notwithstanding any general or special law to the contrary, the executive
2663 office of housing and economic development shall conduct a study to examine the cost reliability
2664 and economic impact of electricity. The study shall include, but not be limited to:

2665 (i) an analysis of the economic and reliability implications of implementing
2666 administrative, regulatory and legislative mandates as they pertain to electricity; and

2667 (ii) the extent to which efforts to achieve recently-established goals relating to zero net
2668 energy growth, greenhouse gas reductions or scheduled increases in renewable power, demand
2669 resources and energy efficiency contribute to the rates paid by residential, commercial and
2670 industrial customers in the commonwealth.

2671 The study shall be completed with stakeholder input, including representatives from
2672 various sectors of the commonwealth's economy. The study shall be completed and submitted to
2673 the joint committee on telecommunications, utilities and energy no later than December 31,
2674 2010.

2675 SECTION Notwithstanding any general or special law to the contrary, all current
2676 members of the health and educational facilities authority established by section 4 of chapter 614
2677 of the acts of 1968 shall continue to serve, as if the member had been appointed under section 4
2678 of chapter 21J, until the expiration of the term of that member.

2679 SECTION Notwithstanding any general or special law to the contrary, all current assets,
2680 liabilities, obligations and debt of the authority shall be deemed to have been created under
2681 chapter 23K of the General Laws, and no existing rights of the holders of the bonds, revenue
2682 bonds, notes, bond anticipation notes, other notes or other obligations issued by HEFA under

2683 chapter 614 of the acts of 1968 shall be impaired and HEFA shall maintain the covenants of the
2684 trust indentures pertaining to those bonds so long as those bonds shall remain outstanding.

2685 SECTION Notwithstanding any general or special law to the contrary, the health and
2686 educational facilities authority shall establish fees under clause (o) of section 4 of chapter 23K
2687 for fiscal years 2011 and 2012 that are no higher than the fees charged by that authority in fiscal
2688 year 2010. The authority shall use all reasonable efforts to ensure that any additional revenue
2689 realized in those 2 fiscal years resulting from changes in chapter 23G in this act shall be used by
2690 the authority to expand the availability of the authority's programs.

2691 SECTION Notwithstanding any other general or special law to the contrary, the pension
2692 reserves investment management board established under section 23 of chapter 32 of the general
2693 laws shall review its investment portfolio and to the extent it is reasonably possible it shall invest
2694 not less than \$25,000,000 and not more than \$50,000,000 in banks or financial institutions which
2695 make capital available to small businesses under the guidelines of subdivision (7) of section 23
2696 of chapter 32 of the general laws and shall make such investment a priority of the portfolio as
2697 long as such investment is consistent with sound investment policy.

2698 SECTION Notwithstanding any other general or special law to the contrary any stock
2699 purchase agreement between the commonwealth and Community Development Finance
2700 Corporation (CDFC) in existence on February 8, 2010 which contains outstanding obligations on
2701 the part of the commonwealth and which has been pledged as security for the payment of debt
2702 obligations issued by the CDFC which are also outstanding on February 8, 2010 shall continue to
2703 constitute a general obligation of the commonwealth for which the faith and credit of the

2704 commonwealth remains pledged for the benefit of CDFC and of the holders of said debt
2705 obligations of CDFC until the terms of said debt obligations are satisfied.

2706 SECTION (a) Notwithstanding any general or special law to the contrary, this section
2707 shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property,
2708 and legal obligations of the following functions of state government from the transferor agency
2709 to the transferee agency, defined as follows: (1) the functions of the Massachusetts Sports and
2710 Entertainment Commission, as the transferor agency, to the Massachusetts Marketing
2711 Partnership, as the transferee agency; (2) the functions of the Community Development Finance
2712 Corporation and the Economic Stabilization Trust, as transferor agencies, to the Small Business
2713 Finance Corporation, as the transferee agency; (3) the functions of the department of business
2714 development, as the transferor agency, to the Massachusetts office of business development, as
2715 the transferee agency; (4) the functions of the office of travel and tourism in the department of
2716 business development, as the transferor agency, to the office of travel and tourism in the
2717 Massachusetts Marketing Partnership, as the transferee agency; (5) the functions of the office of
2718 international trade and investment in the department of business development, as the transferor
2719 agency, to the Massachusetts trade office in the Massachusetts Marketing Partnership, as the
2720 transferee agency. (b) The employees of each transferor agency, including those who
2721 immediately before the effective date of this act hold permanent appointment in positions
2722 classified under chapter 31 of the General Laws or have tenure in their positions as provided by
2723 section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential
2724 positions, are hereby transferred to the respective transferee agency, without interruption of
2725 service, without impairment of seniority, retirement or other rights of the employee, and without
2726 reduction in compensation or salary grade, notwithstanding any change in title or duties resulting

2727 from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and
2728 benefits,. The reorganization shall not impair the civil service status of any such reassigned
2729 employee who immediately before the effective date of this act either holds a permanent
2730 appointment in a position classified under chapter 31 of the General Laws or has tenure in a
2731 position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding the
2732 provisions of any general or special law to the contrary, all such employees shall continue to
2733 retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall
2734 be considered employees for the purposes of said chapter 150E. Nothing in this section shall be
2735 construed to confer upon any employee any right not held immediately before the date of said
2736 transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension,
2737 discharge, layoff or abolition of position not prohibited before such date. (c) All petitions,
2738 requests, investigations and other proceedings appropriately and duly brought before each
2739 transferor agency or duly begun by each transferor agency and pending before it before the
2740 effective date of this act, shall continue unabated and remain in force, but shall be assumed and
2741 completed by the transferee agency. (d) All orders, rules and regulations duly made and
2742 all approvals duly granted by each transferor agency, which are in force immediately before the
2743 effective date of this act, shall continue in force and shall thereafter be enforced, until
2744 superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.
2745 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and
2746 other property, both personal and real, including all such property held in trust, which
2747 immediately before the effective date of this act are in the custody of each transferor agency shall
2748 be transferred to the transferee agency. (f) All duly existing contracts, leases and
2749 obligations of each transferor agency shall continue in effect but shall be assumed by the

2750 respective transferee agency. No existing right or remedy of any character shall be lost, impaired
2751 or affected by this act.

2752 SECTION The state secretary shall immediately notify all agencies required to file rules
2753 or regulations under section 5 of chapter 30A of the General Laws of the new requirements
2754 regarding small business impact statements.

2755 SECTION (a) There shall be a commission to study the feasibility of establishing a bank
2756 owned by the commonwealth or by a public authority constituted by the commonwealth.

2757 (b) The commission shall consist of the secretary for administration and finance and the
2758 secretary of housing and economic development or their respective designees, who shall serve as
2759 co-chairs of the commission; the state treasurer or the treasurer's designee; the state comptroller
2760 or the comptroller's designee; 2 persons to be appointed by the president of the senate, 1 of
2761 whom shall be a member of the senate; 1 person to be appointed by the minority leader of the
2762 senate; 2 persons to be appointed by the speaker of the house of representatives; 1 of whom shall
2763 be a member of the house of representatives; 1 person to be appointed by the minority leader of
2764 the house; the executive directors of the Massachusetts Development Financing Agency and the
2765 Massachusetts Housing Finance Agency or their designees; the executive director of the
2766 Massachusetts Small Business Finance Corporation or his designee; and 8 persons to be
2767 appointed by the governor who shall not be employees of the executive branch, 3 of whom shall
2768 be drawn from a list of 5 names submitted by the Massachusetts Bankers Association, at least 1
2769 of whom shall be a representative of a community bank operating in the commonwealth, 1 of
2770 whom shall be drawn from a list of 3 names submitted by the Associated Industries of
2771 Massachusetts, 1 of whom shall be drawn from a list of 3 names submitted by the Small Business

2772 Association of New England and 1 of whom shall be a professor at an institution of higher
2773 education in the commonwealth who has researched and published articles on banking. Of the
2774 governor's remaining appointments, not more than 1 may be a representative of a financial
2775 services firm located in the commonwealth. The governor shall ensure geographic diversity in
2776 his appointments to the commission. The members of the commission shall be appointed not
2777 later 90 days after the effective date of this act.

2778 (c) The commission shall examine the technical, legal and financial feasibility of
2779 establishing a commonwealth-owned bank. The commission shall seek participation in its
2780 deliberations from the president of the Federal Reserve Bank of Boston or the president's
2781 designee. The commission shall evaluate the experiences of other states with state-owned banks,
2782 identifying the financial performance of such banks and evaluating the lending practices of such
2783 banks to show whether such banks successfully fill lending gaps not filled by the private sector.
2784 The commission shall also examine the lending practices of the existing public agencies in the
2785 commonwealth that perform lending services. The Massachusetts development finance agency,
2786 the Massachusetts Housing Finance Agency, the Health and Educational Facilities Authority, the
2787 board of the economic stabilization trust, the Massachusetts Small Business Finance Corporation
2788 and any other public authority in the commonwealth that lends money shall cooperate fully with
2789 the commission and shall supply any information reasonably required by the commission to
2790 carry out its charge.

2791 (d) The commission shall hold at least 3 public hearings in distinct geographic regions of
2792 the commonwealth.

2793 (e) The commission shall publish its findings and recommendations, together with drafts
2794 of legislation, if any, necessary to carry those recommendations into effect, in a written report
2795 not later than 1 year after the effective date of this act. The report shall be published on the
2796 official website of the commonwealth, and shall be contemporaneously filed with the house and
2797 senate committees on ways and means and the house and senate chairs of the joint committee on
2798 financial services.

2799 SECTION The Massachusetts office of business development shall within 120 days of
2800 the effective date of this act publish and release a solicitation for a competitive regional
2801 economic development bidding process under section 3K of chapter 23A. The solicitation shall
2802 seek applications from eligible organizations under said section 3K to act as the
2803 commonwealth's primary agents for business development in each region of the commonwealth.

2804 The Massachusetts office of business development may implement the bidding process as
2805 a phased, multi-step process that may include one or more of the following prior to the issuance
2806 of a request for proposals:

2807 A request for information that would inform the development of a request for proposals;

2808 A call for solutions that would focus on regional approaches to meet the needs of
2809 specified industry sectors or clusters or locations in the commonwealth;

2810 A request for qualifications that would determine the pool of entities that would be
2811 eligible to apply for funding.

2812 The Massachusetts office of business development shall not initiate the process provided
2813 for in this section until the Massachusetts office of business development promulgates the
2814 formula for contractual reimbursement required in section 3J of chapter 23A.

2815 SECTION Within 90 days of the effective date of this act or at least 180 days before the
2816 expiration of the current contract with the Massachusetts business development corporation,
2817 whichever shall occur earlier, the Massachusetts office of business development shall initiate a
2818 competitive process seeking bidders to administer, either jointly or separately, the capital access
2819 program described in sections 57 and 58 of chapter 23A of the General Laws and the
2820 redevelopment access to capital program described in sections 60 and 61 of said chapter 23A.
2821 Contracts for the administration of the programs described in the preceding sentence shall be
2822 within the definition of “services,” as defined in section 1 of chapter 12A of the General Laws.

2823 SECTION Sections 6, 7A, 7B and 8 of chapter 324 of the acts of 1987 are hereby
2824 repealed.

2825 SECTION Sections 44 and 45 shall take effect upon the termination of the
2826 Massachusetts office of business development’s current contract with the Massachusetts business
2827 development corporation, without renewal or extension of those contracts.

2828 SECTION Section 88 shall take effect on July 1, 2011.