

SENATE No. 10

The Commonwealth of Massachusetts

PRESENTED BY:

Steven A. Baddour

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Modernizing the Transportation Systems of the Commonwealth.

PETITION OF:

NAME:

Steven A. Baddour

DISTRICT/ADDRESS:

First Essex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT MODERNIZING THE TRANSPORTATION SYSTEMS OF THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to reorganize and restructure transportation agencies in the Commonwealth to help address anticipated funding deficiencies, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 8C of chapter 6A of the General Laws, inserted by chapter 233 of
2 the acts of 2008, is hereby amended by striking out, in the first paragraph, the words “the
3 commissioner of highways,” and inserting in place thereof the following words:- the
4 administrator of the division of roads and bridges of the Massachusetts Surface Transportation
5 Authority.

6 SECTION 2. Chapter 6A of the General Laws, as amended by chapter 86 of the acts of
7 2008, is hereby amended by striking out sections 19 and 19A and inserting in place thereof the
8 following 3 sections:-
9 Section 19. (a) The executive office of transportation shall serve as the principal agency of the
10 executive department for the following purposes: (1) developing, coordinating, administering
11 and managing transportation policies, planning and programs related to design, construction and

12 maintenance; (2) supervising and managing the organization and conduct of the business affairs
13 of the departments, agencies, commissions, offices, boards, divisions, and other entities within
14 the executive office to improve administrative efficiency and program effectiveness and to
15 preserve fiscal resources; (3) developing and implementing effective policies and programs to
16 assure the coordination and quality of roadway, transit, airport and port infrastructure and
17 security provided by the secretary and all of the departments, agencies, commissions, offices,
18 boards, divisions, authorities and other entities within the executive office.

19 (b) The following state agencies shall be within the executive office of transportation: the
20 government center commission established by section 1 of chapter 635 of the acts of 1960, the
21 registry of motor vehicles and all other state agencies within the department, except the division
22 of motorboats and the division of waterways; and the Massachusetts aeronautics commission.
23 The Massachusetts Surface Transportation Authority, Massachusetts Bay Transportation
24 Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority and any duly
25 established regional transportation authority shall also be within the executive office of
26 transportation.

27 (c) The governor shall appoint a secretary of transportation, who shall serve at the
28 pleasure of the governor and shall act as the executive officer in all matters pertaining to the
29 administration, management, operation, regulation, planning, fiscal and policy development
30 functions and affairs of the departments, agencies, commissions, offices, boards, divisions, and
31 other agencies within the executive office.

32 (d) The secretary may: (1) operate and administer the programs of roadway design,
33 capital improvement, development, and planning through the other agencies within the executive
34 office, as appropriate; (2) coordinate and supervise the administration of the executive office and

35 its agencies to promote economy and efficiency and to leverage federal funding; (3) develop and
36 administer a long-term state-wide transportation plan for the commonwealth, as provided for in
37 section (f); (4) develop, based on a public hearing process, procedures to be used for
38 transportation project selection; (5) establish criteria for project selection to be used in the
39 procedures developed pursuant to clause (4); (6) enter into agreements with commissions,
40 offices, boards, divisions, authorities and other entities within the executive office to improve
41 departments, agencies, administrative efficiency and program effectiveness and to preserve fiscal
42 resources; (7) pursuant to chapter 30A, make, amend and repeal rules and regulations for the
43 management and administration of the executive office and agencies within the executive office;
44 (8) execute all instruments necessary for carrying out the business of the executive office and its
45 agencies; (9) acquire, own, hold, dispose of, lease and encumber property in the name of the
46 executive office and its agencies; (10) enter into agreements and transactions with federal, state
47 and municipal agencies and other public institutions and private individuals, partnerships, firms,
48 corporations, associations and other entities on behalf of the executive office or its agencies; (11)
49 apply for and accept funds, including grants, on behalf of the commonwealth in accordance with
50 applicable law; (12) conduct research, surveys, experimentation, evaluation, design and
51 development, in cooperation with the Massachusetts Surface Transportation Authority, and other
52 governmental agencies and private organizations when appropriate, with regard to mass
53 transportation facilities, equipment and services. The secretary may delegate any of the foregoing
54 powers to an officer having charge of a department, office, division or other administrative unit
55 within the executive office.

56 (e) In exercising its powers under this section, the executive office shall have as a
57 primary goal the reduction of greenhouse gas emissions, particulates and other pollutants. The

58 secretary shall collaborate with the executive office of environmental affairs, the bureau for
59 environmental health within the department of public health and other state or federal agencies to
60 reduce greenhouse gas emissions to the limits established in chapter 21N.

61 (f) (1) Every five calendar years, starting no later than April 30, 2010, the secretary of
62 the executive office of transportation shall, after conducting public hearings, prepare and publish
63 in the Massachusetts Register a comprehensive state transportation plan for the five succeeding
64 fiscal years, beginning with the period fiscal year 2011 to 2015, inclusive. The plan shall be
65 consistent with such priorities as may be established by legislation. Said plan shall be designed to
66 ensure construction and maintenance of a safe, sound and efficient public highway, road and
67 bridge system, to relieve congestion, to reduce greenhouse gas emissions, particulates and other
68 pollutants, and to improve the quality of life in the commonwealth by promoting economic
69 development and employment in the commonwealth by meeting, cost effectively, the diverse
70 transportation needs of all residents of the commonwealth, including urban, suburban and rural
71 populations. Said plan shall also include an engineering assessment to anticipate highway, road
72 and bridge needs throughout the commonwealth as determined by objective engineering
73 measurements of condition, safety and service. The secretary shall consult with the executive
74 offices of environmental affairs and of economic affairs in the development of said plan.
75 Said plan shall provide for meeting not less than 5 percent annually of the estimated
76 construction, reconstruction and repair needs of the public highways and bridges of the
77 commonwealth, its counties, cities and towns, estimated as follows. Before the secretary
78 publishes or updates said plan, the Massachusetts Surface Transportation Authority shall
79 determine and certify to the secretary its estimate of the total value of all construction,
80 reconstruction and repair needs of the commonwealth's highway and bridge infrastructure. The

81 total value estimate shall be based on satisfying current safety and maintenance standards of the
82 Federal Highway Administration and the American Association of State Highway and
83 Transportation Officials. The estimate shall be substantiated by documented objective
84 engineering estimates which shall be made available for public review.

85 The executive office and the Massachusetts Surface Transportation Authority shall report
86 annually not later than February 1 to the house and senate committees on ways and means and
87 the joint committee on transportation of the general court on their compliance with the plan and
88 their efforts to satisfy the 5 percent requirement of the preceding paragraph.

89 (2) The executive office shall establish a program for mass transportation consistent with
90 the provisions of this chapter. The program for mass transportation and any revisions thereto
91 shall be submitted for comment and recommendation to the Mass Transit Advisory board not
92 less than sixty days prior to the adoption thereof. The executive office shall prepare a written
93 response to reports submitted to it by the advisory board which response shall state the basis for
94 any substantial divergence between the actions of the executive office and the recommendations
95 contained in such reports of the advisory board. Said program shall be reviewed not less than
96 every five years to evaluate the achievement of its aims and to re-evaluate its conformity with the
97 provisions of this chapter.

98 Said program for mass transportation and any plans specified therein shall be
99 implemented by the mass transportation capital investment program, including a rolling five-year
100 plan. The capital investment program and plans of the executive office shall be based on an
101 evaluation of the impact of each proposed capital investment on the effectiveness of the
102 commonwealth's transportation system, service quality standards, the environment, health and
103 safety, operating costs, the prevention or avoidance of deferred maintenance, and debt service

104 costs. Capital investments that result in the greatest benefits with the least cost, transit
105 commitments made in connection with the central artery project, so-called, capital improvements
106 required under the Americans with disabilities act, and capital expenditures for an ongoing
107 schedule of maintaining the equipment and mass transportation facilities of the Massachusetts
108 Bay Transportation Authority, or any successor agency shall receive the highest priority under
109 said capital investment program and plans.

110 Said ongoing schedule of maintenance shall be designed to prevent the deferral of routine
111 and scheduled maintenance, and shall be undertaken prior to investing in new facilities or service
112 expansion, unless the latter required by law or can be demonstrated to be cost-effective,
113 environmentally beneficial or produce quantifiable savings.

114 The capital investment program shall be prepared on an annual basis, under the direction,
115 control and supervision of the executive office. The program, including plans for each project
116 funded therein, shall be available for public inspection and submitted to the authority, the joint
117 committee on transportation and the senate and house committees on ways and means not later
118 than 60 days prior to the start of the fiscal year.

119 Said program for mass transportation, the capital investment program and the plans for
120 each such project funded therein shall be developed in conjunction with other transportation
121 programs and plans proposed by the executive office, including any plans of regional transit
122 authorities established pursuant to chapter 161B. Said programs shall be further developed in
123 consultation and cooperation with the division of public transit, and in consultation with the
124 department of housing and community development, the metropolitan area planning council, the
125 executive office of environmental affairs, and such other agencies of the commonwealth or of the
126 federal government as may be concerned with said program and plans.

127 The plans for each project included in the capital investment program shall identify the
128 purpose and intended benefits of each project, the total budget and timeline necessary to
129 complete each project, the amount of said total which is budgeted for each project in the next
130 fiscal year, the operating costs and savings, if any, anticipated to be incorporated in the operating
131 budget of the authority upon completion of each project, the proposed operating costs and costs
132 of routine and scheduled maintenance associated with each project upon its completion, and the
133 expected useful life of each project.

134 The capital investment program shall be based on a rolling five-year plan, updated
135 annually, that establishes the priorities and cashflow needs of the capital borrowing program of
136 the authority. The five year plan shall be accompanied by a timeline for the implementation of
137 the projects and priorities established therein and comprehensive financial estimates of the
138 capital and operating costs and revenues associated with each project established by the plan.

139 The executive office shall conduct a series of public meetings within 30 days of issuance
140 of an initial draft of the capital investment program and shall submit a final capital investment
141 program to the Mass Transit advisory board, for its review, no later than January 15 of each year.

142 The authority shall be responsible for the architectural, engineering design, and the
143 construction of mass transportation facilities and for the operation thereof.

144 (3) The secretary, in consultation with the authority, shall promulgate such rules,
145 regulations and procedures, including public hearings, as are necessary and appropriate to
146 provide the following parties the timely opportunity to participate in the development of major
147 transportation projects, as defined by the secretary, and to review and comment thereon: (i) state,
148 regional and local agencies and authorities affected by said projects; (ii) elected officials and
149 riders or potential riders from cities and towns affected by said projects; (iii) other public and

150 private organizations, groups and persons who are affected by, and who have provided the
151 secretary with reasonable notice of their desire to participate in the development of the design of
152 said projects. In this section, the words “timely opportunity” shall mean sufficiently early in the
153 design process so as to permit comments to be considered prior to the final development of or
154 commitment to any specific design for such project.

155 (4) Prior to the final approval of any transportation infrastructure project, including mass
156 transit expansion or the construction of new roadways with a projected capital cost of more than
157 \$25,000,000, or the expending of any funds for the planning, design and construction of such
158 projects, the Secretary of Transportation shall request that the administrator of the appropriate
159 Division of the Massachusetts Surface Transportation Authority, in consultation with the Chief
160 Executive Officer of the Authority, prepare a fiscal analysis, including life cycle costs,
161 demonstrating that sufficient revenues exist, or will be generated to operate and maintain in a
162 state of good repair such a new transportation asset. This analysis shall be also be submitted to
163 the advisory boards of the respective divisions of the Massachusetts Surface Transportation
164 Authority.

165 If any such project for the expansion of mass transit has a projected total cost in excess of
166 \$200,000,000, the Secretary of Transportation shall submit the analysis to the Secretary of
167 Administration and Finance so that he may determine which costs, if any, will become part of the
168 Commonwealth’s plan of capital expenditures.

169 (g) Nothing in this chapter shall be construed to confer any powers or impose any duties
170 upon the secretary with respect to the foregoing agencies and authorities except as expressly
171 provided by law.

172

173 Section 19A. (a) The executive office shall take such steps as may be necessary to provide for
174 the development, promotion, preservation, and improvement of an adequate, safe, efficient and
175 convenient rail system for the movement of passengers and freight in the commonwealth. In
176 carrying out the purposes of this chapter, the executive office shall seek to encourage and
177 develop rail services which promote and maintain the economic wellbeing of the citizens of the
178 commonwealth, and which preserve the environment and the commonwealth's natural resources.

179 (b) The executive office or the Massachusetts Surface Transportation Authority acting
180 pursuant to paragraph (6) of subsection (d) is hereby authorized and directed to expend such
181 funds as may be appropriated or otherwise made available for the acquisition, construction,
182 preservation, rehabilitation, reconstruction, or other improvement, whether directly, jointly or
183 under contract with other public or private parties, of land, and rail rights-of-way and related
184 facilities or equipment, including but not limited to spurs, sidings and bridges, and for such other
185 purposes, including, without limitation, planning, engineering and administrative purposes, as
186 are incidental thereto; provided that any preservation, rehabilitation, reconstruction, or other
187 improvement of land or of a rail right-of-way and related facilities or equipment shall not be
188 authorized prior to the acquisition of said land, right-of-way and related facilities or equipment.
189 Subject to any other applicable provisions of law regarding the disposition and use of state
190 property, the executive office may, in the course of exercising its responsibilities of property
191 management of state-owned railroad rights-of-way pursuant to this chapter: (a) set fees for the
192 processing of applications to lease, license, or otherwise use said property; and (b) charge rent
193 for same. Said fees shall be based on the administrative costs necessary to process said
194 applications. Said rents shall be calculated as required under other applicable requirements of
195 state law. Receipts from said applications and rents shall be paid into the treasury of the

196 commonwealth and may be expended, subject to appropriation, for the purpose of property
197 management and maintenance on railroad properties owned by the executive office on behalf of
198 the commonwealth.

199 (c) The executive office or the Massachusetts Surface Transportation Authority acting
200 pursuant to paragraph (6) of subsection (d) may enter into contracts or agreements to provide
201 financial assistance, from such funds as may be provided for the purpose, for all or part of the
202 costs of maintaining rail rights-of-way or related facilities or equipment, or operating rail
203 services in the commonwealth.

204 Any such contracts or agreements shall be subject to the following limitations: (i) in
205 determining whether such assistance is necessary or appropriate under this chapter with respect
206 to an operating agreement with a private transportation company, and in determining the terms
207 and conditions under which such assistance shall be given, the secretary shall review the
208 transportation operations of such company and its affiliates and shall make a finding that such
209 assistance will not permit the applicant company to make more than a reasonable return overall;
210 and (ii) any such assistance shall cover only those services which the secretary determines to be
211 in the public interest.

212

213 (d) The secretary, in addition to any other powers and duties conferred or imposed upon
214 him by this chapter or any other general or special law, shall have the following powers and
215 duties:

216 (1) To serve as the principal source of rail transportation planning for the commonwealth.
217 In doing so, the secretary may conduct research, surveys, demonstration projects or studies in
218 cooperation with federal, state, regional or local agencies, or appropriate private parties; and

219 shall be responsible for the preparation of continuing, comprehensive and coordinated rail
220 transportation proposals, plans, programs and projects. The secretary shall submit said proposals,
221 plans, programs and projects for such review or consideration by other governmental agencies as
222 may be required by law or deemed appropriate by the secretary; and shall prepare such plans and
223 programs in coordination with related land use and other development plans, so far as
224 practicable.

225 (2) To apply for, accept and expend on behalf of the commonwealth, any gift, loan or
226 grant-in-aid from the federal government, any agency or instrumentality thereof, or from any
227 foundation, private corporation, group or person, in furtherance of the purposes of this chapter.
228 The secretary is authorized and directed to take all necessary action to secure any federal
229 assistance which is or may become available to the executive office, any administrative unit
230 thereof or authority within the executive office, including without limitation, filing applications
231 for assistance, supervising the expenditure of federal grants or loans and making any
232 determinations and certifications necessary or appropriate to the foregoing. If any federal law,
233 administrative regulation or practice requires any action relating to such federal assistance to be
234 taken by any department, agency or other instrumentality of the commonwealth other than the
235 executive office, such other department, agency or instrumentality is authorized and directed to
236 take all such action. It is the intent of this clause that the provisions of any federal law,
237 administrative regulation or practice governing federal assistance shall, to the extent necessary to
238 enable the commonwealth or its subdivisions to receive such assistance and not constitutionally
239 prohibited, override any inconsistent provisions of this chapter or any general or special law.

240 (3) To make and enter into any contracts or agreements necessary or incidental to the
241 performance and execution of the powers and duties of the executive office under this chapter or

242 any general or special law. Any party, public or private including, without limitation, federal,
243 state and local agencies, authorities or political subdivisions of the commonwealth, or private
244 corporations or companies, is hereby granted the power and authority to enter into any such
245 contracts or agreements, subject to such provisions of law as may be applicable. Any such
246 contract or agreement, if made with the Massachusetts Surface Transportation Authority may
247 include provisions for the transfer to said Authority of appropriations or other funds made
248 available to the executive office under subsections (b) and (c) for the purpose of carrying out
249 such contract or agreement. Any contract or agreement made under this chapter, including,
250 without limitation, contracts or agreements entered into by the executive office of administration
251 and finance pursuant to subsection (c), shall include such provisions, terms or conditions as the
252 secretary may deem necessary or appropriate.

253 (4) To acquire by eminent domain under chapter seventy-nine, or by purchase, gift,
254 devise, transfer, lease or otherwise, or to hold, lease, pledge, otherwise deal with, transfer, sell or
255 dispose of real and personal property.

256 (5) To exercise all powers and do all acts or things necessary or convenient to carry out
257 the purposes of this section.

258 (6) Without limitation of the foregoing, to delegate to the Massachusetts Surface
259 Transportation Authority on such terms and conditions as the secretary may prescribe, any power
260 or duty conferred or imposed upon him by this section; provided, that any such delegation shall
261 be in writing.

262 (e) (i) To the extent not inconsistent with federal law, no railroad company which
263 conducts or has conducted operations within the commonwealth shall sell, transfer or otherwise
264 dispose of railroad rights-of-way or related facilities without first offering such rights-of-way or

265 facilities for sale, transfer or disposition to either the executive office, acting on behalf of the
266 commonwealth, or such other department, authority, agency, or political subdivision of the
267 commonwealth as may be designated by the executive office for the purpose of any such sale,
268 transfer or disposition; provided, that such sale, transfer or disposition may be made by the
269 railroad company to a party other than the executive office or its designee, but only if (A) the
270 executive office or its designee has notified the railroad company in writing of its rejection of
271 such offer; or (B) ninety calendar days have elapsed from the date on which said offer or a copy
272 of such offer, as provided in the second paragraph, is made to the executive office.

273 (ii) Said railroad company shall make such offer in writing and shall send such offer by
274 certified mail to the executive office or to its designee. In the event that such offer is made to a
275 designee of the executive office, a notarized copy of such offer shall be sent by certified mail to
276 the executive office. Any such offer shall include the price at which said company proposes to
277 offer such rights-of-way or facilities to the commonwealth, and such other terms or conditions
278 which said company proposed to include as part of such sale, transfer or disposition. The
279 executive office or its designee shall notify in writing and by certified mail said railroad
280 company of its acceptance or rejection of such offer within ninety calendar days of such offer,
281 and in the event that the designee of the executive office sends such notice, said designee shall
282 also send a notarized copy of such notice to the executive office. The executive office is hereby
283 authorized to notify any person that the conditions provided in clauses (A) and (B) of paragraph
284 (i) have been satisfied and that the commonwealth no longer has the option to acquire the rights-
285 of-way or facilities as provided in said paragraph. Any such notice shall be binding on the
286 commonwealth.

287 In no event shall said railroad company offer to sell, transfer, or otherwise dispose of
288 railroad rights-of-way or facilities to any person on terms or conditions more favorable to said
289 person than those offered to the commonwealth.

290

291 Section 19B. The secretary shall apply for, accept and expend, subject to appropriation, on
292 behalf of the commonwealth, any gift, loan or grant-in-aid from the federal government, or any
293 agency or instrumentality thereof for demonstration projects and programs as may become
294 available to the commonwealth for the purpose of energy conservation for improved
295 transportation management systems or for improved transportation management systems.

296

297 **SECTION 3.** Section 19 of chapter 6A is hereby amended by striking out paragraph (b) and
298 inserting in place thereof the following paragraph:-

299 (b) The following state agencies shall be within the executive office of transportation: the
300 government center commission established by section 1 of chapter 635 of the acts of 1960, the
301 registry of motor vehicles and all other state agencies within the department, except the division
302 of motorboats and the division of waterways; and the Massachusetts aeronautics commission.
303 The Massachusetts Surface Transportation Authority, Massachusetts Bay Transportation
304 Authority, the Massachusetts Port Authority and any duly established regional transportation
305 authority shall also be within the executive office of transportation.

306 **SECTION 4.** Section 19 of chapter 6A is hereby amended by striking out paragraph (b)
307 and inserting in place thereof the following paragraph:-

308 (b) The following state agencies shall be within the executive office of transportation: the
309 government center commission established by section 1 of chapter 635 of the acts of 1960, the

310 registry of motor vehicles and all other state agencies within the department, except the division
311 of motorboats and the division of waterways; and the Massachusetts aeronautics commission.
312 The Massachusetts Surface Transportation Authority, the Massachusetts Port Authority and any
313 duly established regional transportation authority shall also be within the executive office of
314 transportation.

315 SECTION 5. Chapter 7 of the General Laws is hereby amended by adding the following
316 14 sections:-

317 Section 57. (a) “Affected jurisdiction” means any city or town, or other unit of government
318 within the Commonwealth in which all or part of a transportation facility is located or any other
319 public entity directly affected by the transportation facility.

320 (b) “Architectural and Engineering Services” means: (1) professional services of an
321 architectural or engineering nature, as defined by applicable state law which are required to be
322 performed or approved by a person licensed, registered, or certified to provide such services as
323 described in this Subsection; (2) professional services of an architectural or engineering nature
324 performed by contract that are associated with research, planning, development, design,
325 construction, alteration, or repair of real property; and (3) such other professional services of an
326 architectural or engineering nature, or incidental services, which members of the architectural
327 and engineering professions (and individuals in their employ) may logically or justifiably
328 perform, including: studies, investigations, surveying, mapping, tests, evaluations, consultations,
329 comprehensive planning, program management, conceptual designs, plans and specifications,
330 value engineering, construction phase services, soils engineering, drawing reviews, preparation
331 of operating and maintenance manuals, and other related services.

332 (c) “Authority” means the Massachusetts Surface Transportation Authority;

333 (d) "Construction" means the process of building, altering, repairing, improving, or
334 demolishing any Transportation Facility, including any structure, building, or other
335 improvements of any kind to real property. It does not include the routine operation, routine
336 repair, or routine maintenance of any existing Transportation Facility, including structures,
337 buildings, or real property.

338 (e) "Force majeure" means an uncontrollable force or natural disaster not within the
339 power of the operator or the Commonwealth.

340 (f) "Contract" means all types of agreements, including a "Public-Private Agreement",
341 regardless of what they may be called, for the procurement, operation, or disposal under sections
342 57 to 70, inclusive, of a Transportation Facility by the Authority.

343 (g) "Contract Modification" means any written alteration in specifications, delivery point,
344 rate of delivery, period of performance, price, quantity, or other provisions of any contract
345 accomplished by mutual action of the parties to the contract.

346 (h) "Contractor" means any person having a contract with the Authority under sections
347 57 to 70, inclusive.

348 (i) "Cooperative Purchasing" means procurement conducted by, or on behalf of, one or
349 more Affected Jurisdictions.

350 (j) "Design-build-finance-operate-maintain" means a project delivery method in which
351 the Authority enters into a single contract for design, construction, finance, maintenance, and
352 operation of a Transportation Facility over a contractually defined period. No public funds are
353 appropriated to pay for any part of the services provided by the Contractor during the contract
354 period.

355 (k) “Design-build-operate-maintain” means a project delivery method in which the
356 Authority enters into a single contract for design, construction, maintenance, and operation of a
357 Transportation Facility over a contractually defined period. All or a portion of the funds required
358 to pay for the services provided by the Contractor during the contract period are either
359 appropriated by the Commonwealth or by the Authority prior to award of the contract or secured
360 by the Commonwealth or by the Authority through fare, toll, or user charges.

361 (l) “Design requirements” means the written description of the Transportation Facility or
362 service to be procured under sections 57 to 70, inclusive, including:

363 (1) required features, functions, characteristics, qualities, and properties that are required
364 by the Authority;

365 (2) the anticipated schedule, including start, duration, and completion; and

366 (3) estimated budgets (as applicable to the specific procurement) for design, construction,
367 operation and maintenance.

368 The design requirements may, but need not, include drawings and other documents illustrating
369 the scale and relationship of the features, functions, and characteristics of the project.

370 (m) “Independent Peer Reviewer Services” are additional Architectural and Engineering
371 services provided to the Authority in design-build-operate-maintain or design-build-finance-
372 operate-maintain procurements. The function of the independent peer reviewer is to confirm that
373 the key elements of the professional engineering and architectural design provided by the
374 contractor are in conformance with the applicable standard of care.

375 (n) “Maintenance” includes routine operation, routine maintenance, routine repair,
376 rehabilitation, capital maintenance, maintenance replacement, and any other categories of
377 maintenance that may be designated by the Authority.

378 (o) “Material default” means any failure of a Contractor to perform any duties under a
379 public-private agreement, which jeopardizes delivery of adequate service to the public and
380 remains unsatisfied after a reasonable period of time and after the operator has received written
381 notice from the Authority of the failure.

382 (p) “Operate” means any action to operate, maintain, repair, rehabilitate, improve, equip,
383 or modify a Transportation Facility, including the design and construction of repairs,
384 improvements, or modifications to a Transportation Facility.

385 (q) “Operator” means a private entity that has entered into a public-private agreement to
386 provide Design-build-finance-operate-maintain or Design-build-operate-maintain services under
387 sections 57 to 70, inclusive.

388 (r) “Private entity” means any natural person, corporation, general partnership, limited
389 liability company, limited partnership, joint venture, business trust, public benefit corporation,
390 non-profit entity, or other business entity.

391 (s) “Proposal development documents” means drawings and other design related
392 documents that are sufficient to fix and describe the size and character of a Transportation
393 Facility as to architectural, structural, mechanical and electrical systems, materials, and such
394 other elements as may be appropriate to the applicable project delivery method.

395 (t) “Public-private agreement” means the Contract between a private entity and the
396 Authority that relates to the development, financing, maintenance, or operation of a
397 transportation facility subject to sections 57 to 70, inclusive.

398 (u) “Request for Proposals” means all documents, whether attached or incorporated by
399 reference, utilized for soliciting proposals for Transportation Facilities under sections 57 to 70,
400 inclusive.

401 (v) “Responsible Bidder or Offeror” means a person who has the capability in all respects
402 to perform fully the Contract requirements, and the integrity and reliability which will assure
403 good faith performance.

404 (w) “Responsive Bidder” means a person who has submitted a bid which conforms in all
405 material respects to the Invitation for Bids.

406 (x) “Transportation facility” means any, including new and existing, highway, road,
407 bridge, tunnel, overpass, ferry, airport, public transportation facility, terminal facility, vehicle
408 parking facility, seaport facility, rail facility, intermodal facility, or similar facility open to the
409 public and used for the transportation of persons or goods, and any building; structure; or
410 networks of buildings, structures, pipes, controls, and equipment that provide transportation
411 services, including rolling stock, equipment, and any building, structure, parking area,
412 appurtenances, or other property needed to operate such facility that is subject to a public-private
413 agreement.

414 (y) “User fees” means the rate, toll, fee, or other charges imposed by an operator or by
415 the Authority for use of all or part of a transportation facility.

416 (z) “Utility” means a privately, publicly, or cooperatively owned line, facility, or system
417 for producing, transmitting, or distributing communications, cable television, power, electricity,
418 light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway
419 drainage, or any other similar commodity, including fire or police signal system or street lighting
420 system, which directly or indirectly serves the public.

421
422 Section 58. (a) Notwithstanding any general or special law to the contrary, the board of directors
423 of the Massachusetts surface transportation authority, in conjunction with the special public-

424 private partnership infrastructure oversight commission as established in section 70 , is hereby
425 authorized to solicit proposals, and to enter into contracts for Design-build-finance-operate-
426 maintain or Design-build-operate-maintain services with that responsible and responsive offeror
427 submitting the proposal that is most advantageous to the Authority through the sale, lease,
428 operation and maintenance of a transportation facility within the commonwealth, such operation
429 to be in full compliance with all applicable requirements of federal, state and local law; provided,
430 however, that any such contract shall not be subject to the competitive bid requirements set forth
431 in sections 38A½ to 38O, inclusive, and section 39M of chapter 30 or sections 44A to 44M,
432 inclusive, of chapter 149 of the General Laws; and provided, further, that each such contract
433 shall be awarded pursuant to the provisions of chapter 30B of the General Laws, except for
434 clause (3) of paragraph (b) of section 6, paragraphs (e) and (g) of said section 6, clause (4) of
435 section 13 and section 16 of said chapter 30B.

436 (b) In soliciting and selecting a private entity with which to enter into a public-private
437 agreement for Design-build-finance-operate-maintain or Design-build-operate-maintain services,
438 the Authority shall utilize the following competitive sealed proposals procurement approach:

439 (1) Each Request for Proposals for design-build-operate-maintain and design-build-
440 finance-operate-maintain services:

441 (A) shall include design requirements;

442 (B) shall solicit proposal development documents; and

443 (C) may, when the Authority determines that the cost of preparing proposals is high in
444 view of the size, estimated price, and complexity of the procurement:

445 (i) prequalify offerors by issuing a Request for Qualifications in advance of the Request
446 for Proposals; and

447 (ii) select a short list of responsible offerors prior to discussions and evaluations,
448 provided that the number of proposals that will be short-listed is stated in the Request for
449 Proposals and prompt public notice is given to all offerors as to which proposals have been short-
450 listed; or

451 (iii) pay stipends to unsuccessful offerors, provided that the amount of such stipends and
452 the terms under which stipends will be paid are stated in the Request for Proposals.

453 (2) Adequate public notice of the Request for Proposals shall be given.

454 (3) Proposals shall be opened so as to avoid disclosure of contents to competing offerors
455 during the process of negotiation. A Register of Proposals shall be prepared by the Authority
456 and shall be open for public inspection after contract award.

457 (4) (a) The Request for Proposals shall state the relative importance of price and other
458 factors and subfactors, if any.

459 (b) Each Request for Proposals for design-build-operate-maintain and design-build-
460 finance-operate-maintain:

461 (i) shall state the relative importance of (1) demonstrated compliance with the design
462 requirements, (2) offeror qualifications, (3) financial capacity, (4) project schedule, (5)
463 elimination of existing public debt with respect to the Transportation Facility, (6) lowest user
464 charges (or price) over the term of the design-build-operate-maintain and design-build-finance-
465 operate-maintain Contract, and (7) other factors, if any; and

466 (ii) shall require each offeror, when the contract price is estimated to exceed \$10,000,000,
467 when the contract period of operations and maintenance is five years or longer, or in
468 circumstances established by the Authority, to identify an Independent Peer Reviewer whose

469 competence and qualifications to provide such services shall be an additional evaluation factor in
470 the award of the contract.

471 (iii) For procurement using design-build-operate-maintain, and design-build-finance-
472 operate-maintain, the amount, if any, paid by a contractor to the Authority shall not be an
473 evaluation factor in the award of the contract.

474 (5) As provided in the Request for Proposals, and under regulations issued by the
475 Authority, discussions may be conducted with responsible offerors who submit proposals
476 determined to be reasonably susceptible of being selected for award for the purpose of
477 clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
478 Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion
479 and revision of proposals, and such revisions may be permitted after submissions and prior to
480 award for the purpose of obtaining best and final offers. In conducting discussions, there shall be
481 no disclosure of any information derived from proposals submitted by competing offerors.

482 (6) Award shall be made to the responsible offeror whose proposal conforms to the
483 solicitation and is determined in writing to be the most advantageous to the Acquiring Agency
484 taking into consideration price and the evaluation factors set forth in the Request for Proposals.
485 No other factors or criteria shall be used in the evaluation. The contract file shall contain the
486 basis on which the award is made. Written notice of the award of a contract to the successful
487 offeror shall be promptly given to all offerors.

488 (7) The Authority is authorized to provide debriefings that furnish the basis for the source
489 selection decision and contract award.

490 (c) (1) A private entity may request a review, prior to submission of a solicited proposal,
491 by the Authority of information that the private entity has identified a confidential or proprietary

492 to determine whether such information will be subject to disclosure under chapter 66 of the
493 General Laws.

494 (2) The Authority shall take appropriate action to protect confidential or proprietary
495 information that a private entity provides as part of a solicited proposal and that is exempt from
496 disclosure under chapter 66 of the General Laws.

497
498 Section 59. The Request for Proposals shall contain the proposed form of Contract or Public-
499 Private Agreement to be executed between the successful Offeror and the Authority upon Award,
500 and shall have been approved as to content and form by the Special Public-Private Infrastructure
501 Oversight Commission and by the Authority before the Request for Proposals is issued, pursuant
502 to section 58 . The Inspector General and the Attorney General shall have thirty (30) days from
503 the receipt of a draft of the proposed form of Contract to notify the Special Public-Private
504 Infrastructure Oversight Commission in writing of any material objections to the draft form of
505 Contract. Before issuing any Request for Proposal, the Authority shall prepare a written response
506 to reports submitted to it by the Special Public-Private Infrastructure Oversight Commission
507 which response shall state the basis for any substantial divergence between the actions of the
508 Authority and the recommendations contained in such reports of said commission. The
509 Authority and the successful Offeror may only make non-material changes in the content and
510 form of the Public-Private Agreement contained in the Request for Proposals.

511 (a) (1) After selecting a solicited or unsolicited proposal for a public-private initiative, the
512 Authority shall enter into the Public-Private Agreement for the subject transportation facility
513 with the selected private entity.

514 (2) An affected jurisdiction may be a party to a public-private agreement entered into by
515 the Authority and a selected private entity or combination of private entities.

516 (b) A public-private agreement under sections 57 to 70, inclusive, shall provide for the
517 following:

518 (1) the planning, acquisition, financing, development, design, construction,
519 reconstruction, replacement, improvement, maintenance, management, repair, leasing, or
520 operation of a transportation facility;

521 (2) the term of the public-private agreement, which shall not exceed fifty (50) years
522 without written approval of the governor;

523 (3) the type of property interest, if any, the private entity will have in the transportation
524 facility;

525 (4) a description of the actions the Authority may take to ensure proper maintenance of
526 the transportation facility;

527 (5) whether user fees will be collected on the transportation facility and the basis by
528 which such user fees shall be determined and modified;

529 (6) compliance with applicable Federal, State, and local laws;

530 (7) grounds for termination of the public-private agreement by the Authority or operator;

531 (8) procedures for amendment of the agreement by mutual agreement, and for changes in
532 the agreement by written order from the Authority.

533 (9) review and approval by the Authority of the operator's plans for the development and
534 operation of the transportation facility;

535 (10) inspection by the Authority and the Independent Peer Reviewer of the design and
536 construction of or improvements to the transportation facility;

- 537 (11) maintenance by the operator of a policy of liability insurance or self-insurance
538 reasonably acceptable to the Authority;
- 539 (12) filing by the operator, on a periodic basis, of appropriate financial statements in a
540 form acceptable to the Authority;
- 541 (13) filing by the operator, on a periodic basis, of traffic reports, service quality standards
542 as defined in section 3 of chapter 81D, ridership reports, on time performance reports, or other
543 reports identified by the Authority, in a form acceptable to the Authority;
- 544 (14) financing obligations of the operator and the Authority;
- 545 (15) apportionment of expenses between the operator and the Authority;
- 546 (16) the rights and duties of the operator, the Authority, and other State and local
547 governmental entities with respect to use of the transportation facility;
- 548 (17) the rights and remedies available in the event of default or delay;
- 549 (18) the terms and conditions of indemnification of the operator by the Authority, as
550 required by applicable law;
- 551 (19) assignment, subcontracting, or other delegation of responsibilities of the operator or
552 the Authority under the agreement to third parties, including other private entities and other State
553 agencies;
- 554 (20) sale or lease to the operator of private property related to the transportation facility;
- 555 (21) if and how the parties will share costs of development of the project;
- 556 (22) if and how the parties will allocate financial responsibility for cost overruns;
- 557 (23) liability for nonperformance;
- 558 (24) any incentives for performance;
- 559 (25) any accounting and auditing standards to be used to evaluate progress on the project;

560 (26) traffic enforcement and other policing issues, subject to section 66 including any
561 reimbursement by the private entity for such services; and

562 (27) other terms and conditions.

563

564 Section 60. Upon the end of the term of the Public-Private Agreement or in the event of
565 termination of the public-private agreement, the authority and duties of the operator cease,
566 except for any duties and obligations that extend beyond the termination as provided in the
567 public-private agreement, and the transportation facility reverts to the Authority and shall be
568 dedicated to the Authority for public use.

569

570 Section 61. (a) Upon the occurrence and during the continuation of material default by an
571 operator not caused by an event of force majeure, and upon the failure by the Contractor or its
572 financing institutions on the Contractor's behalf, to cure such material default within thirty (30)
573 days of written notice from the Authority, the Authority may:

574 (1) elect to take over the transportation facility, including the succession of all right, title,
575 and interest in the transportation facility; and

576 (2) terminate the public-private agreement and exercise any other rights and remedies that
577 may be available.

578 (b) In the event that the Authority elects to take over a transportation facility under
579 subsection (a), the Authority:

580 (1) shall make interim payments, on behalf of the Contractor and for the Contractor's
581 account, of any amounts subject to the mechanics lien laws of the Commonwealth of
582 Massachusetts ;

583 (2) may develop and operate the transportation facility, impose user fees for the use of the
584 transportation facility, and comply with any service contracts; and

585 (3) may solicit proposals for the maintenance and operation of the transportation facility
586 under section 58.

587

588 Section 62. (a) (1) The Authority may issue and sell bonds or notes of the Authority for the
589 purpose of providing funds to carry out the provisions of sections 57 to 70, inclusive, with
590 respect to the development, financing, or operation of a transportation facility or the refunding of
591 any bonds or notes, together with any costs associated with the transaction.

592 (2) Any bond or note issued under this section:

593 (A) constitutes the corporate obligation of the Authority;

594 (B) does not constitute the indebtedness of the Commonwealth within the meaning or
595 application of any constitutional provision or limitation; and

596 (C) is payable solely as to both principal and interest from:

597 (i) the revenues from a lease to the Authority, if any;

598 (ii) proceeds of bonds or notes, if any;

599 (iii) investment earnings on proceeds of bonds or notes; or

600 (iv) other funds available to the Authority for such purpose.

601 (b) (1) For the purpose of financing a transportation facility, the Authority and operator
602 may apply for, obtain, issue, and use private activity bonds available under any Federal law or
603 program.

604 (2) Any bonds debt, other securities, or other financing issued for the purpose of sections
605 57 to 70, inclusive, shall not be considered to be a debt of the Commonwealth or any political

606 subdivision of the State or a pledge of the faith and credit of the State or any political subdivision
607 of the commonwealth.

608 (c) Nothing in this section shall limit a local government or any authority of the
609 Commonwealth to issue bonds for transportation projects.

610

611 Section 63. (a) (1) The Authority may accept from the United States or any of its agencies funds
612 that are available to the commonwealth for carrying out sections 57 to 70, inclusive, whether the
613 funds are made available by grant, loan, or other financial assistance.

614 (2) The Authority may enter into agreements or other arrangements with the United
615 States or any of its agencies as may be necessary for carrying out the purposes of sections 57 to
616 70, inclusive.

617 (b) The Authority may accept from any source any grant, donation, gift, or other form of
618 conveyance of land, money, other real or personal property, or other item of value made to the
619 commonwealth or the Authority for carrying out the purpose of sections 57 to 70, inclusive.

620 (c) Any transportation facility may be financed in whole or in part by contribution of any
621 funds or property made by any private entity or affected jurisdiction that is party to a public-
622 private agreement under sections 57 to 70, inclusive.

623 (d) The Authority may combine Federal, State, local, and private funds to finance a
624 transportation facility under sections 57 to 70 inclusive.

625

626 Section 64. (a) Section 9 of Chapter 81B shall apply to:

627 (1) a transportation facility; and

628 (2) tangible personal property used exclusively with a transportation facility that are:

629 (A) owned by the Authority and leased, licensed, financed, or otherwise conveyed to an
630 operator; or

631 (B) acquired, constructed, or otherwise provided by an operator on behalf of the
632 Authority.

633
634 Section 65. The Authority may exercise the power of eminent domain to acquire property, rights
635 of way or other rights in property for transportation projects that are part of a public-private
636 agreement for design-build-finance-operate-maintain or design-build-operate-maintain services.

637
638 Section 66. (a) All law enforcement officers of the commonwealth and of an affected local
639 jurisdiction shall have the same powers and jurisdiction within the limits of the transportation
640 facility as they have in their respective areas of jurisdiction and access to the transportation
641 facility at any time for the purpose of exercising such powers and jurisdiction.

642 (b) The traffic and motor vehicle laws of the commonwealth or, if applicable, any
643 affected local jurisdiction shall be the same on the transportation facility as those laws applied to
644 conduct on similar transportation facilities in the commonwealth or local jurisdiction.

645 (c) Punishment for violations of traffic and motor vehicle laws of the commonwealth or,
646 if applicable, any affected local jurisdiction on the transportation facility shall be as prescribed
647 by law for conduct occurring on similar transportation facilities in the commonwealth or local
648 jurisdiction.

649

650 Section 67. An operator under sections 57 to 70, inclusive, and any utility whose facility is to be
651 crossed or relocated shall cooperate fully in planning and arranging the manner of the crossing or
652 relocation of the utility facility.

653
654 Section 68. Nothing in sections 57 to 70, inclusive, shall be construed or deemed to limit any
655 waiver of the sovereign immunity of the Commonwealth or any officer or employee of the
656 Commonwealth with respect to the participation in or approval of all or any part of the
657 transportation facility or its operation.

658
659 Section 69. The Authority may adopt rules and regulations to carry out the provisions of sections
660 57 to 70, inclusive.

661
662 Section 70. There is hereby established a special public-private infrastructure oversight
663 commission to comment and approve on all Requests for Proposals for design-build-finance-
664 operate-maintain or design-build-operate-maintain services, pursuant to section 59.

665 The commission shall have 9 members, none of whom shall be employees of the
666 executive branch, members of the General Court, nor employees of the Legislature, including the
667 following: 4 members who shall reside in different geographic regions of the commonwealth, to
668 be appointed by the governor to service terms of 2 years; 1 member, who shall not be a member
669 of the general court, to be appointed by the president of the senate to serve a term of 2 years; 1
670 member, who shall not be a member of the general court, to be appointed by the speaker of the
671 house of representatives to serve a term of 2 years; 1 member who shall not be an employee of
672 the department of the state treasurer, to be appointed by the treasurer, to serve a term of 2 years;

673 the state auditor, or his designee; and 1 representative from the Massachusetts Organization of
674 State Engineers and Scientists, to serve a term of 2 years. Each of the members of the
675 commission shall be an expert with experience in the fields of transportation law, public policy,
676 public finance, management consulting, transportation, or organizational change. One of the
677 members appointed by the governor shall be an expert in the field of public finance. One of the
678 members appointed by the governor shall be an expert in the field of management consulting or
679 organizational change. One of the members appointed by the governor shall be an expert in the
680 field of transportation. One of the members shall be appointed by the governor to serve as
681 chairperson of the commission. The members appointed by the governor may be eligible for
682 reappointment, provided however that no member appointed by the governor may serve more
683 than three terms. The members of the commission shall be appointed no later than August 30,
684 2009.

685 Whenever the Authority notifies the commission of its intent to issue a Request for
686 Proposal for design-build-finance-operate-maintain or design-build-operate-maintain services,
687 the Authority shall submit a draft of the Request for Proposal to the commission for its review
688 and approval. As provided in section 58 , no Request for Proposal shall be issued by the
689 Authority for a public-private agreement for design-build-finance-operate-maintain or design-
690 build-operate-maintain services without the commission's written approval. The commission
691 shall provide an initial written response to the Request for Proposal within 15 days.

692 For each Request for Proposal for design-build-finance-operate-maintain or design-build-
693 operate-maintain services, the commission shall report on issues surrounding the Request for
694 Proposal, including but not limited to: (1) the status of current employees, (2) the policy and
695 regulatory structure for overseeing a privately operated transportation facility and on-going

696 legislative oversight, (3) issues of taxation, profit-sharing, and resolution of new revenue
697 producing ideas, (4) advertising and marketing, (5) use of new technologies, (6) lease terms and
698 termination clauses, (7) additional responsibilities by both the private infrastructure operator and
699 the Commonwealth during the lease period, (8) the financial valuation of the certain
700 commonwealth transportation facility; and (9) the anticipated advantages of entering into the
701 anticipated public-private agreement for design-build-finance-operate-maintain or design-build-
702 operate-maintain services.

703 The commission's written approval of a Request for Proposal for design-build-finance-
704 operate-maintain or design-build-operate-maintain services shall be deemed to satisfy the
705 requirements of sections 52 to 55, inclusive, of chapter 7 of the General Laws.

706 The report shall be delivered within 30 days of the commission's approval of a Request
707 for Proposal for design-build-finance-operate-maintain or design-build-operate-maintain services
708 to the secretary for administration and finance, the house committee on ways and means, the
709 senate committee on ways and means, the chairmen of the joint committee on transportation, and
710 the chairmen of the joint committee on bonding, capital expenditures, and state assets.

711 Any research, analysis or other staff support that the commission reasonably requires shall be
712 provided by the Massachusetts Surface Transportation Authority.

713

714 SECTION 6. Chapter 10 of the General Laws is hereby amended by striking out section
715 35T, as appearing in the 2006 Official Edition, and inserting in place thereof the following
716 section:-

717 Section 35T. As used in this section, the following words shall, unless the context otherwise
718 requires, have the following meanings:-

719 “Base revenue amount”, for fiscal year 2001 the amount of \$645,000,000, and for each fiscal
720 year thereafter the base revenue amount for the prior fiscal year multiplied by the inflation index
721 for the preceding 12 months, as certified by the secretary of administration and finance (the
722 “secretary”), in consultation with the department of revenue, on March 1 of each year, beginning
723 on March 1, 2001 as set forth in subsection (b); provided, that in no year shall the base revenue
724 amount exceed 103 per cent of the base revenue amount applicable for the prior fiscal year;
725 provided further, that if in any year said inflation index is less than three per cent but greater than
726 the per cent increase in gross sales tax revenues received pursuant to chapters 64H and 64I in the
727 preceding 12 months, excluding any portion of such taxes imposed on meals as defined in
728 paragraph (h) of section 6 of said chapter 64H, then the base revenue amount shall be adjusted by
729 the same percentage increase in said gross sales tax revenues; provided further, that if in any year
730 the per cent increase in said gross sales tax revenues is zero or less, then the base revenue
731 amount shall not be adjusted for the subsequent fiscal year.

732 “Dedicated sales tax revenue amount”, all monies received by the commonwealth equal to 1 per
733 cent of the gross receipts of a sale as defined by the provisions of chapter 64H and 1 per cent of
734 the sales price of a purchase as defined by the provisions of chapter 64I from that portion of the
735 taxes imposed under the provisions of said chapters 64H and 64I as excises upon the sale and use
736 at retail of tangible property or of services, and upon the storage, use or other consumption of
737 tangible property or of services, including interest thereon or penalties but not including any
738 portion of such taxes imposed on the sale of meals as defined in paragraph (h) of section 6 of
739 said chapter 64H.

740 “Inflation index”, the per cent change in inflation as measured by the per cent change in the
741 consumer price index for all urban consumers for the Boston metropolitan area as determined by
742 the bureau of labor statistics of the United States department of labor.

743 (a) There shall be credited to the Surface Transportation Trust Fund established in section
744 35LL (hereinafter, the “Fund”) (i) the dedicated sales tax revenue amount, provided that in any
745 fiscal year the amount shall be not less the base revenue amount as certified pursuant to
746 subsection (b); and (ii) all assessments received by the commonwealth pursuant to section 22 of
747 chapter 81D.

748 Before the state treasurer disburses funds to the Massachusetts Surface Transportation
749 Authority, the authority must first certify that it has made provision in its annual budget pursuant
750 to section 21 of chapter 81B for sufficient amounts to be available to meet debt service payments
751 or other payments due under financing obligations, including, without limitation, leases,
752 reimbursement obligations, or interest exchange agreements, for which the commonwealth has
753 pledged its credit or contract assistance or is otherwise liable or as to which the authority has
754 covenanted to maintain net cost of service or contract assistance support. Upon such
755 certification, all amounts in the Fund shall be available for expenditure by the authority for any
756 lawful purpose, including without limitation, payment of debt service on debt obligations issued
757 by the authority, and may be pledged to secure debt of the authority in such manner and
758 according to such priority as the authority may determine.

759 In order to increase the marketability of any bonds or notes of the authority which may be
760 secured by or payable from amounts held in the Fund, the sums to be credited to the Fund as
761 aforesaid are hereby impressed with a trust for the benefit of the authority and the holders from
762 time to time of any such bonds or notes, and, in consideration of the acceptance of payment for

763 any such bonds or notes, the commonwealth covenants with the purchasers and all subsequent
764 holders and transferees of any such bonds or notes that while any such bond or note shall remain
765 outstanding, and so long as the principal of or interest on any such bond or note shall remain
766 unpaid, the sums to be credited to the Fund as aforesaid shall not be diverted from the purposes
767 identified herein and, so long as such sums are necessary, as determined by the authority in
768 accordance with any applicable trust agreement, bond resolution, or credit enhancement
769 agreement, for the purposes for which they have been pledged, the rates of the excises imposed
770 by said chapters 64H and 64I shall not be reduced below the dedicated sales tax revenue amount
771 or the base revenue amount and the amount to be assessed on cities and towns pursuant to said
772 section 9 of said chapter 161A shall not be reduced below \$136,026,868 per fiscal year.

773 (b) For purposes of determining the amount to be credited to the Fund the secretary shall
774 on March 1 of each year beginning on March 1, 2001 certify the base revenue amount for the
775 following fiscal year. On March 15 of each year beginning on March 15, 2001, the secretary
776 shall, after consultation with and based on projections of the department of revenue, certify
777 whether the dedicated sales tax revenue amount is projected to exceed the base revenue amount
778 for the upcoming fiscal year. If the secretary certifies that the projected dedicated sales tax
779 revenue amount will be less than the base revenue amount, then the comptroller shall for the
780 following fiscal year credit to the Fund amounts sufficient to meet the base revenue amount. If
781 the secretary certifies that the projected dedicated sales tax revenue amount will exceed the base
782 revenue amount, then the comptroller shall for the following fiscal year credit to the Fund the
783 sales tax revenue amount. On November 15 of each year beginning on November 15, 2001, the
784 secretary shall certify whether the dedicated sales tax revenue amount as of that date is projected
785 to exceed the base revenue amount for the current fiscal year. If the secretary certifies that the

786 dedicated sales tax revenue amount is projected to be less than the base revenue amount, then the
787 comptroller shall credit to the Fund amounts sufficient to meet the base revenue amount for that
788 fiscal year. If the secretary certifies that the dedicated sales tax revenue amount is greater than
789 the base revenue amount, then the comptroller shall credit to the Fund the dedicated sales tax
790 revenue amount. On April 1 of each year beginning on April 1, 2002, the secretary shall repeat
791 the certification process required on November 15, and the comptroller shall credit the
792 appropriate amount to the Fund.

793

794 **SECTION 7.** Section 35U of chapter 10 of the General Laws is hereby repealed.

795

796 **SECTION 8.** Chapter 10 of the General Laws is hereby amended by adding the following

797 section:-

798 Section 35LL. There is hereby set up on the books of the commonwealth a separate fund to be
799 known as the Surface Transportation Trust Fund, hereinafter called the Fund. There shall be
800 credited to the Fund all fees received by the registrar of motor vehicles pursuant to chapter 90, all
801 tolls collected pursuant to subsection (j) of section 4 of chapter 81B, all contributions and
802 assessments paid into the treasury of the commonwealth by cities, towns or counties for
803 maintaining, repairing, improving and constructing ways, whether before or after the work is
804 completed, all refunds and rebates made on account of expenditures on ways by the department,
805 all receipts paid into the treasury of the commonwealth and directed to be credited to the Surface
806 Transportation Trust Fund under section 35T, chapter 64A, 64E, 64F, or any other applicable
807 general or special law, all monies received by the commonwealth in satisfaction of claims by the
808 commonwealth for damage to highway safety signs, signals, guardrails, curbing and other

809 highway related facilities, and all receipts received by the state treasurer under the provisions of
810 section eight of chapter ten on behalf of the registrar or for other surface transportation, as
811 defined herein.

812 Before amounts are credited to the Surface Transportation Trust Fund, all fees received in
813 the issuance of veterans plates, pursuant to section two, in excess of the fees set for the
814 registration of the motor vehicle, shall be paid by the registrar into the General Fund. Remaining
815 revenues shall then be used, subject to appropriation,

816 (1) to carry out the provisions of law relative to the use and operation of motor vehicles
817 and trailers and for expenses authorized to administer the law relative to the taxation of the sales
818 of gasoline and certain other motor vehicle fuel; and

819 (2) \$2 from each motorcycle registration fee shall be paid by the registrar or by the
820 person collecting the registration fee into the General Fund and shall be appropriated solely for
821 the purpose of promoting and advancing motorcycle safety.

822 The balance then remaining shall be transferred to the Surface Transportation Trust Fund.
823 Annual receipts into the fund on account of any fiscal year shall be deemed to meet the full
824 obligation of the commonwealth to the Massachusetts Surface Transportation Authority,
825 hereinafter called the authority, for such fiscal year. Amounts in the Fund shall be held by the
826 state treasurer or his designee as trustee and not on account of the commonwealth, and the state
827 treasurer is hereby authorized and directed to disburse amounts in the Fund to the authority,
828 without further appropriation, upon the request, from time to time, of the executive director of
829 the authority.

830 The authority shall use the Fund:

831 (a) For expenditure, under the direction of said authority, for maintaining, repairing,
832 improving and constructing town and county ways and bridges, sidewalks adjacent to such ways
833 and bridges, bikeways and other projects eligible for funding as a transportation enhancement
834 project as described in the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-
835 240, salt storage sheds, bikeways and public use off-street parking facilities related to mass
836 transportation, for engineering services and expenses related to highway transportation
837 enhancement and mass transportation purposes, for care, repair, storage, replacement, purchase
838 and long-term leasing of road building machinery, equipment and tools, for the erection and
839 maintenance of direction signs and warning signs and for necessary or beneficial improvements
840 to unpaved town and county ways together with any money which any town or county may
841 appropriate for such purposes to be used on the same ways, sheds, bikeways, bridges, machinery,
842 equipment, tools and facilities. Such engineering services, including surveying services, shall
843 only be performed by architectural, engineering or surveying firms prequalified by the authority;
844 provided, however, that a municipality may seek a waiver of this requirement from the authority
845 if the municipality demonstrates to the satisfaction of the authority that it is cost prohibitive to
846 use a prequalified firm. Such ways, sheds, bikeways, bridges, machinery, equipment, tools and
847 facilities shall remain town or county ways, sheds, bikeways, bridges, machinery, equipment,
848 tools and facilities. No revenue credited to the Fund shall be transferred from said Fund to any
849 other fund of the Commonwealth for any other purpose. The authority shall withhold or
850 withdraw the unexpended balance of any funds assigned by it under this subdivision if the town
851 fails to comply with the official standards for traffic control established by the authority or with
852 any provision of a traffic control agreement negotiated between the authority and the town, as

853 required by the United States Secretary of Commerce under section 109 of Title 23 of the United
854 States Code. In this subdivision the word "town" shall include city;

855 (b) For expenditure, under the direction of the authority, for maintaining, repairing and
856 improving state highways and bridges, including highways and bridges managed until July 1,
857 2009 by the department of conservation and recreation, the turnpike and the metropolitan
858 highway system, all as defined in chapter 81B;

859 (c) For expenditure, under the direction of the authority, in addition to federal aid
860 payments received under section 49 of chapter 81C, for construction of state highways;

861 (d) For expenditure, under the direction of the authority, for engineering services and
862 expenses, for care, repair, storage, replacement and purchase of road building machinery and
863 tools, for snow removal, for the erection and maintenance of direction signs and warning signs
864 and for the care of shrubs and trees on state highways, and for expenses incidental to the
865 foregoing or incidental to the purposes specified in subdivisions (a), (b) or (c) of this clause;

866 (e) To meet interest, sinking fund and serial payments on all debts paid from highway
867 fund receipts before July 1, 2009, including those paid in accordance with section 20 of chapter
868 29.

869 (g) For contributions to regional transit authorities under section 23 of chapter 161B ;

870 (h) For expenditure for the operations of the division of public transit of the authority

871 (i) For expenditure, under the direction of the authority, for infrastructure improvements
872 in mass transportation facilities throughout the commonwealth.

873 (j) For expenditures to meet any remaining assistance requirements from the
874 Commonwealth to the Route 3 North Transportation Improvements Association outstanding as

875 of July 1, 2009; provided that no new pledges of additional assistance to the Route 3 North
876 Transportation Improvements Association shall be incurred after July 1, 2009.

877 Except as provided herein, revenues credited to the Fund shall not be transferred to any other
878 fund of the commonwealth for any purpose.

879 SECTION 9. Section 63 of chapter 10 of the General Laws is hereby repealed.

880 SECTION 10. Sections 1 to 4B, inclusive, 13 and 14 of Chapter 16 of the General Laws
881 are hereby repealed.

882 SECTION 11. The fourth paragraph of section 1 of chapter 21 of the General Laws, as
883 appearing in the 2006 Official Edition, is hereby amended by striking out the word “parkways”
884 each time it appears.

885 SECTION 12. Section 11A of chapter 21A of the General Laws is hereby amended by
886 striking out the words “the commissioner of highways or his designee” and inserting in place
887 thereof the following words:- the administrator of the division of roads and bridges or his
888 designee

889 SECTION 13. Section 3I of chapter 23A of the General Laws is hereby amended by
890 inserting after the words “Massachusetts Bay Transportation Authority” the following words:- ,
891 or any successor agency,

892 SECTION 14. Section 2O of chapter 29 of the General Laws is hereby repealed.

893 SECTION 15. Chapter 64A is hereby amended by striking out section 13 and inserting in
894 place thereof the following section:-

895 Section 13. All sums received from the excise imposed on aviation fuel, and related penalties,
896 forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under sections 7
897 and 7A, shall be credited to the Surface Transportation Trust Fund and may be used for airport

898 development projects approved and carried out at airports and landing facilities under 49 U.S.C.
899 App. s 2210; and all other sums received under the excise imposed in section 4, and relative
900 penalties, forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under
901 said sections 7 and 7A, shall be credited to the Surface Transportation Trust Fund to be used for
902 transportation-related purposes.

903 SECTION 16. Chapter 64E is hereby amended by striking out section 13 and inserting in
904 place thereof the following section:-

905 Section 13. All sums received under this chapter as excises, penalties, forfeitures, interest, costs
906 of suits and fines shall be credited to the Surface Transportation Trust Fund to be used for
907 transportation-related purposes.

908 SECTION 17. Chapter 64F is hereby amended by striking out section 14 and inserting in
909 place thereof the following section:-

910 Section 14. All sums received under this chapter as excises, penalties, forfeitures, interest, costs
911 of suits and fines shall be credited to the Surface Transportation Trust Fund to be used for
912 transportation-related purposes.

913 SECTION 18. Chapter 81 of the General Laws is hereby repealed.

914 SECTION 19. Chapter 81A of the General Laws is hereby repealed.

915 SECTION 20. The General Laws are hereby amended by inserting after chapter 81A the
916 following 2 chapters:-

917 Chapter 81B

918 THE MASSACHUSETTS SURFACE TRANSPORTATION AUTHORITY

919 Section 1. There is hereby created a body politic and corporate to be known as the
920 Massachusetts Surface Transportation Authority which, while within the executive office of

921 transportation, shall not be subject to the supervision and regulation of said executive office or
922 any other department, commission, board, bureau, or agency, except as specifically provided in
923 any general or special law to the contrary. The authority is hereby authorized and empowered,
924 subject to the provisions of this chapter, to own, construct, maintain, repair, reconstruct, improve,
925 rehabilitate, finance, refinance, use, police, administer, control and operate (a) the state highway
926 system as defined in this chapter and (b) the turnpike as defined in the chapter.

927 The authority is hereby constituted a public instrumentality. The exercise by the
928 authority of the powers conferred by this chapter shall be deemed and held to be the performance
929 of an essential governmental function.

930

931 Section 2. The Authority shall be managed by a board of eleven directors, one of whom shall be
932 the Secretary of Transportation who shall serve as chairman of the board and shall not be
933 additionally compensated for said service and ten of whom shall be appointed by the governor.
934 Of these ten appointments, one shall be the Secretary for Administration and Finance or his
935 designee, who shall also not be additionally compensated for said service. None, except for the
936 foregoing appointments, shall be members of the General Court or employees of the Executive
937 Branch or employees of the Legislature. One director shall be selected by the governor from a
938 list of three candidates proposed by the Massachusetts Association of Regional Transit
939 Authorities; one shall be selected by the governor from a list of three candidates proposed by the
940 Massachusetts Association of Regional Planning Agencies, who shall represent a metropolitan
941 planning organization; two shall be representatives of the Massachusetts Bay Transportation
942 Authority, or any successor agency, service area but only one of whom shall be from the City of
943 Boston; one shall be an expert in the field of the construction of transportation projects; two shall

944 be experts in the field of public or private finance or accounting; one shall be a representative of
945 an environmental organization or environmental public interest group; and one shall be an expert
946 in the field of transportation law or organizational change. No more than six of the eleven
947 directors shall be members of the same political party. Directors shall reside in different
948 geographic regions of the Commonwealth such that at least one director shall reside in Berkshire,
949 Franklin, Hampshire or Hampden county, at least one director shall reside in Worcester county,
950 one director shall reside in Middlesex or Essex county provided that the director does not reside
951 in a municipality that is a member of the Metropolitan Area Planning Council, one director shall
952 reside in Plymouth, Barnstable, Dukes or Nantucket county, and one shall reside in either Bristol
953 or Norfolk county

954 No director shall have been a registered legislative agent as defined in section 39 of
955 chapter 3 for a period of at least five years prior to his appointment and no director shall have
956 been employed by an organization that has business before the Authority, or any predecessor
957 agency or authority, for a period of at least two years prior to his appointment.

958 Before entering upon the duties of his office, each member of the Authority shall take an
959 oath before the governor to administer the duties of his office faithfully and impartially and a
960 record of said oath shall be filed in the office of the state secretary.

961 Except for the chairperson, directors appointed after January 31, 2009 shall serve until
962 June 30, 2011. After June 30, 2011, six directors shall serve a term of two years and 5 directors
963 shall serve a term of three years. Any director, except the chairman, may be removed for cause
964 by the governor. In the event of a vacancy, a successor shall be named in the same manner as the
965 vacated director and such successor shall serve for the remained of the unexpired term. A
966 majority of the directors shall constitute a quorum but a majority vote of the entire membership

967 shall be required to take any particular action. The directors shall meet monthly. The directors
968 shall serve without pay however each director shall be reimbursed for his actual expenses
969 necessarily incurred in the performance of his duties.

970 The provisions of section 3 of chapter 12 shall not apply to said board of directors. The
971 authority may indemnify any member, officer or employee from personal expenses or damages
972 incurred, arising out of any claim, suit, demand or judgment which arose out of any act or
973 omission of such member, officer or employee, including the violation of the civil rights of any
974 person under any federal law if, at the time of such act or omission such member, officer or
975 employee was acting within the scope of his official duties or employment.

976 Notwithstanding any other provision of this act, as soon as a quorum of the board of
977 directors is appointed, the Authority shall undertake the following: (i) appointment of a Chief of
978 Executive Officer whose term of employment shall not extend beyond five years at a time (ii)
979 development, in coordination with the Secretary of Transportation, of rules and regulations for
980 implementation of this act; (iii) implement or enact any powers, rule and regulations to affect
981 the implementation of this act. Until the appointment and qualification of the Board of Directors
982 of the Authority constituting a quorum of the board is achieved, the Secretary of Transportation,
983 for a period not to exceed 90 days, may assume such rights and powers authorized by the
984 provision of this section, with approval of the Governor.

985

986 Section 3. As used in this chapter, chapter 81C and 81D, the following words shall, unless the
987 context clearly requires otherwise, have the following meanings:-

988 “Authority”, the Massachusetts Surface Transportation Authority established by section 1.

989 “Boston extension”, all roadways and tunnels for vehicular traffic that constitute that portion of
990 interstate highway route 90 beginning at and including the interchange of interstate highway
991 route 90 and state highway route 128 in the town of Weston and ending in the city of Boston at
992 the interchange of interstate highway route 90 and interstate highway route 93 and such
993 additional highway and bridge components as the general court may from time to time determine
994 and including such real property and any improvements thereon, personal property, equipment,
995 licenses, appurtenances and interests in land acquired or leased in connection with or incident to
996 the construction, ownership, operation, rehabilitation, reconstruction, improvement, repair,
997 maintenance or administration of such roadways and tunnels as are necessary for their safe and
998 efficient operation and maintenance or which are otherwise convenient or desirable to carry out
999 the purposes of this chapter.

1000 “Callahan tunnel”, the tunnel for vehicular traffic constructed under the provisions of chapter
1001 five hundred and ninety-eight of the acts of nineteen hundred and fifty-eight between the North
1002 End section of the city of Boston and the East Boston section of said city and including such real
1003 property and any improvements thereon, personal property, equipment, licenses, appurtenances
1004 and interests in land acquired or leased in connection with or incident to the construction,
1005 ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or
1006 administration of such tunnel as are necessary for its safe and efficient operation and
1007 maintenance or which are otherwise convenient or desirable to carry out the purposes of this
1008 chapter.

1009 “Central artery”, all roadways and tunnels for vehicular traffic constructed by the highway
1010 department that constitute that portion of interstate highway route 93 beginning at a point
1011 immediately south of the Southampton street interchange, so-called, and continuing to and

1012 including the interchange of interstate highway route 93 and Massachusetts avenue in the South
1013 End section of the city of Boston and continuing to and including the interchange of interstate
1014 highway route 90 and interstate highway route 93 in the South Bay section of the city of Boston,
1015 so-called, and continuing to and including the interchange of state highway route 1 and interstate
1016 highway route 93 in the Charlestown section of the city of Boston including, but not limited to,
1017 the so-called Charles river crossing portion of interstate highway route 93 and such additional
1018 highway and bridge components as the general court may from time to time determine, but
1019 excluding the central artery north area. "Central artery" shall also include such real property and
1020 any improvements thereon, personal property, equipment, licenses, appurtenances and interests
1021 in land acquired or leased in connection with or incident to the construction, ownership,
1022 operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of
1023 such roadways and tunnels as are necessary for their safe and efficient operation and
1024 maintenance or which are otherwise convenient or desirable to carry out the purposes of this
1025 chapter.

1026 "Central artery north area", all roadways and tunnels for vehicular traffic constructed by the
1027 highway department consisting of a portion of state highway route 1 beginning at, but not
1028 including, the southern boundary of the Tobin memorial bridge and continuing to the interchange
1029 of interstate highway route 93 and state highway route 1, including such real property and any
1030 improvements thereon, personal property, equipment, licenses, appurtenances and interests in
1031 land acquired or leased in connection with or incident to the construction, ownership, operation,
1032 rehabilitation, reconstruction, improvement, repair, maintenance or administration of such
1033 roadways and tunnels as are necessary for their safe and efficient operation and maintenance or
1034 which are otherwise convenient or desirable to carry out the purposes of this chapter.

1035 “Chief executive officer”, the chief executive officer of the Authority, appointed by the board
1036 pursuant to section 4.

1037 "Cost", as applied to any project of the Authority any or all costs, whenever incurred, of carrying
1038 out and placing such projects in operation, including, without limiting the generality of the
1039 foregoing, amounts for the following: acquisition, construction expansion improvement and
1040 rehabilitation of facilities; acquisition of real or personal property; demolitions and relocations;
1041 labor, materials, machinery and equipment; services of architects, engineers and environmental
1042 and financial experts and other consultants; feasibility studies, plans, specifications and surveys;
1043 interest prior to and during the carrying out of any project and for a reasonable period thereafter;
1044 reserves for debt service or other capital or current expenses; costs of issuance; and working
1045 capital, administrative expenses; legal expenses and other expenses necessary or incidental to the
1046 aforesaid, to the financing thereof and to the issuance therefor of bonds under the provisions of
1047 this act.

1048 "Costs of issuance", any amounts payable or reimbursable directly or indirectly by the Authority
1049 and related to the sale and issuance of bonds and the investment of the proceeds thereof and of
1050 revenues securing the same including, without limiting the generality of the foregoing, printing
1051 costs, filing and recording fees, fees and charges of trustees, depositories, authenticating agents
1052 and paying agents, legal and auditing fees and charges, financial consultant fees, costs of credit
1053 ratings, premiums for insurance of the payment of bonds and fees payable for letters or lines of
1054 credit or other credit facilities securing bonds, underwriting or placement costs, fees and charges
1055 for execution, transportation and safekeeping of bonds, costs and expenses of refunding and
1056 other costs, fees and charges in connection with the foregoing.

1057 "Current expenses", the authority's current expenses, whether or not annually recurring, of
1058 maintaining, repairing and operating the assets under the possession, custody and control of the
1059 Authority and engaging in other activities authorized by this chapter including, without limiting
1060 the generality of the foregoing, amounts for administrative expenses of the Authority including
1061 costs of salaries and benefits, as provided in this chapter, cost of insurance, payments for
1062 engineering, financial, accounting, legal and other services rendered to the Authority, taxes upon
1063 the Authority or its income, operations or property and payments in lieu of such taxes, costs
1064 incurred or payable by the Authority with respect to the assets under the possession, custody and
1065 control of the Authority, costs of issuance not financed in the cost of a project, and other current
1066 expenses required or permitted by law to be paid by the Authority , including the funding of
1067 reasonable reserves for upgrading, maintenance, repair, replacements, insurance, emergency
1068 contingencies or operations.

1069 "Division of roads and bridges", the division of roads and bridges within the authority
1070 established pursuant to chapter 81C.

1071 "Division of public transit", the division of public transit within the authority established
1072 pursuant to chapter 81D.

1073 "Metropolitan highway system", the integrated system of roadways, bridges, tunnels, overpasses,
1074 interchanges, parking facilities, entrance plazas, approaches, connecting highways, service
1075 stations, restaurants, tourist information centers and administration, storage, maintenance and
1076 other buildings that the authority owns, constructs or operates and maintains pursuant to the
1077 provisions of this chapter which consists of the Boston extension, the Callahan tunnel, the central
1078 artery, the central artery north area, the Tobin Memorial Bridge, the Sumner tunnel and the Ted

1079 Williams tunnel and any additional highway, tunnel and bridge components as the general court
1080 may from time to time determine.

1081 “Metropolitan highway system revenues”, (i) all rates, fees, tolls, rentals or other charges and
1082 other earned income and receipts as derived from or with respect to the ownership, operation,
1083 lease, rent or other use or disposition of the metropolitan highway system or any part thereof;
1084 and (ii) all other funds received by the authority, from whatever source, relating to the
1085 metropolitan highway system.

1086 “Notes or bonds”, the notes, bonds or other evidences of indebtedness of the authority issued
1087 pursuant to this chapter.

1088 “Massachusetts Port Authority”, the Massachusetts Port Authority established pursuant to
1089 chapter four hundred and sixty-five of the acts of nineteen hundred and fifty-six.

1090 "Revenues", all charges and other receipts derived by the Authority from operation of the assets
1091 under the possession, custody and control of the Authority and all other activities or properties of
1092 the Authority including, without limiting the generality of the foregoing, proceeds of grants, gifts
1093 or appropriations to the Authority, investment earnings and proceeds of insurance or
1094 condemnation, and the sale or other disposition of real or personal property.

1095 “State highway system”, all roadways, bridges, tunnels, overpasses, interchanges, parking
1096 facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
1097 information centers and administration, storage, maintenance and other buildings that the
1098 authority owns, constructs or operates and maintains pursuant to the provisions of this chapter
1099 and any additional highway, tunnel and bridge components as the general court may from time to
1100 time determine. The term “state highway system” shall include the turnpike.

1101 “State public transit system”, all publicly funded modes of transportation, but not including roads
1102 and bridges.

1103 “Sumner tunnel”, the vehicular tunnel under Boston harbor, heretofore constructed and financed
1104 by the city of Boston under the provisions of chapter two hundred and ninety-seven of the acts of
1105 nineteen hundred and twenty-nine, including such real property and any improvements thereon,
1106 personal property, equipment, licenses, appurtenances and interests in land acquired or leased in
1107 connection with or incident to the construction, ownership, operation, rehabilitation,
1108 reconstruction, improvement, repair, maintenance or administration of such tunnel as are
1109 necessary for its safe and efficient operation and maintenance or which are otherwise convenient
1110 or desirable to carry out the purposes of this chapter.

1111 “Ted Williams tunnel”, all or any segments of the roadways, bridges, viaducts and tunnels for
1112 vehicular traffic constructed by the highway department that constitute the interstate highway
1113 route 90 extension and its connecting roadways and tunnels, including (i) the harbor tunnel
1114 crossing beneath Boston harbor, beginning at and including the interchanges of state highway
1115 route 1A and the Logan airport access and egress roadways with interstate highway route 90 and
1116 continuing beneath Boston harbor to and including the interchange of interstate highway route 90
1117 and South Boston Bypass road, but excluding the Logan airport access and egress roadways
1118 owned by the port authority on March first, nineteen hundred and ninety-seven and any
1119 additional access and egress roadways acquired by the Massachusetts Port Authority after March
1120 first, nineteen hundred and ninety-seven; (ii) the seaport access highway, so-called beginning at
1121 the interchange of interstate highway routes 90 and 93 and continuing to the interchange of
1122 interstate highway route 90 and South Boston Bypass road; and (iii) South Boston Bypass road, a
1123 portion of which is also known as South Boston Haul road, beginning at the interchange of

1124 interstate highway route 93 and South Boston Bypass road and continuing to the interchange of
1125 the seaport access highway, so-called, in the South Boston section of the city of Boston,
1126 including such real property and any improvements thereon, personal property, equipment,
1127 licenses, appurtenances and interests in land acquired or leased by the highway department in
1128 connection with or incident to the construction, ownership, operation, rehabilitation,
1129 reconstruction, improvement, repair, maintenance or administration of such roadways and
1130 tunnels as are necessary for their safe and efficient operation and maintenance or which are
1131 otherwise convenient or desirable to carry out the purposes of this chapter.

1132 “Tobin memorial bridge”, the bridge formerly known as the Mystic river bridge in Chelsea.

1133 “Turnpike”, the limited access express toll highway, designated as interstate highway route 90,
1134 and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities, entrance
1135 plazas, approaches, connecting highways, service stations, restaurants, tourist information
1136 centers and administration, storage, maintenance and other buildings that the authority may own,
1137 construct or operate and maintain pursuant to the provisions of this chapter and any additional
1138 highway, tunnel and bridge components as the general court may from time to time determine,
1139 extending from the town of West Stockbridge on the commonwealth’s border with New York
1140 state to, but not including, the interchange of interstate highway route 90 and state highway route
1141 128 in the town of Weston.

1142 “Turnpike corridor”, the cities and towns of the commonwealth from the New York state border
1143 to state highway route 128 through which the turnpike runs and municipalities contiguous to
1144 such cities and towns.

1145 “Turnpike revenues”, (i) all rates, fees, tolls, rentals or other charges and other earned income
1146 and receipts derived from or with respect to the ownership, operation, lease, rent or other use or

1147 disposition of the turnpike or any part thereof; and (ii) all other funds received by the authority,
1148 from whatever source, relating to the turnpike.

1149

1150 Section 4. The authority is hereby authorized and empowered:

1151 (a) to make, and from time to time revise and repeal, by-laws, rules, regulations and
1152 resolutions for the regulation of its affairs and the conduct of its business;

1153 (b) to adopt an official seal and alter the same at its pleasure;

1154 (c) to maintain offices at such places within the commonwealth as it may determine and
1155 to conduct meetings of the authority in accordance with the by-laws of the authority and the
1156 provisions of the second paragraph of section fifty-nine of chapter one hundred and fifty-six B;

1157 (d) to sue and be sued in its own name, plead and be impleaded;

1158 (e) to own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,
1159 administer, control and operate the state highway system or any part thereof and, consistent with
1160 agreements entered into with the Authority to the extent applicable, as it may determine;

1161 provided, however, that the provisions of chapter ninety-one shall not apply to the authority,
1162 except for any parts or areas thereof subject to said chapter ninety-one on March first, nineteen
1163 hundred and ninety-seven;

1164 (f) to acquire sites abutting the state highway system and to construct or contract for the
1165 construction of buildings and appurtenances for gasoline stations, restaurants, parking facilities,
1166 tourist information centers and other services and to lease such facilities in such manner and
1167 under such terms as it may determine;

1168 (g) to issue notes or bonds for any of its corporate purposes related to the turnpike
1169 payable solely from turnpike revenues or portions thereof pledged for their payment and to

1170 refund its notes or bonds pertaining to the turnpike or any part thereof or payable from such
1171 revenues, as provided in this chapter;

1172 (h) to issue notes or bonds for any of its corporate purposes related to the metropolitan
1173 highway system payable solely from the metropolitan highway system revenues or portions
1174 thereof pledged for their payment and to refund its notes or bonds pertaining to the metropolitan
1175 highway system or any part thereof or payable from such revenues, as provided in this chapter;

1176 (i) to issue bonds, notes and other evidences of indebtedness as provided in this chapter;

1177 (j) to fix and revise from time to time and charge and collect tolls for transit over the
1178 turnpike; provided, however, that it shall furnish upon request to a user of the turnpike a toll
1179 receipt showing the amount of toll paid, the classification of the vehicle, the date of payment and
1180 place of exit from said turnpike; provided further, that the authority shall convene at least two
1181 public hearings, each to be held in a community within the turnpike corridor, at least 30 days
1182 prior to the effective date of any proposed change in toll structure on the turnpike and shall allow
1183 for a one week comment period, after each such hearing, during which written testimony and
1184 comments shall be accepted;

1185 (k) [no section k.]

1186 (l) to adopt such rules and regulations pursuant to the provisions of chapter thirty A and
1187 not repugnant to the provisions of the General Laws made applicable to the authority, as the
1188 authority determines necessary or appropriate to provide for or govern the construction or
1189 reconstruction, including contractor qualification, operation, maintenance, repair, rehabilitation,
1190 improvement, use, policing, control or administration of the state highway system or the
1191 authority's business or property. Such regulations may include the authority to grant easements,
1192 permits or other forms of authorization for the installation, construction, maintenance, repair,

1193 renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits, cables, wires,
1194 towers, poles and other equipment and appliances of any public utility, private entity or
1195 corporation or person owning or operating such facilities in, on, along, over or under the state
1196 highway system.

1197 Such regulations may impose penalties for violations thereof which, in the case of civil
1198 penalties, may be recovered only after notice and hearing conducted by the authority or its
1199 designee and subject to judicial review and enforcement pursuant to the provisions of said
1200 chapter thirty A or such other civil proceedings under the laws of the commonwealth or the
1201 United States as the law may provide and, in the case of criminal penalties, may be recovered in
1202 a proceeding in a trial court of the commonwealth by indictment or complaint. The amount of
1203 any such civil or criminal penalty shall not exceed five hundred dollars for each offense, unless
1204 the law otherwise provides. The full amount of a civil penalty shall be paid to the authority and
1205 eighty percent of a penalty recovered in a criminal proceeding shall be accounted for and paid to
1206 the authority. The authority may further provide in such regulations for adjudicatory proceedings
1207 that it or its designee conducts which are subject to judicial review and enforcement according to
1208 the provisions of said chapter thirty A;

1209 (m) to acquire, lease, hold and dispose of real and personal property or any interest
1210 therein in the exercise of its powers and the performance of its duties pursuant to this chapter
1211 provided, however, that the authority shall issue semi-annual reports to the secretary of
1212 administration and finance, the house and senate committees on ways and means, the joint
1213 committee on transportation and the joint committee on bonding, capital expenditures and state
1214 assets, detailing the financial transactions and revenues associated with the sale, concession or
1215 lease of real property held in the name of or under the control of the authority, whether by

1216 purchase or otherwise, and any transactions relating to real property currently pending; and
1217 provided further, that the semi-annual report shall include the current market values of the real
1218 properties related to the transactions;

1219 (n) to place and maintain or grant permission by easement or otherwise to any public
1220 utility, corporation or person to place and maintain on or under or within the turnpike or the
1221 metropolitan highway system or any part thereof, ducts, pipes, pipelines, mains, conduits, cables,
1222 wires, towers, poles or other structures to be so located as not to interfere with the safe and
1223 convenient operation and maintenance of the state highway system and to contract with any such
1224 public utility, corporation or person for such permission on such terms and conditions as may be
1225 fixed by the authority. The construction, maintenance and repair of any such ducts, pipes,
1226 pipelines, mains, conduits, cable, wires, towers, poles or other structures shall be subject to such
1227 directions and regulations as the authority may impose.

1228 Whenever the authority shall determine that it is necessary that any such ducts, pipes,
1229 pipelines, mains, conduits, cable, wires, towers, poles or other structures which are now or
1230 hereafter may be located in, on, along, over or under the state highway system be relocated or
1231 removed, the public utility, corporation or person owning or operating such facilities shall
1232 relocate or remove the same in accordance with the order of the authority. In case of any such
1233 relocation or removal of facilities, the public utility, corporation or person owning or operating
1234 the same, its successors or assigns may maintain and operate such facilities, with the necessary
1235 appurtenances, in the new location for as long a period and upon the same terms and conditions
1236 as it had the right to maintain and operate such facilities in their former location.

1237 Otherwise, the Authority shall have the power to grant such easements over any real
1238 property held by the Authority as will not in the judgment of the authority unduly interfere with
1239 the operation of any of its mass transportation facilities;

1240 (o) to acquire in the name of the authority by purchase or otherwise, on such terms and
1241 conditions and in such manner as it may deem proper or by the exercise of the power of eminent
1242 domain in accordance with the provisions of chapter seventy-nine or any alternative method now
1243 or hereafter provided by law, such public lands and any fee simple absolute or lesser interest in
1244 such private property, or part thereof or rights therein as it may deem necessary for carrying out
1245 the provisions of this chapter;

1246 (p) to designate the locations and establish, limit and control such points of ingress to and
1247 egress from the state highway system as may be necessary, convenient or desirable in the
1248 judgment of the authority to insure the proper operation and maintenance of the state highway
1249 system and to prohibit entrance to the state highway system from any point or points not so
1250 designated;

1251 (q) to (i) construct grade separations at locations where the state highway system intersect
1252 with or abut public highways or rail lines and to change and adjust the lines and grades of such
1253 highways or rail lines so as to accommodate the same to the design of such grade separation; and
1254 (ii) change the location of any portion of any public highway or rail line which intersects or abuts
1255 the state highway system in order to improve the safety or efficiency of the state highway
1256 system; provided, however, that if the authority shall find it necessary to change the location of a
1257 public highway, it shall reconstruct the same in as good a condition as the original highway and
1258 at such location as the authority deems most favorable. All costs incident to construction,
1259 realignment or reconstruction conducted pursuant to this clause shall be borne by the authority;

1260 (r) to enter upon any lands, waters and premises in the commonwealth, after 30 days
1261 notice by registered or certified mail and without the necessity of any judicial orders or other
1262 legal proceedings, for the purpose of making surveys, soundings, drillings and examinations as
1263 the authority may deem necessary, convenient or desirable for carrying out the purposes of this
1264 chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be
1265 deemed an entry under any condemnation proceedings which may be then pending. The
1266 authority shall provide reimbursement for any actual damage resulting to such lands, waters and
1267 premises as a result of such activities. The commonwealth hereby consents to the use of all lands
1268 owned by it, including lands lying underwater, which are deemed by the authority to be
1269 necessary, convenient or desirable for the construction, operation or maintenance of the state
1270 highway system;

1271 (s) to make and enter into all contracts and agreements necessary, convenient or desirable
1272 in the performance of its duties and the execution of its powers under this chapter; provided,
1273 however, that sections twenty-six to twenty-nine, inclusive, and sections forty-four A to forty-
1274 four J, inclusive, of chapter one hundred and forty-nine and sections thirty-nine F to thirty-nine
1275 M, inclusive, of chapter thirty shall apply to contracts of the authority to the same extent and in
1276 the same manner as they are applicable to the commonwealth. Notwithstanding the provisions of
1277 this clause, the authority may, with the approval of the secretary of the executive office of
1278 transportation, without competitive bids and notwithstanding the provisions of any general or
1279 special law to the contrary, award a contract, otherwise subject to this section, limited to the
1280 performance of emergency repairs necessary to preserve the safety of persons or property;

1281 (t) to appoint and employ officers and employees to serve at the pleasure of the directors,
1282 except as may otherwise be provided in collective bargaining agreements, and to fix their

1283 compensation and conditions of employment, employ personnel as hereinafter provided and to
1284 engage architectural, engineering, accounting, management, legal, financial and environmental
1285 consulting and other professional services; provided, however, that the Authority shall engage
1286 consultants to perform only those services for the Authority which regular employees of the
1287 Authority are unable to perform owing to lack of special expertise or other inability to perform
1288 such services on the schedule or in the manner required by the Authority;

1289 (u) To accept gifts, grants and loans from agencies of local, state and federal
1290 governments, or from private agencies or persons, and to accede to such conditions and
1291 obligations as may be imposed as a prerequisite to any such gift, grant or loan;

1292 (v) to adopt a fiscal year to conform with the fiscal year of the commonwealth;

1293 (w) to receive and apply its revenues to the purposes of the Authority without
1294 appropriation or allotment by the commonwealth or any political subdivision thereof;

1295 (x) to enter into agreements with other parties, including, without limiting the generality
1296 of the foregoing, government agencies, municipalities, authorities, private transportation
1297 companies, railroads, and other concerns, providing (i) for construction, operation and use of any
1298 mass transportation facility and equipment held or later acquired by the authority; provided, that
1299 any agreement entered into by the authority for the construction or acquisition of mass
1300 transportation facilities or equipment of more than \$1,000,000, which is financed in whole or in
1301 part from the proceeds of bonds the debt service payments on which are assisted by the
1302 commonwealth or made from the dedicated revenue source, shall not become effective until
1303 approved by the secretary of transportation; and provided further, that said secretary shall notify
1304 the secretary of administration and finance of any such approval; (ii) for joint or cooperative
1305 operation of any mass transportation facility and equipment with another party; (iii) for operation

1306 and use of any mass transportation facility and equipment for the account of the authority, for the
1307 account of another party or for their joint account; or (iv) for the acquisition of any mass
1308 transportation facility and equipment of another party where the whole or any part of the
1309 operations of such other party takes place within the area constituting the authority. Any such
1310 other party is hereby given power and authority to enter into any such agreements, subject to
1311 such provisions of law as may be applicable. Any agreement with a private company under this
1312 chapter which is to be financed from the proceeds of bonds or bond anticipation notes and which
1313 provides for the rendering of transportation service by such company and for financial assistance
1314 to such company by subsidy, lease or otherwise shall include such service quality standards for
1315 such service as the authority may deem appropriate and shall not bind the authority for a period
1316 of longer than one year from its effective date, but this shall not prohibit agreements for longer
1317 than one year if the authority's obligations thereunder are subject to annual renewal or annual
1318 cancellation by the board's authority. Such agreements may provide for cash payments for
1319 services rendered, but not more than will permit any private company a reasonable return;

1320 (y) to establish transit facilities and related infrastructure, including terminals, stations,
1321 access roads, and parking, pedestrian access facilities and bicycle parking and access facilities as
1322 may be deemed necessary and desirable. The authority may charge reasonable fees for the use of
1323 such facilities as it may deem desirable, or it may allow the use of such facilities free of charge;

1324 (z) to employ a private project ombudsman who shall, in consultation with the secretary
1325 of transportation, to serve as a single point of contact to expedite the permitting, design and
1326 development of private projects that are under the authority of the division of roads and bridges
1327 and division of public transit; and

1328 (aa) to do all acts and things necessary, convenient or desirable to carry out the powers
1329 expressly granted in this chapter.

1330

1331 Section 5. Not later than January 1, 2012, the Authority shall develop and implement one
1332 integrated asset management system to oversee and coordinate the maintenance, preservation,
1333 reconstruction and investment of all of the assets in its possession, custody and control. The
1334 Authority may use programs and services offered by the division of capital asset management
1335 and maintenance and the information technology division to aid in its development of an
1336 integrated asset management system, as long as, in the judgment of the Authority, such programs
1337 and services compare favorably with those available from private vendors, and are offered at
1338 competitive prices.

1339

1340 Section 6. The chief executive officer shall establish a performance measurement system for the
1341 divisions of the Authority, which shall establish program goals, measure program performance
1342 against those goals and report publicly on progress to improve the effectiveness of transportation
1343 design and construction, service delivery and policy decision-making. Performance
1344 measurements shall include, for at least the then current fiscal year and the previous 5 fiscal
1345 years, all modes of transportation. Performance measurements shall include the number of
1346 projects completed, the percentage of projects completed early or on time, the percentage of
1347 projects completed under budget or on-budget, the number of projects in construction phase and
1348 the percentage of projects advertised early or on time. Performance measurements shall include
1349 usage information for all modes of transportation, including measures of throughput, utilization
1350 and ridership. This information shall be presented with measurements of congestion, on-time

1351 performance, where appropriate, and incidents that have caused delays or closures. Performance
1352 measurements shall include assessments of maintenance performance by asset class, mode and
1353 region, including a breakdown of highway pavement, bridge and track, for subway, commuter
1354 and commonwealth-owned freight rail, by condition level, with an explanation of current year
1355 and future year planned maintenance expenditures and their expected result. Reporting on
1356 planned maintenance programming shall include an assessment of the categories of maintenance-
1357 related activity as described in the American Association of Highway and Transportation
1358 Officials' Maintenance Manual for Roadways and Bridges. The division of roads and bridges
1359 shall expand and enhance its project information system and shall develop additional means to
1360 establish a centralized system, available on the internet, to document performance measurements
1361 and the progress and status of all planning, design, construction and maintenance projects
1362 undertaken by the Authority, and all road and bridge projects of any city or town that are funded,
1363 in whole or in part, by the commonwealth. A municipality shall have access to the system at no
1364 cost, shall enter such information into the system as may be required by the division of roads and
1365 bridges and shall otherwise fully participate in the system as a condition of receiving financial
1366 assistance from the commonwealth. All information in the project information system shall be a
1367 public record unless otherwise exempted by law. A report of the project information system and
1368 performance measurements shall be published annually and made available to the public not later
1369 than December 31. The report shall also be filed annually with the clerks of the senate and house
1370 of representatives, the chairs of the house and senate committees on ways and means and the
1371 senate and house chairs of the joint committee on transportation. The performance measurement
1372 system shall require each division to develop a strategic plan for program activities and
1373 performance goals. The system shall require annual program performance reports which shall be

1374 submitted to the house and senate committees on ways and means and the joint committee on
1375 transportation.

1376

1377 Section 7. Unless otherwise required under section 6A of chapter 31 or any other general or
1378 special law to the contrary, the chief executive officer shall design and implement a program for
1379 performance evaluation of employees. The sole purpose of said program shall be the
1380 improvement of the performance of individual employees and the authority and, notwithstanding
1381 any general or special law to the contrary, all information compiled by said program shall be
1382 confidential. Said authority may consult with individuals and organizations and may contract for
1383 technical assistance for the purpose of said program to the extent it deems necessary.

1384

1385 Section 8. (a) The chief executive officer of the Authority shall, notwithstanding any general or
1386 special law to the contrary, identify administrative activities and functions common to the
1387 separate offices, divisions, and commissions within the Authority and may designate such
1388 functions "core administrative functions" in order to improve administrative efficiency and
1389 preserve fiscal resources. Common functions that may be designated core administrative
1390 functions include, but shall not be limited to, human resources, financial management,
1391 information technology, legal, procurement and asset management. All employees performing
1392 functions so designated shall be employed directly by the chief executive officer. The Authority
1393 may make such services available to the agencies, offices, divisions and commissions within the
1394 executive office of transportation through a written interagency service agreement, provided that
1395 a copy of such agreement shall be provided to the house and senate committees on ways and
1396 means and the joint committee on transportation before services are provided. The Authority

1397 shall charge the agencies, departments, offices, divisions, and commissions of the executive
1398 office of transportation for such services, subject to appropriation.

1399 (b) The Authority may enter into agreements under section 22A and 22B of chapter 7 of
1400 the General Laws and in all respects not governed by general or special laws expressly made
1401 applicable to the Authority shall adhere to good business practices to be determined by the
1402 Authority in its procurement of equipment, materials, property, supplies and services.

1403 (c) The Authority shall use the state accounting system, the state payroll system and the
1404 state-supported internet application for procurement. The Authority shall, to the maximum
1405 feasible extent, prioritize the elimination of redundant systems for asset management and
1406 information technology.

1407 (d) Starting on December 15, 2009 and at six-month intervals thereafter, the chief
1408 executive officer of the Authority shall report to the joint committee on transportation, the joint
1409 committee on bonding, capital expenditures and state assets and the house and senate committees
1410 on ways and means on the Authority's progress in implementing the requirements of this section,
1411 the capital expenditures made by the Authority in implementing the requirements of this section
1412 and on the administrative savings that have been achieved through the implementation of the
1413 requirements of this section.

1414
1415 Section 9. The exercise of the powers granted by this chapter shall be in all respects for the
1416 benefit of the people of the commonwealth, for the increase of their commerce and prosperity
1417 and for the improvement of their health and living conditions and as the operation and
1418 maintenance of the state highway system or state public transit system by the authority shall
1419 constitute the performance of essential governmental functions, the authority shall not be
1420 required to pay any taxes or assessments upon the state highway system or state public transit

1421 system or any property acquired or used by the authority under the provisions of this chapter or
1422 upon the income therefrom, except as may be otherwise provided by this chapter and the notes or
1423 bonds issued under the provisions of this chapter, their transfer and the income therefrom,
1424 including any profit made on the sale thereof, shall at all times be free from taxation by and
1425 within the commonwealth.

1426

1427 Section 10. (a) The authority is hereby authorized to charge and collect and from time to time
1428 fix and revise tolls for transit over the turnpike and the different parts or sections thereof, subject
1429 to such classifications of vehicles and manners of collection as the authority determines desirable
1430 and subject to provisions of clause (j) of section 4. Such tolls shall be so fixed and adjusted as to
1431 provide, at a minimum, a fund sufficient with other revenues, if any, to pay (a) costs incurred in
1432 furtherance of this chapter related to the turnpike including, but not limited to, the cost of
1433 owning, maintaining, repairing, reconstructing, improving, rehabilitating, policing, using,
1434 administering, controlling and operating the turnpike; and (b) the principal of, redemption
1435 premium, if any, and the interest on notes or bonds relating to the turnpike as the same shall
1436 become due and payable and to create and maintain reserves established for any of the
1437 authority's corporate purposes. Such tolls shall not be subject to supervision, regulation,
1438 approval or disapproval by any department, division, commission, board, bureau or agency of the
1439 commonwealth or any political subdivision thereof. The authority shall maintain the
1440 confidentiality of all information including, but not limited to, photographs or other recorded
1441 images and credit and account data, relative to account holders who participate in its electronic
1442 toll collection system. Such information shall not be a public record and shall be used for
1443 enforcement purposes only with respect to toll collection regulations. An account holder may,

1444 upon written request to the authority, have access to all information pertaining solely to the
1445 account holder. For each violation of applicable authority regulations related to electronic toll
1446 collection, a violation notice shall be sent to the registered owner of the vehicle in violation. The
1447 notice shall include the registration number of the vehicle, the state of issuance of such
1448 registration and the date, time and place of the violation. The notice may be based in whole or in
1449 part upon inspection of any photographic or other recorded image of a vehicle and the written
1450 certification by a state police officer or other person employed by or under contract with the
1451 authority or its electronic toll collection system contractor that it is so based shall be prima facie
1452 evidence of the facts contained therein and shall be admissible in any administrative or judicial
1453 proceeding to adjudicate the liability for such violation.

1454

1455 Section 11. The authority may take by eminent domain in accordance with the provisions of
1456 chapter seventy-nine or any alternative method now or hereafter provided by general law, any
1457 public land and any fee simple absolute or lesser interest in private property or part thereof or
1458 rights therein as it may deem necessary for carrying out the provisions of this chapter.

1459 Whenever a parcel of private property so taken is used in whole or in part for residential
1460 purposes, the owner of such parcel may, within thirty days of the date of the authority's notice to
1461 vacate such parcel, appeal to the authority for a postponement of the date set for such vacating,
1462 whereupon the authority shall grant to the owner a postponement of three months from the date
1463 of such appeal; provided, however, that the appeal for such postponement shall be in the form of
1464 a written request to the authority sent by registered mail, return receipt requested; and provided,
1465 further, that the provisions of section forty of said chapter seventy-nine shall govern the rights of
1466 the authority and of any person whose property shall be so taken.

1467 The authority shall have power, in the process of constructing, reconstructing, repairing,
1468 rehabilitating, improving, policing, using or administering all or any part of the turnpike or
1469 metropolitan highway system to take by eminent domain pursuant to chapter seventy-nine, such
1470 land abutting the turnpike or metropolitan highway system as it may deem necessary or desirable
1471 for the purposes of removing or relocating all or any part of the facilities of any public utility,
1472 including rail lines, and may thereafter lease the same or convey an easement or any other
1473 interest therein to such utility company upon such terms as it, in its sole discretion, may
1474 determine. Notwithstanding the provisions of any general or special law to the contrary, the
1475 relocation of the facilities of any public utility, including rail lines, in accordance with the
1476 provisions of this section shall be valid upon the filing of the plans thereof with the department
1477 of telecommunications and energy, if applicable.

1478 Except as otherwise provided by law, any sale of real property shall be awarded, after
1479 advertisement for bids, to the bidder who is the highest responsible bidder. The authority shall
1480 have the right to reject all bids and to readvertise for bids. Before any real property shall be so
1481 sold or conveyed, notice that such real property is for sale shall be publicly advertised in two
1482 daily newspapers of general circulation published in the city of Boston, and, if such real property
1483 is located in any other city or town, in a newspaper of general circulation published in such other
1484 city or town, once a week for three successive weeks. Such advertisements shall state the time
1485 and place where all pertinent information relative to the real property to be sold or conveyed may
1486 be obtained and the time and place of opening the bids in answer to such advertisements and that
1487 the authority reserves the right to reject any or all such bids. All bids in response to
1488 advertisements shall be sealed and shall be publicly opened by the authority. Said authority may
1489 require, as evidence of good faith, that a deposit of a reasonable sum, to be fixed by the

1490 authority, accompany the proposals. The provisions of this paragraph shall not be applicable to
1491 any sale of real property by the authority to the commonwealth or any city, town or public
1492 instrumentality nor to a sale of real property which is determined by the authority to have a fair
1493 market value of five thousand dollars or less.

1494 The authority may sell the buildings or other structures upon any lands taken by it or may
1495 remove the same and shall sell, if a sale be practicable or, if not, shall lease, if a lease be
1496 practicable, any lands or rights or interest in lands or other property taken or purchased for the
1497 purposes of this chapter, whenever the same shall, in the opinion of the authority, cease to be
1498 needed for such purpose.

1499 Notwithstanding the provisions of any general or special law to the contrary, all counties,
1500 cities, towns and other political subdivisions and all public agencies, authorities and
1501 commissions of the commonwealth are hereby authorized and empowered to lease, lend, grant or
1502 convey to the authority at its request upon such terms and conditions as the proper authorities of
1503 such counties, cities, towns, political subdivisions, agencies, authorities and commissions may
1504 deem reasonable and fair and without the necessity for any advertisement, order of court or other
1505 action or formality, other than the regular and formal action of the authorities concerned, any real
1506 property, improvements or personal property which may be necessary or convenient to the
1507 effectuation of the authorized purposes of the authority, including public roads, bridges and other
1508 real property, improvements or personal property already devoted to public use.

1509

1510 Section 12. Notwithstanding the provisions of chapters one hundred and thirty-four and one
1511 hundred and forty-seven, if money, goods or other property which has been abandoned, mislaid
1512 or lost on the premises of the authority comes into the possession of said authority and remains

1513 unclaimed for a period of one hundred and twenty days, the authority may sell the same,
1514 excepting money so unclaimed, at public auction after notice of such sale has been published for
1515 three successive weeks in a newspaper published in the city or town wherein such sale shall
1516 occur. The net proceeds of such sale, after deducting the cost of storage and the expenses of the
1517 sale, and all money so unclaimed, shall be paid into and become the property of the authority and
1518 may be applied by the authority to any of its corporate purposes. If such property is in the
1519 possession of the authority and remains unclaimed for a period of one hundred and twenty days
1520 and is of the value of three dollars or less, the authority may donate the same to a charitable
1521 organization.

1522

1523 Section 13. The Authority and its employees shall be subject to the provisions of chapter one
1524 hundred and fifty E of the General Laws, and for purposes of said chapter, the Authority shall be
1525 deemed to be an employer or public employer and a legislative body. The Authority may
1526 designate a representative to act in its interest in labor relations matters with its employees.
1527 Rights and obligations under collective bargaining agreements with respect to employees
1528 transferred to the Authority, except to the extent expressly inconsistent with this act, shall be
1529 assumed by and imposed upon the Authority, and employees transferred to the Authority who
1530 are subject to such agreements shall continue to be represented by the employee organizations
1531 that are parties to such agreements until such time as they elect to be otherwise represented in
1532 accordance with the provisions of chapter one hundred and fifty E. Existing bargaining units as
1533 determined by the state labor relations commission shall remain in full force and effect for those
1534 employees transferred to the Authority until the expiration date of collective bargaining
1535 agreements covering such employees. No collective bargaining agreement entered into by the

1536 Authority, however, shall limit inherent management rights which shall include, without limiting
1537 the generality of the foregoing, the following: (i) employment, assignment, and promotion of
1538 employees and the determination of standards therefor, (ii) termination and discharge of
1539 employees, provided that any collective bargaining agreement may protect employees against
1540 such actions on arbitrary, capricious or unreasonable grounds, (iii) determination of the
1541 Authority's levels of service, levels of staffing, and the methods, means and personnel for
1542 performing operations, (iv) supervision, control, and evaluation and establishment of
1543 productivity standards for employees, and (v) use of part-time regular employees and of
1544 independent contractors or vendors.

1545 The provisions of section 5 of chapter 150A shall so far as apt apply to the authority and
1546 its employees, excepting directors, executives and those confidential employees representing the
1547 authority and dealing with employee organizations. Nothing in this section shall be construed as
1548 conferring upon the employees of the authority the right to strike, nor as detracting from the
1549 obligations of the authority and the employees to submit all grievances and other disputes to
1550 arbitration.

1551

1552 Section 14. Whenever any employee or former employee of the authority dies, and the authority
1553 owes his estate any sum or sums by reason of services rendered by him for wages vacation
1554 allowances, and neither a duly appointed executor or administrator nor a administrator has made
1555 written demand for payment upon the treasurer of the authority and treasurer shall not otherwise
1556 have actual notice that proceedings relative to the formal or settlement of such estate have been
1557 commenced in any probate court, such sum or sums may, in the discretion of the authority, be
1558 paid after the expiration of 30 days from the death of such employee to such person as may have

1559 been nominated as beneficiary, on a form approved by the directors and filed with the treasurer
1560 by such employee during his lifetime or, if there is no such beneficiary then to the surviving
1561 spouse or next of kin of such employee. Payments made as provided in this section shall
1562 discharge all liability of the authority to all persons with respect to such sum or sums.

1563

1564 Section 15. Notwithstanding the provisions of section 13, the authority or any organizations
1565 representing employees of the authority shall not be permitted to submit any dispute over the
1566 terms of a collective bargaining agreement to arbitration except in accordance with sections 15
1567 through 19, inclusive; provided, however, that this section shall not limit the rights of
1568 organizations representing employees of the authority to submit grievances to arbitration in
1569 accordance with the collective bargaining agreement between the parties.

1570

1571 Section 16. In the event the directors and any organizations representing employees of the
1572 authority have not reached an agreement within 90 days from the date of the expiration of the
1573 agreement, either party may notify the other that it desires mediation. The parties may agree
1574 upon a person to serve as a mediator or, if unable to agree on said mediator, either party or the
1575 parties acting jointly may petition the board of conciliation and arbitration to appoint a mediator
1576 from a list of qualified persons maintained by the board.

1577 After a reasonable period of mediation, not to exceed 45 days from the date of
1578 appointment, said mediator shall issue a report indicating the results of his services in resolving
1579 the impasse. If at the conclusion of mediation the impasse still exists, the mediator shall so
1580 certify. In the event, the mediator shall certify in his report the last best offer of each party on
1581 each unresolved issue which has been submitted to mediation and shall also certify the

1582 agreement of the parties on each issue on which agreement has been reached and shall submit
1583 such certifications to the arbitrator selected by the parties. In such event, so long as the mediator
1584 shall also certify that the parties have bargained in good faith, either party may notify the other
1585 that it desires arbitration of the dispute. Within 10 days of said notice, the parties shall meet to
1586 select a single neutral arbitrator. If, within 15 days, the parties fail to select such single arbitrator,
1587 either party may forthwith petition the board of conciliation and arbitration to request a list of
1588 five arbitrators from the American Arbitration Association and said Association shall certify to
1589 the board that such arbitrators on the list it provides possess the qualifications as provided in
1590 section 30. The parties shall thereupon meet to select such arbitrator by striking one name each
1591 until one name remains and that person shall serve as the neutral arbitrator. If, after 10 days, one
1592 of the parties declines to strike their names, the other party shall strike two names and the board
1593 shall forthwith select the arbitrator from the remaining three names.

1594

1595 Section 17. The single arbitrator, whether agreed upon by the parties or selected by the board of
1596 conciliation and arbitration, shall be a legal resident of the commonwealth and shall be
1597 experienced in state and local finance.

1598

1599 Section 18. The arbitrator shall rely primarily on the following factors in determining the basis
1600 for an award:

1601 (a) The financial ability of the authority to meet additional costs, which shall include but
1602 not be limited to: (i) the statutory requirement that the authority produce revenues in excess of
1603 expenses; (ii) the financial ability of the individual communities and the commonwealth to meet
1604 additional costs; (iii) the average per capita tax burden, average annual income and sources of

1605 revenue within the commonwealth, and the effect of any arbitration award on the respective
1606 property tax rates of the cities and towns within the authority's district.

1607 (b) The overall compensation presently received by the employees, having regard not
1608 only for wages for time actually worked but also for wages for time not worked, including
1609 vacations, holidays and other excused time.

1610 (c) All benefits received by the employees, including insurance, pension, as well as the
1611 continuity and stability of employment.

1612 (d) The hazards of employment, physical, educational and mental qualifications, job
1613 training and skills involved.

1614 (e) A comparison of wages, hours, and conditions of employment of the employees
1615 involved in the arbitration proceedings with the wages, hours and conditions of employment of
1616 other employees performing similar services within the commonwealth and with other
1617 employees generally in public and private employment within the commonwealth.

1618 (f) The average consumer price for goods and services, commonly known as the cost of
1619 living.

1620 (g) Changes in any of the foregoing circumstances during the pendency of the arbitration
1621 proceedings.

1622 (h) Such other factors, not confined to the foregoing, which are normally or traditionally
1623 taken into consideration in the determination of wages, hours and conditions of employment
1624 through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise
1625 between parties, in the public service of the commonwealth, and which are not precluded from
1626 bargaining under section 13.

1627 (i) The stipulation of the parties.

1628

1629 Section 19. The arbitrator shall be limited in making his award to choosing between the last best
1630 offers of the parties on each issue as certified in the mediator's report or any award in the range
1631 between the last best offers of the parties. The arbitrator shall make no award on any issue found
1632 by him to be not authorized by law to be submitted to arbitration, but shall state such finding in
1633 his written opinion. Within 30 calendar days of an award, the arbitrator shall issue a written
1634 opinion inclusive of an analysis of all statutory factors applicable to the proceedings. Any
1635 determination by the arbitrator, if supported by material and substantial evidence on the record,
1636 shall be binding upon the parties and upon the appropriate legislative or appropriating body and
1637 may be enforced at the insistence of either party or by the arbitrator in the superior court. The
1638 scope of arbitration shall be limited to wages, hours, and conditions of employment and shall not
1639 include any provisions for any cost of living adjustment which are based on changes in the
1640 consumer price index after the expiration of the contract period covered by the award. In
1641 addition, any wage or salary adjustments shall be expressed in percent or dollar amounts, and in
1642 no case shall there be any provision for salary adjustments to occur after the expiration of the
1643 contract period covered by the award.

1644 The cost, if any, of the mediation and of arbitration proceedings exclusive of the expenses
1645 of the individual parties provided for under sections 15 to 19, inclusive, shall be divided equally
1646 by the parties and shall be in accordance with a schedule of payments established by the
1647 American Arbitration Association.

1648

1649 Section 20. All sums of money payable under the provisions of sections 31, 34, 34A, 35 and
1650 35A of chapter 152 directly to a retired member of the Massachusetts Bay Transportation

1651 Authority retirement system or to the legal representative or dependents of a deceased member
1652 on account of his death, including so much of the amount of any lump sum settlement payable
1653 under the provisions of such sections directly to any such persons as is allocable to the period
1654 following the retirement or death of such member, but excluding any payments for or amounts
1655 allocable to any period to the date his retirement allowance became effective, shall be offset
1656 against and payable in lieu of any pension payable on his account by reason of the same injury,
1657 but not against his accumulated total deductions or any annuity derived therefrom. If any such
1658 pension exceeds the compensation payable on account of such member under such provisions of
1659 chapter 152 when both are reduced to the same periodical basis, the excess only shall be paid as
1660 a pension so long as such compensation continues. If any such pension is less than or equal to
1661 such compensation, no pension shall be paid so long as such compensation continues to be equal
1662 to or greater than such pension.

1663 In all cases where a member or a beneficiary receives delayed compensation payments or
1664 an amount of any lump sum settlement payable directly to him under the provisions of sections
1665 31, 34, 34A, 35 or 35A of chapter 152 subsequent to his receipt of payments under any pension
1666 granted under the provisions of the Massachusetts Bay Transportation Authority retirement
1667 system by reason of the same injury, no further pension payments shall be made unless and until
1668 such time as the total amounts which by then would have been payable as compensation and
1669 pension together, if there had been no delay in making such compensation payments, shall
1670 exceed the total amounts of compensation and pension actually paid by them after due allowance
1671 in either case for the allocation of any such lump sum settlement.

1672 If a member or a beneficiary entitled to a pension under the provisions of the
1673 Massachusetts Bay Transportation Authority retirement system, and also having a right to

1674 compensation under the provisions of chapter 152 by reason of the same injury or death of such
1675 member, as the case may be, neglects or fails to prosecute fully such right or to cooperate with
1676 the Massachusetts Bay Transportation Authority retirement system in its prosecution thereof, as
1677 provided for by the provisions of section 73 of such chapter, said board may, during the period of
1678 such neglect or failure, suspend such member's or beneficiary's right to further payment. Under
1679 the circumstances set forth in the said section 73, the duty of the board to prosecute shall be
1680 mandatory.

1681
1682 Section 21. The Authority shall adopt an annual budget for its current expenses which budget
1683 the Authority shall have submitted for comment and recommendation to the advisory board for
1684 each division not less than sixty days prior to the adoption thereof. Except in case of an
1685 emergency, no current expenses may be incurred in excess of those shown in the annual current
1686 expense budget. The Authority may from time to time adopt amendments to current expense
1687 budgets which the Authority shall have submitted for comment and recommendation to the
1688 advisory board for each division not less than 30 days prior to the adoption thereof. The
1689 Authority periodically shall also adopt and revise capital expenditure budgets for the capital
1690 facility programs developed by the executive office of transportation. The current expense and
1691 capital expenditure budgets of the Authority shall be deemed not to be regulations or
1692 adjudications for purposes of chapter thirty A of the General Laws. Proposed capital expenditure
1693 budgets shall be submitted to the advisory board for each division for such consultation no less
1694 than 60 days prior to adoption or revision by the Authority. The Authority shall prepare a written
1695 response to reports respecting its finances submitted to it by the advisory board for each division
1696 which response shall state the basis for any substantial divergence between the actions of the

1697 Authority and the recommendations contained in such reports of the advisory board. The
1698 Authority shall be deemed to be a public agency subject to the recordkeeping and reporting
1699 requirements of paragraph (4) of section forty A of chapter seven of the General Laws.

1700 The authority shall establish a Stabilization Fund into which it shall deposit revenues in
1701 excess of expenses pursuant to section 30 until the fund balance is equal to or greater than 5 per
1702 cent of total revenues of the fiscal year most recently ended. The authority may draw funds from
1703 the Stabilization Fund only in the event that, after implementing all efficiencies and savings
1704 possible, annual revenues are projected to be less than annual expenses, or if it has insufficient
1705 funds on-hand to pay current expenses. The authority may not assume draws from the
1706 Stabilization Fund in preparing its budget pursuant to this section. In the event the authority
1707 draws funds from the Stabilization Fund, it shall file with the secretary of administration and
1708 finance, the secretary of transportation and construction, the joint committee on transportation
1709 and the house and senate committees on ways and means a financial plan that projects to produce
1710 in the following fiscal year an excess of revenues over expenses.

1711 The authority shall also establish a Toll and Fare Stability Fund, into which it shall
1712 deposit revenues in excess of expenses pursuant to section 30. The authority may assume draws
1713 from the Fare Stability Fund in preparing its budget pursuant to this section. Funds in said Fare
1714 Stability Fund shall be utilized within five fiscal years after being deposited.

1715

1716 Section 22. (a) The Authority may provide, by resolution of the board of directors, for the
1717 issuance from time to time of bonds of the Authority for any of its corporate purposes or for the
1718 borrowing of money in anticipation of the issuance of such bonds. Bonds issued by the Authority
1719 may be issued as general obligations of the Authority or as special obligations payable solely for

1720 particular revenues or funds as may be provided for in any bond resolution, trust agreement or
1721 other agreement securing bonds. The Authority may also provide by resolution of the board of
1722 directors for the issuance from time to time of temporary notes in anticipation of the revenues to
1723 be collected or received by the Authority, or in anticipation of the receipt' of other grants or aid.
1724 The issue of such notes shall be governed by the provisions of this act relating to the issue of
1725 bonds of the Authority other than such temporary notes as the same may be applicable; provided,
1726 however, that notes issued in anticipation of revenues shall mature no later than one year from
1727 their respective dates and notes issued in anticipation of grants, or other aid and renewals thereof,
1728 shall mature no later than six months after the expected date of receipt of such grant or aid. The
1729 aggregate principal amount of all bonds issued under this act shall not exceed \$10,000,000,000
1730 outstanding at any 1 time; provided, however, that bonds for the payment of redemption of
1731 which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in
1732 the computation of outstanding bonds.

1733 (b) Bonds of each issue shall be dated, may bear interest at such rate or rates, including
1734 rates variable from time to time as determined by an index, banker's loan rate or other method
1735 determined by the Authority, and shall mature or otherwise be payable at such time or times, as
1736 may be determined by the Authority, and may be made redeemable before maturity at the option
1737 of the Authority or the holder thereof at such price or prices and under such terms and conditions
1738 as may be fixed by the Authority. Prior to the initial issuance of each series of bonds the
1739 Authority shall advise the advisory boards created by chapter 81C and 81D, the finance advisory
1740 board established in section 97 of chapter 6 and the executive office for administration and
1741 finance of the timing and terms thereof. The Authority shall determine the form of bonds,
1742 including interest coupons, if any, to be attached thereto, and the manner of execution of such

1743 bonds, and shall fix the denomination or denominations of such bonds and the place or places of
1744 payment of principal, redemption premium, if any, and interest, which may be at any bank or
1745 trust company within or without the commonwealth. In case any officer whose signature or a
1746 facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer
1747 before the delivery thereof, such signature or facsimile shall nevertheless be valid and sufficient
1748 for all purposes as if such officer had remained in office until delivery. The Authority may
1749 provide for authentication of bonds by a trustee, fiscal agent, registrar or transfer agent. Bonds
1750 may be issued in bearer or in registered form, or both, and, if notes, may be made payable to
1751 bearer or to order, as the Authority may determine, and provision may be made for the
1752 registration of any coupon bonds as to principal alone and also as to both principal and interest,
1753 for the reconversion into coupon bonds of bonds registered as to both principal and interest and
1754 for the interchange of bonds registered as to both principal and interest and for the interchange of
1755 registered and coupon bonds. The Authority may also establish and maintain a system of
1756 registration for any bonds whereby the name of the registered owner, the rights evidenced by the
1757 bonds, the transfer of the bonds and such rights and other similar matters are recorded in books
1758 or other records maintained by or on behalf of the Authority, and no instrument evidencing such
1759 bond or rights need be delivered to the registered owner by the Authority. A copy of the books or
1760 other records of the Authority pertaining to any bond registered under such registration system
1761 certified by an authorized officer of the Authority or by the agent of the Authority maintaining
1762 such system shall be admissible in any proceeding without further authentication. The Authority
1763 may adopt regulations with respect to the operation of such system. The board of directors may
1764 by resolution delegate to any director or directors or officer or officers of the Authority or any
1765 combination thereof the power to determine any of the matters set forth in this section. In the

1766 discretion of the Authority, bonds of the Authority may be issued with such terms as will cause
1767 the interest thereon to be subject to federal income taxation. The Authority may sell its bonds in
1768 the manner, either at public or private sale, for the price, at the rate or rates of interest, or at
1769 discount in lieu of interest, as it may determine will best effect the purposes of this act.

1770 (c) Said Authority may issue interim receipts or temporary bonds, with or without
1771 coupons, exchangeable for definitive bonds when the bonds shall have been executed and are
1772 available for delivery. The Authority may also provide for replacement of any bonds which shall
1773 have become mutilated or shall have been destroyed or lost. The Authority, by itself or through
1774 such agent as it may select, may purchase and invite offers to tender for purchase any bonds of
1775 the Authority at any time outstanding, provided, however, that no such purchase by the Authority
1776 shall be made at a price, exclusive of accrued interest, if any, exceeding the principal amount
1777 thereof or, if greater, the redemption price of such bonds when next redeemable at the option of
1778 the Authority, and may resell any bonds it determines will best effect the purposes of this act.

1779 (d) In the discretion of the board of directors, any bonds issued hereunder may be secured
1780 by a bond resolution or trust agreement or other agreement in such form and executed in such
1781 manner as may be determined by the board of directors between the Authority and the purchasers
1782 or holders of such bonds or between the Authority and a corporate trustee which may be any
1783 trust company or bank having the powers of a trust company within or without the
1784 commonwealth. A trust agreement may pledge or assign, in whole or in part, any receipts, fees,
1785 revenues or other payments received or to be received by the authority, including without
1786 limitation amounts provided to the trust in accordance with section 35LL of chapter 10, grants,
1787 appropriations or other assistance from the commonwealth or the United States or any political
1788 subdivision or instrumentality of either, investment earnings on its funds and accounts and any

1789 other fees, charges or other income received or receivable by the authority and any contract or
1790 other rights to receive the same, whether then existing or thereafter coming into existence, and
1791 whether then held or thereafter acquired by the trust, and the proceeds thereof. A trust agreement
1792 may contain, without limitation, provisions for protecting and enforcing the rights, security and
1793 remedies of the bondholders, provisions defining defaults and establishing remedies, which may
1794 include acceleration and may also contain restrictions on remedies by individual bondholders. A
1795 trust agreement may also contain covenants of the trust concerning the custody, investment and
1796 application of moneys, the issuance of additional or refunding bonds, the use of any surplus bond
1797 proceeds, the establishment of reserves and the regulation of other matters customarily treated in
1798 trust agreements. At the request of the authority, the state treasurer shall join in any trust
1799 agreement or to otherwise agree with the authority, any lender or any trustee for bondholders to
1800 hold the Surface Transportation Trust Fund, established pursuant to said section 35LL of said
1801 chapter 10, in compliance with any covenants and provisions relating thereto in any trust
1802 agreement. In no circumstances shall the Authority mortgage its real property or fixed assets to
1803 secure its bonds.

1804 (e) (1) Bonds may be issued by the authority in the form of lines of credit or other
1805 banking arrangements under terms and conditions determined by the authority. In addition to
1806 other lawful security, bonds may be secured, in whole or in part, by financial guaranties, by
1807 insurance, by letters or lines of credit or by other credit enhancement issued to the authority or to
1808 a trustee or other person, by any bank, trust company, insurance or surety company or other
1809 financial institution, within or without the commonwealth. The authority may pledge or assign,
1810 in whole or in part, revenues, funds or other assets or property held or to be received by the
1811 authority, and any contract or other rights to receive the same, whether then existing or thereafter

1812 coming into existence and whether then held or thereafter acquired by the authority, and the
1813 proceeds thereof, as security for any such guaranties or insurance or for the reimbursement to
1814 any issuer of a line or letter of credit.

1815 (2) The Authority shall comply with all regulations and guidelines promulgated by the
1816 finance advisory board established in section 97 of chapter 6. At least 10 business days before
1817 entering into any security transaction involving a derivative financial product, the Authority shall
1818 notify the finance advisory board of its intent to enter into such a transaction. For purposes of the
1819 preceding sentence, “derivative financial product” shall mean financial instruments with values
1820 derived from or based upon the value of other assets or on the level of an interest rate index
1821 including, but not limited to, a call option on a bond, an interest rate swaptions, caps, floors,
1822 collars, inverse floaters, auction rate securities or any other financial transaction other than fixed-
1823 rate, long-term borrowing.

1824 (f) It shall be lawful for any bank or trust company to act as a depository or trustee of the
1825 proceeds of bonds, revenues or other moneys under a bond resolution, trust agreement or other
1826 agreement of the Authority and to furnish indemnification and to provide security as may be
1827 required by the Authority. Any pledge of revenues and other funds made by the Authority under
1828 the provisions of this act shall be valid and binding and shall be deemed continuously perfected
1829 for the purposes of the uniform commercial code and other laws when such pledge is made. The
1830 revenues and funds, rights therein and thereto and proceeds so pledged and then held or
1831 thereafter acquired or received by the Authority shall immediately be subject to the lien of such
1832 pledge without any physical delivery or segregation thereof or further act, and the lien of any
1833 such pledge shall be valid and binding against all parties having claims of any kind in tort,
1834 contract or otherwise against the Authority, whether or not such parties have notice thereof. The

1835 bond resolution, trust agreement or any other agreement by which a pledge is created need not be
1836 filed or recorded to perfect such pledge except in the records of the Authority and no filing need
1837 be made under the uniform commercial code. It is hereby declared that any pledge or assignment
1838 made under the Authority of this act is an exercise of the political and governmental powers of
1839 the Authority, and revenues or funds, contract or other rights to receive the same and the
1840 proceeds thereof which are subject to the lien of a pledge or assignment created under this act
1841 shall not be applied to any purposes not permitted by such pledge or assignment.

1842 (g) Any holder of a bond issued by the Authority under the provisions of the act or of any
1843 of the coupons appertaining thereto and any trustee or other representative under a bond
1844 resolution, trust agreement or other agreement securing the same, except to the extent the rights
1845 herein given may be restricted by the resolution, trust agreement or other agreement, may bring
1846 suit upon the bonds or coupons and may, either at law or in equity, by suit, action, mandamus, or
1847 other proceeding for legal or equitable relief, including proceedings for the appointment of a
1848 receiver to take possession and control of the business and properties of the Authority, to operate
1849 and maintain the same, to make any necessary repairs, renewals and replacements in respect
1850 thereof and to fix, revise and collect charges, protect and enforce any and all rights under the
1851 laws of the commonwealth or granted hereunder or under such bond resolution, trust agreement
1852 or other agreement, and may enforce and compel performance of all duties required by this act or
1853 by such bond resolution, trust agreement or other agreement, to be performed by the Authority or
1854 by any officer thereof.

1855 (h) Before the issuance of any bonds of the Authority each member of the board of
1856 directors and each officer of the Authority charged with responsibility for the issuance thereof
1857 shall execute a surety bond conditioned on the faithful performance of the duties of the office of

1858 each such director and officer, in the sum of one hundred thousand dollars payable to the
1859 Authority, or, in lieu thereof, the Authority shall obtain a blanket bond in the same amount
1860 covering all such persons, and such bonds or bonds shall be filed in the office of the secretary of
1861 the commonwealth.

1862
1863 Section 23. Said Authority may issue refunding bonds for the purpose of paying any of its bonds
1864 issued pursuant to this act at or prior to maturity or upon acceleration or redemption or purchase
1865 and retirement. Refunding bonds may be issued at such times at or prior to the maturity,
1866 redemption or purchase and retirement of the refunded bonds as the board of directors deems to
1867 be in the interest of said Authority. Refunding bonds may be issued in sufficient amounts to pay
1868 or provide for payment of the principal of the bonds being refunded, together with any
1869 redemption premium thereon, any interest or discount accrued or to accrue to the date of
1870 payment of such bonds, the costs of issuance of the refunding bonds, the expenses of paying,
1871 redeeming or purchasing the bonds being refunded, the costs of holding and investing proceeds
1872 of refunding bonds pending such payment, redemption or purchase and such reserves for debt
1873 service or other capital or current expenses from the proceeds of such refunding bonds as may be
1874 required by a bond resolution, trust agreement or other agreement securing bonds. The issue and
1875 sale of refunding bonds, the maturities and other details thereof, the security therefor, the rights
1876 of the holders thereof, and the rights, duties and obligations of the Authority in respect of the
1877 same shall be governed by the provisions of this act relating to the issue of bonds other than
1878 refunding bonds insofar as the same may be applicable.

1879

1880 Section 24. Bonds issued by said Authority are hereby made securities in which all public
1881 officers and agencies of the commonwealth and its political subdivisions, all insurance
1882 companies, trust companies in their commercial departments, savings banks, cooperative banks,
1883 banking associations, investment companies, executors, administrators, trustees and other
1884 fiduciaries may properly invest funds, including capital in their control or belonging to them.
1885 Such bonds are hereby made securities which may properly be deposited with and received by
1886 any state or municipal officer of any agency or political subdivision of the commonwealth for
1887 any purpose for which the deposit of bonds or obligations of the commonwealth or any political
1888 subdivision is now or may hereafter be authorized by law.

1889

1890 Section 25. Bonds may be issued under this act without obtaining the consent of any executive
1891 office, department, division, commission, board, bureau or agency of the commonwealth or any
1892 political subdivision thereof, and without any other proceedings or the happening of any
1893 condition or acts other than those proceedings, conditions or acts which are specifically required
1894 therefor, and the validity of and security for any bonds issued by the Authority pursuant to this
1895 act shall not be affected by the existence or nonexistence of any such consent or other
1896 proceedings, conditions or acts. Provisions of this act relating to the preparation, adoption or
1897 approval of programs and budgets shall not affect the issue of bonds and bonds may be issued
1898 either before or after such preparation, adoption or approval.

1899

1900 Section 26. Bonds issued under the provisions of this chapter shall not be deemed to be a debt or
1901 a pledge of the faith and credit of the commonwealth or of any of its political subdivisions, but
1902 shall be payable solely from the funds of the Authority from which they are made payable

1903 pursuant to this act. Bonds issued under the provisions of this chapter shall recite that neither the
1904 commonwealth nor any political subdivisions thereof shall be obligated to pay the same and that
1905 neither the faith and credit nor the taxing power of the commonwealth or of any political
1906 subdivision thereof is pledged to the payment of the principal of or interest on such bonds.
1907 Further, every bond shall recite whether it is a general obligation of the Authority or a special
1908 obligation thereof payable solely from particular revenues or funds pledged to its payment. The
1909 aggregate principal amount of all bonds issued under this act shall not exceed \$10,000,000,000
1910 outstanding at any 1 time; provided, however, that bonds for the payment of redemption of
1911 which, either at or prior to maturity, refunding bonds shall have been issued shall be excluded in
1912 the computation of outstanding bonds.

1913

1914 Section 27. Notwithstanding any of the provisions of this act or any recitals in any bonds issued
1915 hereunder, all such bonds shall be deemed to be investment securities under the uniform
1916 commercial code.

1917

1918 Section 28. All moneys received pursuant to the provisions of this chapter, whether as proceeds
1919 from the issue of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held
1920 and applied solely as provided in this chapter. The resolution authorizing the notes or bonds or
1921 the trust agreement securing such notes or bonds shall provide that any officer with whom, or
1922 any bank or trust company with which, such moneys shall be deposited shall act as trustee of
1923 such moneys and shall hold and apply the same for the purposes hereof, subject to such
1924 regulations as this chapter and such resolution or trust agreement may provide.

1925

1926 Section 29. (a) The Authority, shall, at all times, keep full and accurate accounts of its receipts,
1927 expenditures, disbursements, assets and liabilities which shall be open to inspection by any
1928 officer or duly appointed agent of the commonwealth. Said Authority shall submit an annual
1929 report, in writing, to the governor, the president of the senate, the speaker of the house of
1930 representatives, the chairman of the senate committee on ways and means, the chairman of the
1931 house committee on ways and means and the chairmen of the joint committee on transportation.
1932 Said report shall include audited financial statements by an independent accounting firm relating
1933 to the operations, properties, and capital facility expenditures, including costs of land
1934 acquisitions, of the Authority maintained in accordance with generally accepted accounting
1935 principles so far as applicable, beginning with the fiscal year of the Authority commencing July
1936 1, 2009, and audited by an independent certified public accountant firm.

1937 (b) Not later than December 31, 2011 and every five years thereafter, the Authority shall
1938 submit to the governor, the president of the senate, the speaker of the house of representatives,
1939 the chairman of the senate committee on ways and means, the chairman of the house committee
1940 on ways and means and the chairmen of the joint committee on transportation a progress report
1941 on the Authority's attainment of its statutory purposes. Each such five-year progress report shall
1942 be prepared by the Authority with the assistance of an independent citizen panel which shall
1943 include persons selected by the Authority and approved by the respective advisory boards who
1944 are experienced in environmental protection, civil engineering and public management and
1945 finance. Said reports shall include recommendations concerning the future activities of the
1946 Authority including, but not limited to, changes in the provisions of this act or the Authority's
1947 administrative procedures necessary or desirable for improving the delivery of services. The

1948 costs of preparing the reports of said Authority shall be provided for in the current expense
1949 budgets of said Authority.

1950

1951 Section 30. Annual revenues in excess of expenses shall be allocated in the following order:

1952 (a) to fully fund all debt service reserves required under the trust agreements of any
1953 bonds of the authority then outstanding, and to fund in advance the debt service reserve
1954 requirements of any bond issuances planned for the upcoming fiscal year, in each case to the
1955 extent required by an applicable bond resolution or trust agreement securing bonds of the
1956 authority;

1957 (b) to fund the Stabilization Fund established pursuant to the second paragraph of section
1958 21;

1959 (c) 50 per cent of any revenues in excess of expenses remaining after all debt service
1960 reserve requirement and the Stabilization Fund are fully funded shall be deposited in the Toll and
1961 Fare Stability Fund established pursuant to the third paragraph of section 21;

1962 (d) 50 per cent of any revenues in excess of expenses remaining after all debt service
1963 reserve requirement and the Stabilization Fund are fully funded shall pay for capital
1964 improvements in lieu of bond proceeds or be applied to the retirement of outstanding bonds.

1965

1966 Section 32. The Authority shall be a public employer as defined in section 1 of chapter 258 of
1967 the General Laws.

1968

1969 Section 33. The Authority shall be deemed to be a public agency for purposes of, and shall be
1970 subject to, sections forty-four A to forty-four H, inclusive, of chapter one hundred and forty-nine

1971 of the General Laws, and section thirty-nine M of chapter thirty of the General Laws, and shall
1972 comply with requirements applicable to an independent public authority for publication of
1973 contract information in the central register established under section twenty A of chapter nine of
1974 the General Laws. The Authority shall not be subject to supervision under section twenty-two of
1975 chapter seven of the General Laws, but may enter into agreements under section twenty-two A
1976 and twenty-two B of chapter seven of the General Laws and in all respects not governed by
1977 general or special laws expressly made applicable to the Authority shall adhere to good business
1978 practices to be determined by the Authority in its procurement of equipment, materials, property,
1979 supplies and services.

1980

1981 Section 34. (a) All local bodies and all public agencies, instrumentalities, commissions and
1982 authorities of the commonwealth are hereby authorized and empowered to undertake activities,
1983 programs and projects in conjunction with the Authority in furtherance of the purposes of this
1984 act, including without limiting the generality of the foregoing, to join in investigations and
1985 studies, and to grant applications and applications for project approvals.

1986 (b) Except with respect to real property acquired or held for purposes described in Article
1987 XCVII of the Amendments to the Constitution, all local bodies and all public agencies,
1988 instrumentalities, commissions and authorities of the commonwealth, are hereby authorized and
1989 empowered to lease, lend, grant or convey to the Authority upon such terms and conditions as
1990 the proper authorities of such public bodies, public agencies, instrumentalities, commissions and
1991 authorities of the commonwealth may deem appropriate and without the necessity of any action
1992 or formality other than the regular and formal action of said public bodies, agencies,

1993 instrumentalities, commissions and authorities of the commonwealth any interest in any real or
1994 personal property which may be necessary or convenient to effect the purposes of the Authority.

1995

1996 Section 35. Under this act (i) no lands or easements taken or acquired for the purposes
1997 authorized by article 97 of the Amendments to the Constitution of the Commonwealth shall be
1998 used for other purposes or disposed of, and (ii) no lands devoted to the public use shall be
1999 diverted to another inconsistent public use, except in all instances in accordance with the laws
2000 and the Constitution of the Commonwealth.

2001

2002 Section 36. The superior court department of the trial court shall have jurisdiction to enforce
2003 rights and duties created by the provisions of this chapter, and on complaint of the Authority may
2004 restrain violations of the Authority's regulations and otherwise enforce by any appropriate
2005 remedy, including without limiting the generality of the foregoing, injunctive relief, the
2006 regulations, licenses, permits, orders, penalties and charges of the Authority. Penalties and
2007 charges established by or under authorization of this chapter shall be collected for the account of
2008 the Authority and paid over to the Authority. Except for rights of action expressly conferred
2009 upon the Authority, no provision of this chapter shall create private rights of action in
2010 enforcement proceedings.

2011

2012 Section 37. Notwithstanding the provisions of any general or special law or provision of this act
2013 to the contrary, no officer of the Authority shall enter into any consent decree in any court of any
2014 jurisdiction without prior approval of the governor.

2015

2016 Section 38. The Authority and its corporate existence shall continue until terminated by law;
2017 provided, however, that no such law shall take effect so long as said Authority shall have bonds
2018 outstanding without adequate provision for the complete payment or satisfaction thereof. Upon
2019 termination of the Authority, the title to all funds and other properties owned by it which remain
2020 after the payment or satisfaction of all bonds of the Authority shall vest in the commonwealth.
2021 The obligations, debts and liabilities of the Authority shall be assumed by and imposed upon the
2022 commonwealth.

2023

2024 Section 39. The provisions of chapter twelve A of the General laws shall apply to the authority.
2025

2026 Section 40. There shall be an internal special audit unit within the Authority which shall monitor
2027 the quality, efficiency and integrity of the Authority's operating and capital programs and seek to
2028 prevent, detect and correct fraud, waste and abuse in the expenditure of public or private
2029 transportation funds. The unit shall be headed by a director, who shall be appointed by the
2030 secretary of transportation. Employees of the internal special audit unit shall have experience
2031 with accounting, auditing, financial analysis, applicable law, business management, and public
2032 administration, shall devote their full-time efforts to the unit and shall not be assigned direct
2033 operating responsibilities.

2034 At any time, the director may report and refer his findings to the Inspector General so that
2035 he may conduct an investigation as defined in Chapter 12A and the results of said investigation
2036 may be referred to the Attorney General for appropriate action.

2037

2038 Section 41. Notwithstanding any general or special law to the contrary, the Massachusetts
2039 Surface Transportation Authority shall not seek federal approval for, nor undertake the design,

2040 installation and construction of, new toll facilities on the state highway system in the
2041 Commonwealth without the prior written approval of the Secretary of Transportation.

2042

2043 CHAPTER 81C

2044 THE DIVISION OF ROADS AND BRIDGES

2045 Section 1. (a) Without limiting the generality of the powers granted to the authority under the
2046 provisions of chapter 81B or other provisions of this chapter, the following provisions are made
2047 for the operation, improvement and construction of the state highway system.

2048 (b) There is hereby established a division of roads and bridges within the authority. The
2049 division shall consist of the following bureaus: administrative services, parkway maintenance,
2050 highway engineering, highway construction, and highway maintenance. Each such bureau shall
2051 be under the direction, control and supervision of the administrator of the division of roads and
2052 bridges, as defined in section 2 of this chapter. The administrator shall assign to all officials,
2053 agents and employees of the bureaus their respective duties.

2054

2055 Section 2. The division shall be under the direction of an administrator, who shall be appointed
2056 by the chief executive officer of the Massachusetts surface transportation authority and who shall
2057 serve at his pleasure. The administrator shall be responsible for administering and enforcing the
2058 provisions of this chapter relative to the administration of each bureau or other section thereof
2059 under his control and supervision unless otherwise provided herein, subject to the supervision of
2060 the chief executive officer of the authority.

2061 The administrator shall be exempt from chapter 31 and the position of administrator shall
2062 be classified in accordance with section 45 of chapter 30 and the salary shall be determined in

2063 accordance with section 46C of said chapter 30. The administrator shall be appointed with due
2064 regard to his fitness, by reason of his experience in matters relating to transportation
2065 infrastructure, including roads and bridges, such as their construction, operations, financing or
2066 other relevant experience relative to the efficient exercise of his powers and duties. The
2067 commissioner shall administer this section and the General Laws, rules and regulations that grant
2068 powers to or impose duties upon the division, subject to the supervision of the chief executive
2069 officer.

2070 (a) The administrator shall establish a procedure for recommending to the chief executive
2071 officer approval or disapproval of all contracts, including specifications, made by the division,
2072 and any changes, alterations, amendments, or modifications thereof and for contract appeals of
2073 all claims made under any contract with the division with the exception of claims subject to
2074 section 39Q of chapter 30. Any person aggrieved by a decision of the chief executive officer
2075 acting in regard to contract appeals may bring suit against the authority for recovery of damages
2076 based on such claim under the provisions of chapter 258.

2077 To assist the chief executive officer and administrator in performing this function, the
2078 chief executive officer may appoint and remove a person of legal training and experience, who
2079 shall be a member of the bar of the commonwealth, to the position of hearing examiner. The
2080 hearing examiner shall devote full time during business hours to the duties of his position. The
2081 position shall be classified in accordance with section 45 of chapter 30 and the salary shall be
2082 determined in accordance with section 46C of said chapter 30. The chief executive officer may
2083 refer any dispute concerning contracts, contract specifications or the execution of contracts not
2084 subject to the aforesaid section 39Q of said chapter 30 to the hearing examiner for a report on the
2085 matter including a recommendation as to the disposition of the dispute.

2086 The hearing examiner shall hear all claims by contractors from determinations of the
2087 department with the exception of claims subject to said section 39Q of said chapter 30; and shall,
2088 after hearing, render to the chief executive officer a report of the matter including a
2089 recommendation as to the disposition of the claim. Said examiner shall at the request of the
2090 contractor or of the division or on his own motion summon witnesses and require the production
2091 of books and records and take testimony under oath. Such reports shall be maintained as public
2092 records in a place and form fully accessible to the public.

2093 (b) The administrator shall appoint and may remove all employees in the division, subject
2094 to the approval of the chief executive officer of the authority. Except as provided in this chapter
2095 or as otherwise provided by law, all such appointments and removals shall be made in
2096 accordance with the provisions of chapter 31. From time to time the administrator may, subject
2097 to appropriation and regulation, employ such consultants as he may consider necessary, provided
2098 that consultants shall be engaged to perform only those services for the division which regular
2099 employees of the division are unable to perform owing to lack of special expertise or other
2100 inability to perform such services on the schedule or in the manner required by the division.

2101 The administrator may appoint and remove without regard to chapter 31, but with the
2102 approval of the chief executive officer, a chief engineer; 5 deputy chief engineers; an assistant
2103 chief engineer; a highway and structures engineer; a bridge engineer; highway engineers;
2104 parkway engineers; district highway engineers; a director to serve in the division of
2105 administrative services; 4 executive assistants to the administrator; a director of the right of way
2106 bureau; and a director of public information. The total number of appointments to be made by
2107 the administrator under this paragraph shall not exceed 35. No person holding an appointment
2108 under this paragraph shall be subject to chapter 31 or section 9A of chapter 30. Nothing in this

2109 section shall be deemed to exempt the positions named herein from sections 45 to 50, inclusive,
2110 of said chapter 30. So far as practicable in the judgment of the administrator, appointments to
2111 said positions not classified under said chapter 31 shall be made by promoting employees of the
2112 division serving in positions so classified. Any person appointed to the position of chief
2113 engineer, deputy chief engineer, assistant chief engineer, highway and structures engineer, bridge
2114 engineer, parkway engineer, highway engineer or district highway engineer, shall be a person of
2115 experience and skill as an engineer and shall be: (i) an employee of the bureau holding an office
2116 or position classified under said chapter 31 with permanent status of senior civil engineer or
2117 higher; (ii) a registered professional engineer; or (iii) a person who has received the degree of
2118 bachelor of science in an appropriate engineering discipline from an accredited college or
2119 university. Where an employee of the division having permanent status in a position classified
2120 under or having tenure by reason of section 9A of said chapter 30 is so promoted to such
2121 unclassified position, upon termination of service in such unclassified position the employee
2122 shall be restored to the position from which he was promoted; or to a position equivalent thereto
2123 in the salary grade in the same state agency; or if he had been promoted in accordance with said
2124 chapter 31 during promotion in the unclassified position, to the position to which he was so
2125 promoted or to a position equivalent thereto in salary grade in the same state agency. In cases of
2126 restoration under said chapter 31, or under said section 9A of said chapter 30, such restoration
2127 shall be without impairment of civil service status or tenure under said section 9A, and without
2128 loss of the seniority, retirement and other rights to which uninterrupted service in the position
2129 would have entitled the employee; provided, however, that if his service in such unclassified
2130 position has been terminated for cause, the employee's right to be restored shall be determined by
2131 section 43 of said chapter 31. During the period of such appointment the person so appointed

2132 shall be eligible to take any competitive promotional examination for which he or she would
2133 otherwise have been eligible.

2134 (c) The administrator shall from time to time establish such bureaus, sections, and district
2135 and other offices as shall be necessary for efficient and economical administration of the
2136 division, and, if necessary for such purpose, may from time to time with the approval of the chief
2137 executive officer consolidate or abolish the same. The administrator shall prepare and keep
2138 current a general statement of the organization of the division, of the assignment of functions to
2139 its various administrative units, officials and employees, and of the established places at which
2140 and the methods whereby the public may secure information or make requests, such statement to
2141 be known as the division's "description of organization". He shall file with the state secretary an
2142 attested copy of such description and of each amendment thereto.

2143 (d) With the approval of the personnel director, the chief executive officer may establish
2144 in the division of roads and bridges a program of engineering internship and, may recruit
2145 qualified persons to serve in the division as highway engineer interns.

2146 The number of persons employed in the division as highway engineer interns shall at no
2147 time exceed seven, nor may such highway engineer interns employed by the division be placed
2148 in a salary grade higher than that of a junior civil engineer in the division.

2149 No person shall be appointed or employed as a highway engineer intern except upon
2150 requisition made by the administrator and upon certification by the personnel director from an
2151 eligible list prepared in accordance with the provisions of chapter thirty-one and the rules made
2152 thereunder; provided, that the personnel director shall establish such eligible list before June first
2153 in each calendar year by holding a competitive examination which shall be open only to persons
2154 who, as candidates for the degree of bachelor of science in engineering are enrolled in at least the

2155 junior year as students in any college of the commonwealth, or are Massachusetts residents
2156 attending a college of recognized standing outside the commonwealth, and to persons who,
2157 within the four years next preceding, have been awarded the degree of bachelor of science in
2158 engineering from a college of recognized standing. The eligible list established each year shall
2159 expire upon the establishment of the eligible list in the following year. No person shall be
2160 certified for appointment as a highway engineer intern unless he has been awarded the degree of
2161 bachelor of science in engineering.

2162 Upon appointment as a highway engineer intern, made in accordance with chapter thirty-
2163 one of the General Laws and the rules made thereunder, the appointee shall sign an agreement
2164 binding him to serve as highway engineer intern for a minimum of two years unless his
2165 employment is sooner terminated by the administrator. It shall be the duty of the administrator to
2166 rotate the assignments of each intern during his period of employment in order that he may
2167 acquire diversified experience in the engineering programs of the division.

2168 The names of persons appointed as highway engineer interns shall be entered in order of
2169 date of appointment on a list to be known as "Highway Engineer Intern List" in the division of
2170 civil service.

2171 Upon completion of two years of employment as interns under agreements provided for
2172 in this section, persons shall be eligible without further examination for appointment as junior
2173 civil engineers providing a vacancy exists in said title in the division and, upon requisition of the
2174 administrator, the names of such persons shall be certified for appointment by the personnel
2175 director from the Highway Engineer Intern List, in accordance with the rules of the civil service
2176 commission, except that the basis of certification shall be the order of appointment to such
2177 Highway Engineer Intern List.

2178 (e) The administrator may establish a co-operative engineer program and may enter into
2179 agreements with colleges of recognized standing within the commonwealth, including colleges
2180 which have summer programs, which have established a curriculum leading to a degree of
2181 bachelor of science in engineering on a so-called co-operative basis, contemplating regularly
2182 rotating work activity in the field of engineering and an equal period of classroom training. He
2183 may employ persons enrolled as candidates for the degree of bachelor of science in engineering
2184 in any such colleges to serve in the division in the position of student engineer, provided that the
2185 position of student engineer shall be in a grade lower than that of junior civil engineer in the
2186 division, and provided that at no time shall the number of persons employed in the division as
2187 student engineers exceed eight. Upon completion of not less than two years of employment as
2188 student engineer, a person shall be eligible to apply for the examination for highway engineer
2189 intern. No person shall be employed as a student engineer for more than six years.

2190 (f) The administrator may promulgate rules and regulations to effectuate the purposes of
2191 this chapter.

2192
2193 Section 2A. Unless otherwise required under section 6A of chapter 31 or any other general or
2194 special law to the contrary, the administrator shall design and implement a program for
2195 performance evaluation of employees. The sole purpose of said program shall be the
2196 improvement of the performance of individual employees and the division and, notwithstanding
2197 any general or special law to the contrary, all information compiled by said program shall be
2198 confidential. Said division may consult with individuals and organizations and may contract for
2199 technical assistance for the purpose of said program to the extent it deems necessary.

2200

2201 Section 3. The division is hereby authorized and empowered:

2202 (a) to administer the design, construction, operation and maintenance of the roads and
2203 bridges of the commonwealth;

2204 (b) enter into any contracts and agreements necessary or desirable to carry out its
2205 purposes;

2206 (c) make, and from time to time revise, regulations for the conduct of the business of the
2207 division, and all regulations otherwise required by law;

2208 (d) collaborate with other agencies and authorities, in consultation with the chief
2209 executive officer, as may be appropriate in fields related to transportation, development, public
2210 safety and security;

2211 (e) prepare and submit to the chief executive officer an annual report containing in
2212 substance the description of the organization of the bureau, reviewing the work of the division,
2213 recommending legislation and other action by the chief executive officer, and containing such
2214 information relating to the state highway system as appropriate, including information required
2215 by the chief executive officer;

2216 (f) submit such other reports as the chief executive officer requires;

2217 (g) compile statistics relative to the public ways of counties, cities and towns, and make
2218 such investigations relative thereto as it considers expedient.

2219 (h) be consulted by, and shall without charge advise, officers of counties, cities or towns
2220 having the care of and authority over public ways as to their construction, maintenance,
2221 alteration or repair; but such advice shall not impair the legal duties and obligations of any
2222 county, city or town.

2223 (i) prepare maps of the commonwealth on which shall be shown county, city and town
2224 boundaries, the public ways and the state highway system, with their names if practicable, and
2225 may sell such maps or other maps prepared by it from time to time in connection with the work
2226 under its charge relative to the state highway system at such prices and on such conditions as it
2227 may determine.

2228 (j) collect, collate and make available, geoscience data of the commonwealth, for the
2229 purpose of aiding in the search for and evaluation of reserve sources of water, gas, materials
2230 suitable for road building and all other minerals within the land and water boundaries of the
2231 commonwealth, the location of which it shall, so far as practicable, designate on maps which
2232 shall be open to inspection by the public.

2233 (k) give public notice of and hold at least one public meeting annually in each county for
2234 the open discussion of questions relative to the public ways.

2235 (l) to maintain offices at such places within the commonwealth as it may determine and
2236 to conduct meetings of the division in accordance with the by-laws of the authority and the
2237 division.

2238 (m) to construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,
2239 administer, control and operate the state highway system or any part thereof as it may determine;
2240 provided, however, that the provisions of chapter ninety-one shall not apply to the division,
2241 except for any parts or areas thereof subject to said chapter ninety-one on March first, nineteen
2242 hundred and ninety-seven;

2243 (n) to acquire sites abutting the state highway system and to construct or contract for the
2244 construction of buildings and appurtenances for gasoline stations, restaurants, parking facilities,

2245 tourist information centers and other services and to lease such facilities in such manner and
2246 under such terms as it may determine;

2247 (o) to adopt such rules and regulations pursuant to the provisions of chapter thirty A and
2248 not repugnant to the provisions of the General Laws made applicable to the authority, as the
2249 division determines necessary or appropriate to provide for or govern the construction or
2250 reconstruction, including contractor qualification, operation, maintenance, repair, rehabilitation,
2251 improvement, use, policing, control or administration of the state highway system or the
2252 division's business or property. Such regulations may include the division to grant easements,
2253 permits or other forms of authorization for the installation, construction, maintenance, repair,
2254 renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits, cables, wires,
2255 towers, poles and other equipment and appliances of any public utility, private entity or
2256 corporation or person owning or operating such facilities in, on, along, over or under the state
2257 highway system.

2258 Such regulations may impose penalties for violations thereof which, in the case of civil
2259 penalties, may be recovered only after notice and hearing conducted by the division or its
2260 designee and subject to judicial review and enforcement pursuant to the provisions of said
2261 chapter thirty A or such other civil proceedings under the laws of the commonwealth or the
2262 United States as the law may provide and, in the case of criminal penalties, may be recovered in
2263 a proceeding in a trial court of the commonwealth by indictment or complaint. The amount of
2264 any such civil or criminal penalty, with the exception of penalties imposed under section
2265 nineteen, shall not exceed five hundred dollars for each offense, unless the law otherwise
2266 provides. The full amount of a civil penalty shall be paid to the authority and eighty percent of a
2267 penalty recovered in a criminal proceeding shall be accounted for and paid to the authority. The

2268 division may further provide in such regulations for adjudicatory proceedings that it or its
2269 designee conducts which are subject to judicial review and enforcement according to the
2270 provisions of said chapter thirty A;

2271 (p) to place and maintain or grant permission by easement or otherwise to any public
2272 utility, corporation or person to place and maintain on or under or within the state highway
2273 system or any part thereof, ducts, pipes, pipelines, mains, conduits, cables, wires, towers, poles
2274 or other structures to be so located as not to interfere with the safe and convenient operation and
2275 maintenance of the state highway system and to contract with any such public utility, corporation
2276 or person for such permission on such terms and conditions as may be fixed by the division. The
2277 construction, maintenance and repair of any such ducts, pipes, pipelines, mains, conduits, cable,
2278 wires, towers, poles or other structures shall be subject to such directions and regulations as the
2279 division may impose.

2280 Whenever the division shall determine that it is necessary that any such ducts, pipes,
2281 pipelines, mains, conduits, cable, wires, towers, poles or other structures which are now or
2282 hereafter may be located in, on, along, over or under the state highway system be relocated or
2283 removed, the public utility, corporation or person owning or operating such facilities shall
2284 relocate or remove the same in accordance with the order of the division. In case of any such
2285 relocation or removal of facilities, the public utility, corporation or person owning or operating
2286 the same, its successors or assigns may maintain and operate such facilities, with the necessary
2287 appurtenances, in the new location for as long a period and upon the same terms and conditions
2288 as it had the right to maintain and operate such facilities in their former location;

2289 (q) to acquire in the name of the authority by purchase or otherwise, on such terms and
2290 conditions and in such manner as it may deem proper or by the exercise of the power of eminent

2291 domain in accordance with the provisions of chapter seventy-nine or any alternative method now
2292 or hereafter provided by law, such public lands and any fee simple absolute or lesser interest in
2293 such private property, or part thereof or rights therein as it may deem necessary for carrying out
2294 the provisions of this chapter;

2295 (r) To designate the locations and establish, limit and control such points of ingress to and
2296 egress from the state highway system as may be necessary, convenient or desirable in the
2297 judgment of the authority to insure the proper operation and maintenance of the state highway
2298 system and to prohibit entrance to the state highway system from any point or points not so
2299 designated;

2300 (s) to (i) construct grade separations at locations where the state highway system intersect
2301 with or abut public highways or rail lines and to change and adjust the lines and grades of such
2302 highways or rail lines so as to accommodate the same to the design of such grade separation; and
2303 (ii) change the location of any portion of any public highway or rail line which intersects or abuts
2304 the state highway system in order to improve the safety or efficiency of the state highway
2305 system; provided, however, that if the division shall find it necessary to change the location of a
2306 public highway, it shall reconstruct the same in as good a condition as the original highway and
2307 at such location as the division deems most favorable. All costs incident to construction,
2308 realignment or reconstruction conducted pursuant to this clause shall be borne by the authority;

2309 (t) to enter upon any lands, waters and premises in the commonwealth, after 30 days
2310 notice by registered or certified mail and without the necessity of any judicial orders or other
2311 legal proceedings, for the purpose of making surveys, soundings, drillings and examinations as
2312 the division may deem necessary, convenient or desirable for carrying out the purposes of this
2313 chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be

2314 deemed an entry under any condemnation proceedings which may be then pending. The
2315 authority shall provide reimbursement for any actual damage resulting to such lands, waters and
2316 premises as a result of such activities. The commonwealth hereby consents to the use of all lands
2317 owned by it, including lands lying underwater, which are deemed by the authority to be
2318 necessary, convenient or desirable for the construction, operation or maintenance of the state
2319 highway system;

2320 (u) to make and enter into all contracts and agreements necessary, convenient or desirable
2321 in the performance of its duties and the execution of its powers under this chapter including, but
2322 not limited to, contracts or agreements with state, local or regional public agencies and
2323 authorities which the division deems necessary, convenient, or desirable for the ownership,
2324 construction, operation, maintenance, repair, reconstruction, improvement, rehabilitation, use,
2325 control, administration or policing of the state highway system or any part thereof and
2326 agreements with the Federal Highway Administration with respect to compliance with the
2327 provisions of Titles 23 and 49 of the United States Code as they may apply to the state highway
2328 system; provided, however, that sections twenty-six to twenty-nine, inclusive, and sections forty-
2329 four A to forty-four J, inclusive, of chapter one hundred and forty-nine and sections thirty-nine F
2330 to thirty-nine M, inclusive, of chapter thirty shall apply to contracts of the division to the same
2331 extent and in the same manner as they are applicable to the commonwealth. Notwithstanding the
2332 provisions of this clause, the division may, with approval of the authority, without competitive
2333 bids and notwithstanding the provisions of any general or special law to the contrary, award a
2334 contract, otherwise subject to this section, limited to the performance of emergency repairs
2335 necessary to preserve the safety of persons or property;

2336 (v) To accept gifts, grants and loans from agencies of local, state and federal
2337 governments, or from private agencies or persons, and to accede to such conditions and
2338 obligations as may be imposed as a prerequisite to any such gift, grant or loan; and

2339 (w) to do all acts and things necessary, convenient or desirable to carry out the powers
2340 expressly granted in this chapter.

2341

2342 Section 4. Real property of the division other than property leased pursuant to sections 5 and 6,
2343 if leased, used, or occupied in connection with a business conducted for profit, shall, at the
2344 discretion of the municipality for the privilege of such lease, use or occupancy, be valued,
2345 classified, assessed and taxed annually as of January first to the lessee, user or occupant in the
2346 same manner and to the extent as if such lessee, user or occupant were the owner thereof in fee.
2347 No tax assessed under this section shall be a lien upon the real estate to which it is assessed nor
2348 shall any tax be enforced by any sale or taking of such real estate but the interest of any lessee
2349 therein may be sold or taken by the collector of the city or town in which the real estate lies for
2350 the nonpayment of such taxes in the manner provided by law for the sale or taking of real estate
2351 for nonpayment of annual taxes. Such collector shall have for the collection of taxes under this
2352 section all other remedies provided by chapter sixty for the collection of annual taxes upon real
2353 estate.

2354

2355 Section 5. In addition to any other power the division may have to make leases, the division may
2356 lease at one time or from time to time for terms not to exceed ninety-nine years, upon such terms
2357 and conditions as the authority in its discretion deems advisable, air rights over land owned or
2358 held by the authority in connection with the state highway system, including rights for support,

2359 access, utilities, light and air, for such purposes as, in the opinion of the authority, shall not
2360 impair the construction, full use, safety, maintenance, repair, operation or revenues of the state
2361 highway system; provided, however, that any such lease for a period of forty years or more shall
2362 be subject to the approval of the governor. Any lease granted under this section may, with the
2363 consent of the authority, be assigned, pledged or mortgaged and the lien of such pledge or
2364 mortgage may be foreclosed by appropriate action. The proceeds from any such lease shall be
2365 paid into the treasury of the commonwealth for credit to the surface transportation trust fund.
2366 Use of air rights leased under this section respecting land within the territorial limits of the city
2367 of Boston and the construction and occupancy of buildings or other things erected or affixed
2368 pursuant to any such lease shall be made in accordance with the provisions of the state building
2369 code enacted pursuant to chapter one hundred and forty-three and such other requirements as the
2370 authority deems necessary or advisable to promote the public health, convenience and safety of
2371 persons and property but shall not be subject to any other building, fire, garage, health or zoning
2372 law or any building, fire, garage, health or zoning ordinance, rule or regulation applicable in the
2373 city of Boston.

2374 The division shall not lease any air rights in a particular location unless it shall find that
2375 the construction and use of buildings or other things to be erected or affixed pursuant to any such
2376 lease shall be in no way detrimental to the maintenance, use and operation of the state highway
2377 system and, in the city of Boston, unless the division shall also find, after consultation with the
2378 mayor that the construction and use of such buildings or other things shall preserve and increase
2379 the amenities of the community.

2380 The construction or occupancy of any building or other thing erected or affixed under any
2381 lease under this section of air rights respecting land outside the territorial limits of the city of

2382 Boston shall be subject to the building, fire, garage, health and zoning laws and the building, fire,
2383 garage, health and zoning ordinances, by-laws, rules and regulations applicable in the city or
2384 town in which such building or other thing is located.

2385 A copy of all leases granted by the division under this section shall be filed by the
2386 authority with the governor and with the mayor or chairperson of the board of selectmen of the
2387 respective city or town and such leases shall be deemed to be public records within the meaning
2388 of chapter sixty-six.

2389 Neither such air rights nor any buildings or other things erected or affixed pursuant to any
2390 such lease nor the proceeds from any such lease shall be taxed or assessed to the division under
2391 any general or special law; provided, however, that buildings and other things erected or affixed
2392 pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same manner
2393 and to the same extent as if such lessee or his assigns were the owners of the land in fee;
2394 provided, further, that no part of the value of the land shall be included in any such assessment;
2395 and provided, further, that payment of any such taxes shall not be enforced by a lien upon or sale
2396 or taking of such land except that the leasehold estate may be sold or taken by the collector of
2397 taxes of the city or town wherein such real estate is situated for the nonpayment of any tax
2398 assessed as aforesaid in the manner provided by law for the sale or taking of real estate for
2399 nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under
2400 this section all other remedies provided by the General Laws for the collection of taxes by
2401 collectors of cities and towns.

2402 The division shall include in any lease of such air rights a provision whereby the lessee
2403 agrees, in the event that the foregoing tax provision is determined by any court of competent
2404 jurisdiction to be inapplicable, to pay annually to the city or town wherein such building or other

2405 thing leased is located, a sum of money in lieu of taxes which would otherwise be assessed for
2406 such year.

2407 Each lease made pursuant to this section shall require that the lessee file with the division
2408 a statement under oath containing the names and addresses of the officers and directors, in the
2409 case of a corporation, and in the case of a partnership or other voluntary association, the name
2410 and address of all persons having a financial or beneficial interest in said lease. The lessee shall
2411 within thirty days after any change in the said officers or directors, or of persons holding any
2412 such interest file a corrected statement under oath with the division.

2413 No billboards shall be erected under the provisions of this section.

2414 Section 6. In addition to any other power the division may have to make leases, the division may
2415 lease at one time or from time to time for terms not to exceed ninety-nine years, upon such terms
2416 and conditions as the authority in its discretion deems advisable, land owned by the division and
2417 no longer required for the maintenance, repair, reconstruction, improvement, use, administration
2418 or operation of the state highway system; provided, however, that any such lease for a period of
2419 forty years or more shall be subject to the approval of the governor. A lease granted under this
2420 section may, with the consent of the authority, be assigned, pledged or mortgaged and the lien of
2421 such pledge or mortgage may be foreclosed by appropriate action.

2422 The construction or occupancy of any building or other thing erected or affixed under any
2423 lease of land under this section shall be subject to the building, fire and zoning laws, ordinances
2424 or by-laws applicable in the city or town wherein such building or other thing is located.

2425 A copy of all leases granted by the division under the provisions of this section shall be filed by
2426 the authority with the governor and with the mayor or chairman of the board of selectmen of the

2427 respective city or town and such leases shall be deemed to be public records within the meaning
2428 of chapter sixty-six.

2429 Neither such land nor any buildings or other things erected or affixed pursuant to any
2430 such lease nor the proceeds from any such lease shall be taxed or assessed to the authority under
2431 any general or special law; provided, however, that such land and buildings and other things
2432 erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in
2433 the same manner and to the same extent as if such lessee or his assigns were the owners of the
2434 land in fee; provided, further, that payment of any such taxes shall not be enforced by a lien upon
2435 or sale or taking of such land except that the leasehold estate may be sold or taken by the
2436 collector of taxes of the city or town wherein such land is situated for the nonpayment of any tax
2437 assessed as aforesaid in the manner provided by law for the sale or taking of real estate for
2438 nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under
2439 this section all other remedies provided by the General Laws for the collection of taxes by
2440 collectors of cities and towns.

2441 The division shall include in any lease of such land a provision whereby the lessee
2442 agrees, in the event that the foregoing tax provision is determined by any court of competent
2443 jurisdiction to be inapplicable, to pay annually to the city or town in which such leased land is
2444 located a sum of money in lieu of taxes which would otherwise be assessed for such year.

2445

2446 Section 7. County commissioners and city and town officers who have the care of and authority
2447 over public ways shall, on request, furnish the division with any information required by it
2448 concerning such ways.

2449

2450 Section 8. Steam road rollers and other road machinery, purchased by the division and owned by
2451 the authority shall be managed and maintained under the direction of the division, which may
2452 engage competent engineers and mechanics to operate and keep said machines in repair, may
2453 purchase all needed materials and supplies, and may incur such other expenses as may be
2454 necessary to operate, maintain and transport said machines. Upon the application of the
2455 selectmen or road commissioners of a town of not more than twelve thousand inhabitants, the
2456 division may furnish such road machinery for use by the town in building or repairing ways
2457 therein. The expenses incurred under this section shall be paid by the towns using said machines,
2458 as apportioned and directed by the division. For the purpose of providing suitable quarters for the
2459 storage of supplies, the storage and repair of road rollers and other road machinery and tools and
2460 other equipment owned by the authority and for the construction, operation and maintenance of
2461 inter-departmental communications systems, the division may take by eminent domain or acquire
2462 by purchase or gift land and buildings and construct or alter buildings or other structures on any
2463 land so acquired. Any person whose property has been taken or injured by any action of the
2464 division under authority of this section may recover compensation therefor from the authority
2465 under chapter seventy-nine.

2466 Section 9. If county commissioners, aldermen or selectmen adjudge that public necessity and
2467 convenience require that the division lay out and take charge of a new or existing way as part of
2468 the state highway system in whole or in part, in their county, city or town, they may apply, by a
2469 written petition, to the division, requesting that said way be laid out and taken charge of by the
2470 division.

2471 Section 10. If the division determines, after public notice and a hearing of all parties interested,
2472 that public necessity and convenience require that a way should be laid out or be taken charge of

2473 by the authority, it shall file in the office of the county commissioners for the county where the
2474 way is situated a certified copy of a plan thereof and a certified copy of a certificate that it has
2475 laid out and taken charge of said way in accordance with said plan, and shall file in the office of
2476 the clerk of each town where the way is situated a copy of the plan showing the location of the
2477 portion lying therein and a copy of the certificate that it has laid out and taken charge of said
2478 highway in accordance with said plan, and thereafter said way shall be a state highway, and shall
2479 be constructed by the division at the expense of the authority; but any state highway so laid out
2480 and constructed may be abandoned or discontinued as provided in section eighteen. The width of
2481 a state highway shall be such as the division deems necessary. If the width of a state highway be
2482 less than that of the way previously existing, that portion of the way which lies between the
2483 boundary or location lines of the state highway and the boundary lines of the way previously
2484 existing shall remain a public way unless the division determines that it should be abandoned, or
2485 the county commissioners of the county, or the city or town in which the way is situated, having
2486 jurisdiction of the way, abandon at any time said portion in the manner provided by law for the
2487 alteration, relocation or discontinuance of public ways.

2488 Section 11. The division may alter the location of a state highway in a city or town by filing a
2489 plan thereof and a certificate that the division has laid out and taken charge of said state highway,
2490 as altered in accordance with said plan, in the office of the county commissioners for the county
2491 where said highway is situated, and by filing a copy of the plan or location as altered in the office
2492 of the clerk of such city or town.

2493 Section 12. If it is necessary to acquire land for the purposes of a state highway outside the
2494 limits of an existing public way, the division may take the same by eminent domain on behalf of
2495 the authority under chapter seventy-nine. When injury has been caused to the real estate of any

2496 person by the laying out or alteration of a state highway, he may recover compensation therefor
2497 from the authority under chapter seventy-nine. The mayor, if so authorized by the aldermen, or
2498 the selectmen, if so authorized by the town, may stipulate in writing in behalf of the city or town
2499 to indemnify and save harmless the authority against all claims and demands for damages which
2500 may be sustained by any persons whose property has been taken for, or has been injured by the
2501 laying out or alteration of, any highway which the division proposes to lay out and construct or
2502 alter as a state highway, and thereupon such city or town shall be liable ultimately for the amount
2503 of any verdict against the authority for such damages, and for costs, and the amount thereof may
2504 be recovered by the authority in contract.

2505 Section 13. In connection with the laying out, alteration or reconstruction of a state highway, the
2506 division may alter or relocate connecting ways as may be necessary. Land or rights in land may
2507 be acquired for this purpose by eminent domain under chapter seventy-nine by the division in
2508 behalf of the city or town in which the land lies, or in behalf of the authority, at the option of the
2509 division. The division may take or acquire by eminent domain under said chapter, easements in
2510 land outside the location of limited access state highways, said easements to be taken in behalf of
2511 those owners of land abutting said highways, whose rights of access to and egress from their
2512 land, and any other rights necessary to make the same available for use, will become inoperative
2513 due to the construction of said highway. Control of the land or rights in the land acquired under
2514 this section shall not vest in the city or town until such time as the work for which the land or
2515 rights in land have been acquired has been completed by said division, except that the city or
2516 town shall be responsible for snow and ice control on such portions of the highway as may be
2517 opened to traffic prior to final completion or acceptance of the project. Any person whose
2518 property has been taken or injured by any action of said division under authority of this section

2519 may recover from the authority under chapter seventy-nine such damages therefor as he may be
2520 entitled to.

2521

2522 Section 14. Wherever in this chapter the division is authorized to take land by eminent domain
2523 under chapter seventy-nine, in connection with the laying out, widening or relocating of a public
2524 way, the division shall be authorized to take, or institute proceedings for the taking of, an
2525 easement in land adjoining the location of the public way consisting of the right to have the land
2526 of the location protected by having the surface of the adjoining land slope from the boundary of
2527 the location.

2528

2529 Section 15. If the division determines that public necessity and convenience require that a
2530 limited access way shall be laid out, it shall lay out such way in the same manner as state
2531 highways. A limited access way is hereby defined to be a highway over which the easement of
2532 access in favor of abutting land exists only at such points and in such manner as is designated in
2533 the order of laying out. All the provisions of law in regard to the laying out, relocation, alteration
2534 or discontinuance of state highways and to damages therefor shall apply to limited access ways.
2535 If a limited access way is laid out in whole or in part in the location of an existing public way,
2536 the owners of land abutting upon such existing public way shall be entitled to recover damages
2537 under chapter seventy-nine for the taking of or injury to their easements of access to such public
2538 way. No highway, town way or private way shall be laid out by county commissioners, by the
2539 selectmen of a town or by the appropriate officer or board of a city which crosses, enters upon or
2540 unites with a limited access way, without the consent in writing of the division. In connection
2541 with the laying out or alteration of a limited access highway, the division may take in fee or

2542 otherwise, by purchase, gift, devise, or by eminent domain under chapter seventy-nine, land or
2543 rights in land adjoining the highway location whose right of access has been acquired and may
2544 provide for abutting motorist information service facilities and comfort stations.

2545 The division is authorized to provide information services which may include indoor
2546 commercial and non-commercial advertising displays, directories, bulletin boards, wall maps,
2547 and the building wherein such services are provided shall be staffed with attendants for the
2548 convenience, necessity and safety of the traveling public on limited access highways. The
2549 building within which such information services are provided shall be operated, and maintained
2550 internally, by a person, firm, corporation, county, municipality or other state department or
2551 agency. In the event that an information center is to be operated and maintained by a person,
2552 firm, corporation, county, municipality or other state department or agency, the division, subject
2553 to rules, regulations and standards determined by the division and the department of economic
2554 development and with the approval of the Federal Highway Administration, is authorized to
2555 enter into a lease or memorandum of understanding for a term of years or on terms which the
2556 division deems appropriate regarding the operation and maintenance of such information centers
2557 and the operation and maintenance of adjacent sanitary facilities.

2558 All income due the division from leases authorized by this section shall be paid to the
2559 state treasurer and credited to the surface transportation trust fund.

2560 The office of travel and tourism shall be designated by the division as the agent to
2561 participate with the division in the selection of lessees and to oversee the operation of
2562 information centers and control advertising in accordance with lease agreements, subject to
2563 approval by the Federal Highway Administration.

2564

2565 Section 16. The division may grant easements within state highway locations for wires, pipes,
2566 poles, conduits and cattle passes.

2567

2568 Section 17. The division may sell at public or private sale any land, or rights in land, the title to
2569 which has been acquired by the division, upon determination by the board of directors of the
2570 Massachusetts surface transportation authority that such land or rights in land are no longer
2571 necessary for the division's purposes. In the event of such public or private sale the division shall
2572 execute a deed thereof, with or without covenants of title and warranty, in the name and behalf of
2573 the authority, to the purchaser, his heirs and assigns, and deposit said deed with the state
2574 treasurer, together with a certificate of the terms of the sale and the price paid or agreed to be
2575 paid at said sale. Upon receipt of said price, and upon the terms agreed to in said deed, the
2576 treasurer shall deliver the deed to said purchaser. The state treasurer may, by the attorney
2577 general, sue for and collect the price and otherwise enforce the terms of any such sale.

2578 The division may, with the approval of the authority, transfer to another division, or to a
2579 city, town, or public authority or agency, any land the title to which has been acquired by it and
2580 which said board of commissioners determines is no longer necessary for the division's
2581 purposes.

2582 The division may also, with the approval of the authority, lease or rent any land, or rights
2583 in land, the title to which has been acquired by it, and which land, or rights therein, said board of
2584 directors determines are not presently needed for the division's purposes.

2585 The foregoing provisions of law with reference to the sale, leasing or renting of land
2586 acquired by the division, shall also apply to land, or rights in land, acquired by the division for
2587 maintenance sites.

2588 In addition to the foregoing, the division may also transfer to another state department,
2589 land acquired from said state department, which is no longer needed for the purposes for which it
2590 was acquired. Said land shall be subject to such restrictions as may be imposed by the division
2591 for the use thereof.

2592
2593 Section 18. Whenever the division deems it necessary to make surveys, soundings, drillings or
2594 examinations to obtain information for or to expedite the construction of state highways or other
2595 projects under its jurisdiction, the division, its authorized agents or employees may, after due
2596 notice by registered or certified mail, enter upon any lands, waters and premises, not including
2597 buildings, in the commonwealth for the purpose of making surveys, soundings, drillings and
2598 examinations as they may deem necessary or convenient for the purposes of this act, and such
2599 entry shall not be deemed a trespass nor shall an entry for such purposes be deemed an entry
2600 under any condemnation proceedings which may be then pending. The division shall make
2601 reimbursement for any injury or actual damage resulting to such lands, waters and premises
2602 caused by any act of its authorized agents or employees and shall so far as possible restore such
2603 lands to the same condition as prior to the making of such surveys, soundings, drillings or
2604 examinations.

2605
2606 Section 19. Whenever, in connection with the laying out, widening, relocating, constructing or
2607 altering of a public way by the division, land or an easement therein owned by a public utility
2608 company is taken by the division by eminent domain under chapter seventy-nine, thereby
2609 necessitating the relocation of the facilities of such company, the division may acquire by
2610 purchase or otherwise or take by eminent domain under chapter seventy-nine such land or

2611 easements therein as such company may designate for the relocation of such facilities, and
2612 convey the same to such company. Such conveyance shall be in lieu of any damages for the
2613 value of the land or easements therein of such company so taken by the division, not including,
2614 however, any damages for the cost of such relocation for which the authority may be liable.

2615
2616 Section 20. Notwithstanding any other provision of law, the division may, with the approval of
2617 the chief executive officer of the authority, lease land adjacent to, over or under a state highway
2618 for use as a public parking facility; provided, however, (1) the term of any such lease shall not
2619 exceed five years (2) the provisions of section eight A of chapter twenty-nine relative to notice of
2620 and proposals for any contract in excess of five thousand dollars for work under the supervision
2621 or control of the division shall apply to such leases (3) the lessee has filed with the division a
2622 statement under oath containing the names and addresses of the officers and directors in the case
2623 of a corporation, or of the person or persons in the case of a partnership or other voluntary
2624 association, or of any other person or persons, having any financial or beneficial interest in said
2625 lease (4) the lessee shall within thirty days after any change in the stockholders or persons
2626 holding any such interest file a statement thereof under oath with the division and (5) no such
2627 lease shall be renewed or extended except in accordance with the provisions of this section
2628 applicable to a new lease.

2629 Whoever wilfully violates any provision of this section shall be punished by a fine of not
2630 more than one thousand dollars.

2631 Section 21. The division is hereby authorized to enter into agreements with railroad
2632 corporations, transit authorities or other public authorities or municipalities for the purpose of
2633 performing any work which may be necessary in connection with the construction of highways,

2634 roads, bridges and other public works undertaken by said division whenever such construction or
2635 work entails relocation, alteration or other work on the tracks, bridges, roads, pipes, sewers,
2636 conduits, wires, or other property of such railroad corporation, transit authority or other public
2637 authority or municipality and which may disrupt the free flow of public transportation. Whenever
2638 any such agreement provides that a railroad corporation, transit authority or other public
2639 authority, and municipality perform such construction or work for which the authority is
2640 obligated to assume a part of the cost, the agreement may provide for the monthly advancement
2641 by the division to such railroad corporation transit authority or other public authority or
2642 municipality of funds covering the estimated cost of such construction or work then in progress.

2643 Section 22. In any federally aided program, the division of roads and bridges, in this section
2644 referred to as the division, is hereby authorized and directed to do all things necessary to comply
2645 with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies
2646 Act of 1970 (Public Law 91-646), as amended and supplemented, or with any other federal act
2647 relating to relocation assistance or acquisition, insofar as the federal government requires
2648 compliance with said Public Law 91-646 or said other federal acts in order to receive said federal
2649 aid. Under a federally aided program, in relation to any person whose real property is acquired,
2650 in whole or in part, by the division for a highway purpose, or any person lawfully occupying real
2651 property acquired by the division for highway purposes, or any person who vacated real property
2652 at the written request of the division because of a proposed acquisition for highway purposes, the
2653 division is hereby authorized and directed to make such payments, provide such assistance and
2654 do such other things as are necessary for the division to comply with the Federal Uniform
2655 Relocation Assistance and Real Property Acquisition Policies Act of 1970. If a highway project
2656 is not federally aided, then in relation to any person whose real property is acquired, in whole or

2657 in part, by the division for highway purposes, or any person lawfully occupying real property
2658 acquired by the division for highway purposes, or any person who vacates real property at the
2659 written request of the division because of a proposed acquisition for highway purposes, the
2660 division shall make the same payments, provide the same assistance and do the same things as
2661 the division would be required to pay to, provide or do for such persons under a federally aided
2662 program. This section shall not affect the obligations of the division under chapter seventy-nine
2663 A.

2664
2665 Section 23. Whenever land or an easement therein is taken by the division by eminent domain
2666 for the purpose of relocating certain facilities of a public utility company, as authorized by
2667 section 19, the said public utility company, its authorized agents or employees, after due notice
2668 by registered mail to the persons in possession of land so taken, may enter upon any such lands,
2669 waters and premises, not including buildings, as said company may deem necessary or
2670 convenient for the purpose of relocating its facilities, and such entry shall not be deemed a
2671 trespass, nor an entry under any condemnation proceedings which may then be pending.

2672
2673 Section 24. Whenever a federal-aid highway program or project requires the use of any land
2674 which is part of a public park, recreation area or wildlife and waterfowl refuge of national, state
2675 or local significance as determined by the federal, state or local officials having jurisdiction
2676 thereof, or any land which is part of an historic site of national, state or local significance, as so
2677 determined by such officials, and there is no feasible and prudent alternative to the use of such
2678 land, the division, in order to minimize harm to such park, recreational area, wildlife and
2679 waterfowl refuge or historic site, may acquire by eminent domain under chapter seventy-nine,

2680 purchase or otherwise on behalf of the authority or on behalf of any division, department, public
2681 body, agency or instrumentality of the commonwealth or on behalf of any political subdivision
2682 thereof, land to replace that which was required for use in the highway program. The division
2683 shall convey such replacement land or transfer the custody, care and control of such replacement
2684 land to the owner of the public park, recreational area, wildlife and waterfowl refuge or historic
2685 site required for highway use, including private owners or any department, public body, agency
2686 of the commonwealth or to any political subdivision thereof and such conveyance or transfer
2687 may be partially or entirely in lieu of damages for the land acquired from such owners; provided,
2688 however, that in the case of private owners such conveyance may be made only with the consent
2689 of such owner. The words "historic site" as used in this section shall include archeological sites
2690 as defined and regulated by sections twenty-six A to twenty-seven C of chapter nine.

2691

2692 Section 25. The division, when about to construct a state highway, shall advertise in two or more
2693 newspapers published in each county in which the highway lies, and in three or more daily
2694 newspapers published in Boston, for sealed proposals for the construction of such highway,
2695 stating the time and place for opening such proposals, and reserving the right to reject any and all
2696 proposals. If a proposal is satisfactory, the division, with the approval of the authority, shall
2697 make a contract in writing on behalf of the authority for such construction. After the proposals
2698 have been accepted or rejected they shall be kept by the division, and shall be open to public
2699 inspection for three years, and may then be destroyed by the division. The division may, in the
2700 same manner and under the same conditions, contract for the grading of a state highway or for
2701 furnishing labor, materials or any other element in its construction. The construction of all state
2702 highways shall be under the supervision and subject to the approval of the division and in

2703 accordance with plans and specifications furnished by it, and shall be fairly apportioned by the
2704 division among the different counties.

2705

2706 Section 26. Every contract for engineering survey services awarded by the division shall be
2707 awarded to the lowest responsible and eligible bidder on the basis of competitive sealed bids
2708 publicly opened and read forthwith upon expiration of the time for filing thereof; provided,
2709 however, that the division may reject any and all bids if it is in the public interest to do so.

2710 For purposes of this section, the term “lowest responsible and eligible bidder” shall have
2711 the same meaning as is set forth in paragraph (c) of section thirty-nine M of chapter thirty.

2712

2713 Section 27. The mayor, selectmen or road commissioners or the board or officer having charge
2714 of the maintenance and care of highways, if so authorized by the city council or by the town,
2715 may agree in writing, in behalf of such city or town, to contribute money, labor or materials
2716 toward the cost of any state highway which the division proposes to lay out and construct within
2717 such city or town.

2718

2719 Section 28. The division shall have the same power as aldermen, selectmen or road
2720 commissioners in relation to the purchase or taking of land to furnish materials for the
2721 construction, repair or improvement of public ways in the manner provided in section thirty-eight
2722 of chapter eighty-two; provided, that all contracts for such purchase and all takings by the
2723 division shall first be approved by the authority. Such purchases or taking shall not operate in
2724 any way to interfere with the control of the police departments of the various municipalities
2725 within the land so taken. Land taken under this section shall be held and used for no other

2726 purpose than as specified herein; provided, that the division may allow county, city or town
2727 officers to use materials from such land for the above specified purposes upon such terms as may
2728 be agreed upon. For this purpose the division may expend not more than five thousand dollars in
2729 any year. Any person sustaining injury or damage by any taking of land or rights in land under
2730 this section may recover compensation therefor from the authority under chapter seventy-nine.

2731

2732 Section 29. The division, with the concurrence of the county commissioners, may discontinue
2733 as a state highway any way or section of way laid out and constructed under the provisions of
2734 section five by filing in the office of the county commissioners for the county and in the office of
2735 the clerk of the town in which such way is situated a certified copy of a plan showing the way so
2736 discontinued and a certificate that it has discontinued such way; and thereafter the way or section
2737 of way so discontinued shall be a town way. Said division may also abandon any land or rights in
2738 land which may have been taken or acquired by it by filing in the office of the county
2739 commissioners for the county and in the office of the clerk of the town in which such land is
2740 situated a certified copy of a plan showing the land so abandoned and a certificate that it has
2741 abandoned such land, and by filing for record in the registry of deeds for the county or district in
2742 which the land lies a description and plan of the land so abandoned; and said abandonment shall
2743 revert the title to the land or rights abandoned in the persons in whom it was vested at the time of
2744 the taking, or their heirs and assigns.

2745

2746 Section 30. State highways shall be maintained and kept in good repair and condition by the
2747 division at the expense of the authority. The division shall keep all state highways reasonably
2748 clear of brush and shall cause suitable shade trees to be planted thereon if practicable. As used in

2749 this chapter, the term “state highways” shall include such public roads in state forests, parks and
2750 reservations outside of the metropolitan parks district, and such public roads within the limits of
2751 any property under the control of any department, board or commission of the commonwealth, as
2752 may from time to time be designated by the division as roads for general public use and
2753 approved for such use by the executive head of the department, board or commission controlling
2754 such property. The division shall, subject to appropriation, construct, improve and maintain all
2755 roads on such property.

2756

2757 Section 31. The division may accept on behalf of the authority from owners of lands included in
2758 a strip one hundred feet deep bordering on a state highway voluntary gifts by deed or will of
2759 easements in such lands, giving the authority the right to enter thereon at any time and in any
2760 manner for the purpose of landscaping such land by removing therefrom or rearranging thereon
2761 vegetable growths and surface minerals, by setting out and planting thereon vegetable growths,
2762 by depositing thereon minerals, by rearranging the contour of the land when deemed advisable,
2763 or by any or all of the foregoing methods. The division may improve lands in which such
2764 easements are granted, so as to carry out a comprehensive plan of highway beautification, artistic
2765 landscaping and scenic development, to the extent that appropriations are available therefor.

2766 Such easements shall be accepted only on the condition that such lands shall remain fully
2767 subject to local taxation to the owners of the fee.

2768

2769 Section 32. The division may acquire by eminent domain under the provisions of chapter
2770 seventy-nine or by purchase or otherwise land and rights in land within or adjacent to federal-aid
2771 highways of the commonwealth for the purpose of restoring, preserving and enhancing scenic

2772 beauty, or, with the approval of the Massachusetts historical commission and subject to the
2773 availability of federal reimbursement, historic or archeological sites, and of providing publicly
2774 owned and controlled rest and recreation areas and sanitary and other facilities to accommodate
2775 the traveling public. The division may improve such lands, and may expend for the purposes of
2776 this section such sums as may be appropriated therefor.

2777

2778 Section 33. The division, if it can obtain consent of the owner, shall remove the trees, limbs of
2779 trees, shrubbery or any structure or other obstacle from lands bordering upon state highways,
2780 which in its opinion obstruct the view of persons traveling upon the highway or make traveling
2781 thereon dangerous. If the owner does not desire the material which has been so removed, the
2782 division may sell or otherwise dispose of it. The division shall cause all debris resulting from any
2783 cutting or trimming done along the state highway, under authority of this or of any other chapter,
2784 to be disposed of in such manner that it will not constitute a fire menace to adjoining property.

2785

2786 Section 34. The division may contract with the town in which a state highway lies or with a
2787 private person or may make other provision for the maintenance and repair thereof in accordance
2788 with the regulations of the division and subject to its supervision and approval. Such contracts
2789 may be made without previous advertisement.

2790 Section 35. The authority shall be liable for injuries sustained by persons while traveling on
2791 state highways, if the same are caused by defects within the limits of the constructed traveled
2792 roadway, in the manner and subject to the limitations, conditions and restrictions specified in
2793 sections fifteen, eighteen and nineteen of chapter eighty-four, except that the authority shall not
2794 be liable for injury sustained because of the want of a railing in or upon any state highway, or for

2795 injury sustained upon the sidewalk of a state highway or during the construction, reconstruction
2796 or repair of such highway. The amount which may be recovered for any such injury shall not
2797 exceed one fifth of one per cent of the valuation of the town in which the injury was received,
2798 nor shall it exceed four thousand dollars. Notice of the injury as required by law shall be given to
2799 a member of the division.

2800

2801 Section 36. A town shall have police jurisdiction over all state highways within its limits. It
2802 shall forthwith give written notice to the division or its employees of any defect or want of repair
2803 in such highways; but it may make necessary temporary repairs of a state highway without the
2804 approval of the division.

2805 The division shall at the expense of the authority keep such state highways or parts
2806 thereof as it may select sufficiently clear of snow and ice to be reasonably safe for travel; and the
2807 town in which any such state highway or part thereof lies shall forthwith give written notice to
2808 the division or its employees of any failure to keep such highway or part thereof clear of ice and
2809 snow as aforesaid.

2810

2811 Section 37. The division shall from time to time construct sidewalks along such parts of the state
2812 highways as it determines public convenience and necessity require. Sidewalks may also be
2813 constructed along state highways and maintained in accordance with sections twenty-five and
2814 twenty-six of chapter eighty-three.

2815

2816 Section 38. The division may illuminate, or cause to be illuminated, by means of highway
2817 lighting, traffic circles, traffic underpasses, traffic overpasses, traffic islands and other locations

2818 in the state highways wherever, in its opinion, such illumination is necessary for the safety of the
2819 travelling public.

2820

2821 Section 39. No state highway shall be dug up, nor opening made therein for any purpose, nor
2822 access granted thereto for any purpose, nor shall any material be dumped or placed thereon or
2823 removed therefrom, and no tree shall be planted or removed or obstruction or structure placed
2824 thereon or removed therefrom or changed without the written permit of the division, and then
2825 only in accordance with its regulations, and the work shall be done under its supervision and to
2826 its satisfaction, and the entire expense of replacing and resurfacing the highway at the same level
2827 and in as good condition as before, with materials equal in specifications to those removed, shall
2828 be paid by the persons to whom the permit was given or by whom the work was done; but a town
2829 may dig up a state highway without the approval of the division in case of immediate necessity;
2830 but in such cases it shall forthwith be replaced in as good condition as before at the expense of
2831 the town and the town shall notify the division by registered mail, return receipt requested,
2832 within seven days of the excavation. In the case of a driveway opening on a state highway, the
2833 said division shall not grant a permit for a driveway location or alteration if the board or division
2834 in a city or town having authority over public ways and highways has notified the division by
2835 registered mail, return receipt requested, of their objection to the driveway; provided, that such
2836 objection shall be based on highway safety and accepted by the said division. The division may
2837 require a bond to guarantee the faithful and satisfactory performance of the work and payment
2838 for any damage to state highways and facilities caused by or resulting from the operations
2839 authorized by such permit. The amount of said bond shall be determined by the division not to
2840 exceed the estimated cost of the work and possible damage; provided, however, that the bond

2841 shall be not less than \$300,000 unless a lesser amount is approved in writing by a representative
2842 of the division. Except in case of an emergency no permit for digging up or opening any state
2843 highway shall be approved or issued by the division until copies of the notices to public utility
2844 companies required by section forty of chapter eighty-two have been filed with the division by
2845 the applicant for such permit.

2846 Any person who builds or expands a business, residential, or other facility intending to
2847 utilize an existing access or a new access to a state highway so as to generate a substantial
2848 increase in or impact on traffic shall be required to obtain a permit under this section prior to
2849 constructing or using such access. Said person may be required by the division to install and pay
2850 for, pursuant to a permit under this section, standard traffic control devices, pavement markings,
2851 channelization, or other highway improvements to facilitate safe and efficient traffic flow, or
2852 such highway improvements may be installed by the division and up to one hundred per cent of
2853 the cost of such improvements may be assessed upon such person.

2854 The division may issue written orders to enforce the provisions of this section or the
2855 provisions of any permit, regulation, order, or approval issued under this section. Any person
2856 who violates any provision of this section or any permit, regulation, order or approval issued
2857 thereunder (a) shall be punished by a fine of not more than one thousand dollars per day for each
2858 such violation or (b) shall be subject to a civil penalty not to exceed one thousand dollars per day
2859 for each such violation; provided, however, that each day such violation occurs or continues shall
2860 be a separate offense. The superior court shall have jurisdiction, upon petition of the
2861 administrator of the division, to enforce the provisions of this section or of any permit,
2862 regulation, order, or approval issued thereunder.

2863 The administrator of the division of roads and bridges shall adopt regulations to
2864 effectuate the purposes of this section.

2865 Section 40. No length of possession, or occupancy of land within the limits of a state highway
2866 by an owner or occupant of adjoining land shall give him any title thereto, and any fences,
2867 buildings or other objects encroaching upon a state highway shall, upon written notice by the
2868 division, be removed within fourteen days by the owner or occupant of adjoining land, and if not
2869 so removed, the division may either remove the same to such adjoining land or such encroaching
2870 objects, other than a building used for residential purposes, may be removed by the division
2871 forces and shall be placed in the nearest maintenance area of the division. Notice by certified
2872 mail, return receipt requested shall be given to the owner stating where such encroaching object
2873 is located and further stating that if not claimed within three weeks said object may be destroyed.

2874 Section 41. The division may expend construction funds of the authority in constructing or
2875 improving the whole or such part of said way as it deems best, either upon the location of the
2876 existing way or upon any new location that may be established by the county commissioners or
2877 the selectmen, and no part of the way so improved shall thereby become a state highway or be
2878 maintained as such. The division may, however, lay out the whole or any part of any such way as
2879 a state highway

2880

2881 Section 42. When any public way has been constructed or improved in whole, or in part, with
2882 money furnished by the authority, and the way is not laid out as a state highway, the town in
2883 which the way lies shall thereafter keep and maintain in good repair and condition that part of the
2884 way which has been so constructed or improved; and the expense thereof shall be borne by the
2885 town or county, or both, as may be agreed upon at the time such construction or improvement is

2886 undertaken, except as otherwise provided in section 43 of this chapter and in paragraph 2(a) of
2887 section thirty-four of chapter ninety. If the division shall determine at any time that such way is
2888 not being maintained in proper condition, it shall so notify the mayor or selectmen having charge
2889 of the repairs of said way and the county commissioners, and shall specify in said notice what
2890 repairs and improvements are necessary; and the officials in charge of the way shall forthwith
2891 proceed to make the specified repairs and improvements. If said officials do not make such
2892 repairs or improvements within fifteen days from the receipt of such notice, or within such
2893 further time as the division may allow, the division may proceed to have the repairs or
2894 improvements made, and may pay for the same from any money which may be available for the
2895 repair and maintenance of state highways. The division shall annually, in January, certify to the
2896 state treasurer the amount of such expenditures during the preceding year. So much of the
2897 expenditures as by agreement are to be paid by the towns shall be made a part of the state tax for
2898 such towns; and so much of the expenditures as by agreement are to be paid by the counties shall
2899 be paid by the county treasurers to the state treasurer. The division may embody the provisions
2900 of this section in all contracts and agreements for work to be done in the construction or
2901 improvement of public ways, other than state highways, constructed or improved in whole, or in
2902 part, with money furnished by the authority.

2903

2904 Section 43. There may be expended for the repair and improvement of public ways, other than
2905 state highways, in towns having valuations of less than five million dollars, as established by the
2906 valuations made for the purpose of apportioning the state tax as appearing in chapter five
2907 hundred and fifty-nine of the acts of nineteen hundred and forty-five and in which the
2908 proportionate amount paid by such towns of every million dollars of such tax as established and

2909 apportioned in said chapter five hundred and fifty-nine, divided by the number of miles of such
2910 public ways, hereinafter known as the road mileage ratio, is less than twelve dollars, such sums
2911 not exceeding two hundred and fifty dollars per mile as the general court may appropriate
2912 therefor; provided, that such towns shall contribute or make available for use in connection
2913 therewith the following amounts for each mile of public ways within their respective limits,
2914 according to the following schedule based on their road mileage ratio:—

- 2915 1. Less than one dollar and forty cents, fifteen dollars.
- 2916 2. One dollar and forty cents and less than two dollars, twenty-five dollars.
- 2917 3. Two dollars and less than two dollars and eighty cents, forty dollars.
- 2918 4. Two dollars and eighty cents and less than three dollars and fifty cents, fifty dollars.
- 2919 5. Three dollars and fifty cents and less than five dollars and fifty cents, seventy-five dollars.
- 2920 6. Five dollars and fifty cents and less than seven dollars, one hundred dollars.
- 2921 7. Seven dollars and less than nine dollars, one hundred and twenty-five dollars.
- 2922 8. Nine dollars and less than twelve dollars, one hundred and fifty dollars.

2923 The amounts appropriated as aforesaid and contributed by the towns shall be expended
2924 under the direction of the division of roads and bridges on such ways as said division and the
2925 selectmen of the towns may agree upon.

2926 The division shall withhold or withdraw the unexpended balance of any funds assigned
2927 by it under this section or section twenty-five if the town fails to comply with the official
2928 standards for traffic control established by the division or with any provision of a traffic control
2929 agreement negotiated between the division and the town, as required by the United States
2930 Secretary of Commerce under section 109 of Title 23 of the United States Code.

2931 The cost of snow removal upon such ways in any such town, including amounts paid as
2932 rental for trucks and other equipment, and, at hourly rates approved by the division of roads and
2933 bridges, charges for the use of trucks and other equipment owned by such town, and the cost of
2934 sanding such ways in any such town may be paid from the amounts so appropriated and
2935 contributed, at the rate of not more than seventy-five dollars per mile.

2936
2937 Section 44. The county commissioners of the county wherein any public way is to be repaired
2938 or improved under the provisions of the preceding section may contribute and expend county
2939 funds therefor in accordance with such agreements as the commissioners may make with the
2940 division and the selectmen of the town. Said county funds may be paid to the department or to
2941 the town from time to time as the work progresses, to the extent that the said commissioners are
2942 satisfied that the work for which agreements have been made is being done in accordance
2943 therewith. Such contributions or expenditures by a county shall not render it liable for defects in
2944 any way or for damages to persons traveling thereon, and when the work of repair or
2945 maintenance for which such contribution or expenditure is made is completed, there shall be no
2946 further obligation on the part of the county as to the repair and maintenance thereof until a
2947 further contribution is made by the county commissioners for such purpose.

2948
2949 Section 45. Expenditure of state funds under section twenty-six shall be made only upon the
2950 written petition of the selectmen, containing such information as the division may require.

2951
2952 Section 46. The said towns may contract with the division for the performance of the work
2953 authorized by section 43; or, if the selectmen so request, the division may have the work done by

2954 such persons and in such manner as it may determine, in which event the towns shall pay their
2955 proportionate part of the expense when and as ordered by the division. The cost of any materials,
2956 machinery or tools purchased by the division for or on account of the work in any town shall be
2957 considered as a part of the expenditures in such town under section twenty-eight; and such
2958 machinery or tools shall belong to the authority.

2959

2960 Section 47. The division shall determine, ad nearly as possible, the number of miles of such
2961 public ways in towns entitled to the benefits under section 43, and shall inform the selectmen of
2962 such towns of the contributions required from them under said section.

2963

2964 Section 48. The division may lay out or alter ways other than state highways in any county, city
2965 or town provided that the county commissioner of the county, or the mayor of the city or the
2966 board of selectmen of the town consents thereto. Land or rights in land may be acquired for this
2967 purpose by eminent domain under chapter seventy-nine by the division in behalf of the county,
2968 city or town in which the land lies. Any person whose property has been taken or injured by any
2969 action of said division under authority of this section may recover from the authority under
2970 chapter seventy-nine such damages therefor as he may be entitled to. For this purpose the
2971 division may use any funds which may be available for highway purposes, including federal aid,
2972 and may also use any money appropriated for a county, or by a city or town, toward the damages
2973 sustained, provided that the county commissioners, selectmen or mayor have agreed in writing to
2974 pay the money thus appropriated upon the order of the division.

2975

2976 Section 49. The division may make all contracts and agreements and do all other things
2977 necessary to co-operate with the United States in the construction and maintenance of highways,
2978 under an act of congress approved on July eleventh, nineteen hundred and sixteen, entitled “An
2979 Act to provide that the United States shall aid the states in the construction of rural post roads,
2980 and for other purposes”, as amended and supplemented, and submit such plans, estimates and
2981 programs for the improvement of highways as will meet the requirements of the secretary of
2982 commerce under said act, and it may use therefor any funds which may be available for the
2983 construction and maintenance of state highways, and may make any agreements or contracts that
2984 may be required to secure federal aid in the construction of highways under the provisions of the
2985 act of congress aforesaid, and of all other acts in amendment thereof, or in addition thereto, and
2986 may, in such agreements or contracts, provide, among other things, for such labor preferences to
2987 honorably discharged soldiers, sailors and marines as are made necessary by federal legislation,
2988 and may provide that no other preference or discrimination among citizens of the United States
2989 shall be made in connection with the expenditure of any money received from the federal
2990 government by virtue of the said legislation, and also any money received from the United States
2991 on account of the construction of highways. The division may also, for the purpose of securing
2992 federal aid, use any money appropriated by a county, city or town for the construction of a way
2993 or any part thereof for which federal aid may be secured, and make contracts or agreements
2994 involving the expenditure of said money, provided the county commissioners or the selectmen or
2995 duly authorized officials of the city or town have agreed in writing to pay the money thus
2996 appropriated upon the order of the division. The division may also maintain the roads
2997 constructed under this section or said act of congress, from any money appropriated by the

2998 general court for the maintenance of state highways or for the repair or maintenance of other
2999 public ways.

3000

3001 Section 50. The portion of the surface transportation trust fund allocated for reimbursements to
3002 cities and towns for costs actually incurred in constructing, maintaining and policing city or town
3003 streets or roads shall annually be apportioned among the several cities and towns as follows:

3004 (a) The amount apportioned to each city and town in any calendar year shall be the
3005 amount of the “equalizing municipal highway grant” for such city or town multiplied by the
3006 number of miles of streets and roads in such city or town. The “equalizing municipal highway
3007 grant” for such city or town shall be the total of a basic mileage allowance of four hundred
3008 dollars plus an additional road-use allowance of seven dollars per motor vehicle per road mile
3009 less an equalizing deduction of ten cents per thousand dollars of equalized valuation per mile.

3010 *[There is no clause (b).]*

3011 For the purposes of this section, the following words shall have the following meaning:—

3012 (1) “Streets and roads in such city or town”, the total mileage, to the nearest one
3013 hundredth of a mile, of public ways, other than state highway, in such city or town, as
3014 determined by the most recent mileage survey conducted by the administrator of the division of
3015 roads and bridges; and said administrator is directed to conduct such survey annually.

3016 (2) “Motor vehicles per road-mile”, the total number of motor vehicles registered and
3017 garaged in such city or town, exclusive of re-issues, as determined annually by the registrar of
3018 motor vehicles, divided by the total mileage, to the nearest one hundredth of a mile, of public
3019 ways, other than state highway, in such city or town, as determined by the most recent mileage
3020 survey conducted by the administrator of the division of roads and bridges.

3021 (3) “Equalized valuation per mile”, the equalized valuation of the aggregate property in
3022 such city or town subject to local taxation, as most recently reported by the commissioner of
3023 revenue to the General Court under the provisions of section ten C of chapter fifty-eight, divided
3024 by the total mileage, to the nearest one hundredth of a mile, or public ways, other than state
3025 highway, in such city or town.

3026 The administrator of the division of roads and bridges shall annually notify the
3027 commissioner of revenue of the amounts apportioned to each city or town under this section;
3028 provided, however, that the sum payable to each city or town shall be used solely to reimburse
3029 such city or town for the costs actually incurred during the fiscal year of such city or town in
3030 constructing, maintaining and policing city or town streets or roads and shall not exceed the
3031 amount so incurred by such city or town.

3032 The mayor of each city and the selectmen of each town shall notify the administrator of
3033 the division of roads and bridges in writing of the amount that will be incurred during the fiscal
3034 year of such city or town for constructing, maintaining and policing city or town streets or roads.
3035 The administrator of the division of roads and bridges shall annually, on or before December
3036 first, certify to the commissioner of revenue the amounts approved for payment to each city or
3037 town under this section in each fiscal year.

3038
3039 Section 51. For the purposes of reimbursing cities and towns for the costs actually incurred in
3040 constructing, maintaining and policing city or town streets or roads as provided in section 50 the
3041 following words shall have the following meanings:—

3042 (a) “Constructing”, all operations on the travelled way on new location or where
3043 considerable reconstruction is to be undertaken, including resurfacing and other work incidental

3044 to the above, such as shoulders, side road approaches, roadsides, drainage, structures, sidewalks,
3045 traffic control and service facilities, intersection construction, and unusual or disaster operations
3046 and professional services, or for such other purposes that the commissioner of highways may
3047 specifically authorize.

3048 (b) "Maintaining", all operations on the travelled way including scarifying, reshaping,
3049 applying dust palliatives and restoring material losses; patching, mudjacking, joint filling,
3050 surface treating, etc. and replacement in kind; other work such as restoration of erosion controls;
3051 reshaping drainage channels and side slopes; mowing; tree trimming; replacing topsoil, sod,
3052 shrubs, curbing, gutters, riprap, underdrains, culverts; cleaning and repairing culverts; cleaning;
3053 painting and repairing of structures; replacement of rail, floors, stringers and beams of structures;
3054 replacement of walls and the repairing of drawbridges; removal of snow and ice and related
3055 operations such as sanding, chemical applications, etc.; the erection of snow fences and the
3056 opening of inlets clogged with snow and ice; removal of litter from the roadsides and drainage;
3057 operation of drawbridges charged to highway traffic; painting, repairing and replacement in kind
3058 of signs, guardrail, signals, lighting standards, etc.; maintenance and replacement in kind of rest
3059 areas; servicing of and furnishing power and light bulbs for highway lighting and traffic control
3060 devices; roadside cleaning operations; operation of roadside areas, towing service, information
3061 booths, etc.; or for such other purposes that the administrator of the division of roads and bridges
3062 may specifically authorize.

3063 (c) "Policing", all operations on the travelled way by city or town law enforcement
3064 officials having to do with the direction or control of traffic thereon and such other purposes as
3065 the administrator of the division of roads and bridges may specifically authorize.

3066

3067 Section 52. The division may take by eminent domain in accordance with the provisions of
3068 chapter seventy-nine or any alternative method now or hereafter provided by general law, any
3069 public land and any fee simple absolute or lesser interest in private property or part thereof or
3070 rights therein as it may deem necessary for carrying out the provisions of this chapter.

3071 Whenever a parcel of private property so taken is used in whole or in part for residential
3072 purposes, the owner of such parcel may, within thirty days of the date of the authority's notice to
3073 vacate such parcel, appeal to the authority for a postponement of the date set for such vacating,
3074 whereupon the authority shall grant to the owner a postponement of three months from the date
3075 of such appeal; provided, however, that the appeal for such postponement shall be in the form of
3076 a written request to the authority sent by registered mail, return receipt requested; and provided,
3077 further, that the provisions of section forty of said chapter seventy-nine shall govern the rights of
3078 the authority and of any person whose property shall be so taken.

3079 The division shall have power, in the process of constructing, reconstructing, repairing,
3080 rehabilitating, improving, policing, using or administering all or any part of the state highway
3081 system to take by eminent domain pursuant to chapter seventy-nine, such land abutting the state
3082 highway system as it may deem necessary or desirable for the purposes of removing or
3083 relocating all or any part of the facilities of any public utility, including rail lines, and may
3084 thereafter lease the same or convey an easement or any other interest therein to such utility
3085 company upon such terms as it, in its sole discretion, may determine. Notwithstanding the
3086 provisions of any general or special law to the contrary, the relocation of the facilities of any
3087 public utility, including rail lines, in accordance with the provisions of this section shall be valid
3088 upon the filing of the plans thereof with the department of telecommunications and energy, if
3089 applicable.

3090 Except as otherwise provided by law, any sale of real property shall be awarded, after
3091 advertisement for bids, to the bidder who is the highest responsible bidder. The division shall
3092 have the right to reject all bids and to readvertise for bids. Before any real property shall be so
3093 sold or conveyed, notice that such real property is for sale shall be publicly advertised in two
3094 daily newspapers of general circulation published in the city of Boston, and, if such real property
3095 is located in any other city or town, in a newspaper of general circulation published in such other
3096 city or town, once a week for three successive weeks. Such advertisements shall state the time
3097 and place where all pertinent information relative to the real property to be sold or conveyed may
3098 be obtained and the time and place of opening the bids in answer to such advertisements and that
3099 the division reserves the right to reject any or all such bids. All bids in response to
3100 advertisements shall be sealed and shall be publicly opened by the division. Said division may
3101 require, as evidence of good faith, that a deposit of a reasonable sum, to be fixed by the division,
3102 accompany the proposals. The provisions of this paragraph shall not be applicable to any sale of
3103 real property by the division to the commonwealth or any city, town or public instrumentality nor
3104 to a sale of real property which is determined by the division to have a fair market value of five
3105 thousand dollars or less.

3106 The division may sell the buildings or other structures upon any lands taken by it or may
3107 remove the same and shall sell, if a sale be practicable or, if not, shall lease, if a lease be
3108 practicable, any lands or rights or interest in lands or other property taken or purchased for the
3109 purposes of this chapter, whenever the same shall, in the opinion of the division, cease to be
3110 needed for such purpose.

3111 Notwithstanding the provisions of any general or special law to the contrary, all counties,
3112 cities, towns and other political subdivisions and all public agencies, authorities and

3113 commissions of the commonwealth are hereby authorized and empowered to lease, lend, grant or
3114 convey to the division at its request upon such terms and conditions as the proper authorities of
3115 such counties, cities, towns, political subdivisions, agencies, authorities and commissions may
3116 deem reasonable and fair and without the necessity for any advertisement, order of court or other
3117 action or formality, other than the regular and formal action of the authorities concerned, any real
3118 property, improvements or personal property which may be necessary or convenient to the
3119 effectuation of the authorized purposes of the division, including public roads, bridges and other
3120 real property, improvements or personal property already devoted to public use.

3121 Section 53. The division shall establish and implement for the state highway system a local
3122 tourism grant program for the benefit of cities and towns located within the turnpike corridor.
3123 Such grant program shall be funded, subject to the rights of the holders of notes or bonds of the
3124 authority issued for the turnpike, from turnpike revenues, on an annual basis in an amount of not
3125 less than \$500,000 nor more than \$1,000,000. Said grant program shall be administered in
3126 accordance with procedures promulgated under chapter thirty A.

3127 The division shall also establish and implement for the metropolitan highway system a
3128 local tourism grant program for the benefit of cities and towns through which the metropolitan
3129 highway system runs and the municipalities contiguous to such cities and towns. Said grant
3130 program shall be funded, subject to the rights of the holders of notes or bonds of the authority
3131 issued for the metropolitan highway system, from metropolitan highway system revenues, on an
3132 annual basis in an amount not less than two hundred and fifty thousand dollars. Such grant
3133 program shall be administered in accordance with procedures promulgated under said chapter
3134 thirty A.

3135

3136 Section 54. No motor vehicle, trailer, semi-trailer or semi-trailer unit, hereinafter in this section
3137 called a motor vehicle, shall be operated on the turnpike or the metropolitan highway system nor
3138 shall the owner or bailee thereof require or permit such operation when the gross weight of such
3139 motor vehicle exceeds the weight provided in the rules and regulations adopted by the authority
3140 or that specified in a special hauling permit issued by the division for such motor vehicle
3141 pursuant to said rules and regulations, whichever is greater, nor shall any person load or cause to
3142 be loaded such motor vehicle in excess of such weights; provided, however, that the division
3143 shall not adopt or enforce any rule or regulation which prohibits a motor vehicle from traveling
3144 on the turnpike or the metropolitan highway system without a permit if such motor vehicle may
3145 travel on a public way of the commonwealth without a permit under the provisions of section
3146 nineteen A of chapter ninety or which prohibits the issuance of a permit by the division for travel
3147 on the turnpike or the metropolitan highway system by a motor vehicle if such motor vehicle
3148 may travel on a public way of the commonwealth with a permit under the provisions of section
3149 thirty A of chapter eighty-five.

3150 Enforcement of this section shall be by members of the department of state police who
3151 have been appointed as weighers and measurers of motor vehicles and of the loads of such motor
3152 vehicles pursuant to section eighty-seven A of chapter forty-one. In any prosecution for a
3153 violation of this section, a signed certificate on oath of a member of the department of state
3154 police assigned and appointed as a weigher and measurer of motor vehicles in accordance with
3155 this paragraph shall be admissible in evidence without further proof and shall constitute prima
3156 facie evidence of the weight of the motor vehicle described in such certificate. Such certificate
3157 shall be in such form as the registrar of motor vehicles shall prescribe pursuant to section
3158 nineteen A of chapter ninety and shall be signed and sworn to by a member of the department of

3159 state police assigned and appointed as a weigher and measurer of motor vehicles in accordance
3160 with this paragraph and present at the weighing of such motor vehicle and the court shall take
3161 judicial notice of the signature of such person and that he is so assigned and appointed.

3162 In any claim for bodily injuries including death or damage to property arising out of such
3163 weighing, a member of the department of state police, assigned and appointed as a weigher and
3164 measurer of motor vehicles in accordance with the preceding paragraph, to enforce the
3165 provisions of this section may file a written request with the authority that it defend him against
3166 such claim and the authority shall indemnify such member of the department of state police from
3167 personal expenses or damages incurred and arising out of such claim; provided, however, that the
3168 defense or settlement of such claim shall have been made by the general counsel of the authority,
3169 by an attorney retained for such purpose by the authority or by an attorney provided by an
3170 insurer obligated under the terms of a policy of insurance to defend against such claims.

3171 A person convicted of a violation of the provisions of this section shall be punished by a fine of
3172 not less than thirty dollars for each one thousand pounds of weight or fraction thereof by which
3173 the gross weight of the motor vehicle as operated exceeds the weight provided in the rules and
3174 regulations adopted by the authority pursuant to paragraph (k) of section four or that specified in
3175 a special hauling permit issued by the authority for such motor vehicle pursuant to said rules and
3176 regulations, whichever is greater; provided, however, that if the total of such excess weight is
3177 greater than ten thousand pounds, the fine shall be not less than sixty dollars for each one
3178 thousand pounds or fraction thereof over such ten thousand pounds.

3179 Any person convicted of a violation of the provisions of the first sentence of section
3180 seventeen of chapter ninety while operating a vehicle which is also in violation of the first
3181 paragraph of this section shall be punished by a fine of not more than fifty dollars for a first

3182 offense nor less than fifty nor more than seventy-five dollars for a second offense committed in
3183 any twelve month period and not less than seventy-five nor more than one hundred and fifty
3184 dollars for subsequent offenses committed in any twelve month period and complaints for such
3185 violations shall not be placed on file by the court.

3186

3187 Section 55. –The state highway system shall each be deemed a way within the meaning and
3188 purport of chapters eighty-nine and ninety and its use shall be governed by sections two, four,
3189 four A, four B and five of said chapter eighty-nine and sections one B, three, three A, three B,
3190 three C, five A, six, seven, seven B, seven D, seven D and one-half, seven P, seven Q, seven AA,
3191 eight B, eight C, nine, nine D, ten, eleven, twelve, thirteen, thirteen A, fourteen, fourteen A,
3192 fourteen B, sixteen, the first sentence of section seventeen, section twenty, the first sentence of
3193 section twenty-one and sections twenty-two A, twenty-two B, twenty-two E, twenty-three,
3194 twenty-four, twenty-four G, twenty-four I, twenty-four L, twenty-five, twenty-six, twenty-nine
3195 and thirty-four J of chapter ninety and such other laws as the authority may determine by
3196 regulation necessary for the safe and efficient operation of the state highway system.

3197 An operator of a vehicle using the turnpike, the metropolitan highway system or the state
3198 highway system who refuses to pay the toll prescribed by the authority or who evades or
3199 attempts to evade payment of the toll prescribed by the authority may be arrested without a
3200 warrant. Whoever, for the purpose of soliciting a ride on the turnpike, the metropolitan highway
3201 system or the state highway system, displays a sign, signals a moving vehicle, causes the
3202 stopping of a vehicle or stands on property of the authority in view of a ramp or roadway of the
3203 turnpike may be arrested without a warrant and shall be punished by a fine of not more than fifty

3204 dollars. A person damaged in his property by the exercise of any of the powers granted by this
3205 chapter may recover his damages from the authority under chapter seventy-nine.

3206 Notwithstanding the provisions of chapters one hundred and thirty-four and one hundred
3207 and forty-seven, if money, goods or other property which has been abandoned, mislaid or lost on
3208 the premises of the division comes into the possession of said division and remains unclaimed
3209 for a period of one hundred and twenty days, the division may sell the same, excepting money so
3210 unclaimed, at public auction after notice of such sale has been published for three successive
3211 weeks in a newspaper published in the city or town wherein such sale shall occur. The net
3212 proceeds of such sale, after deducting the cost of storage and the expenses of the sale, and all
3213 money so unclaimed, shall be paid into and become the property of the division and may be
3214 applied by the division to any of its corporate purposes. If such property is in the possession of
3215 the division and remains unclaimed for a period of one hundred and twenty days and is of the
3216 value of three dollars or less, the authority may donate the same to a charitable organization.

3217

3218 Section 56. The turnpike shall thereafter be operated and maintained free of tolls when (i) all
3219 notes and bonds issued by the authority relating to the turnpike and payable from turnpike
3220 revenues have been paid or a sufficient amount for the payment of all such notes or bonds and
3221 the interest thereon, to the maturity thereof, shall have been set aside in trust for the benefit of the
3222 holders of such notes or bonds; and (ii) the turnpike is deemed to be in good condition and repair
3223 to the satisfaction of the division.

3224

3225 Section 57. The Massachusetts surface transportation authority's division of roads and bridges
3226 shall submit to the road and bridge advisory board, pursuant to section 58, all contracts, plans,

3227 agreements and memoranda of understanding relative to land use plans, air rights, zoning
3228 restrictions and environmental impacts associated with the development on any land owned by
3229 the division within the state highway system. The road and bridge advisory board shall, within
3230 30 days from receipt of all contracts, plans, agreements and memoranda of understanding
3231 submitted by the division for review, provide comments and recommendations to the division.
3232 The division shall prepare a written response to the reports of the road and bridge advisory board
3233 and shall state the basis for any substantial divergence between the actions of the division and the
3234 recommendations contain in such reports of the road and bridge advisory board.

3235

3236 Section 58. (a) There shall be a road and bridge advisory board to the division of roads and
3237 bridges of the Massachusetts surface transportation authority to consist of nine members, two of
3238 whom shall be appointed by the governor, one of which shall be a resident of a municipality
3239 within the turnpike corridor from the New York state border east to the junction of interchange 8,
3240 one of which shall be a resident of a municipality within the turnpike corridor from the junction
3241 of interchange 8 east to the junction of interchange 14, two of whom shall be appointed by the
3242 mayor of the city of Boston, one of whom shall be appointed by the commissioner of the division
3243 of capital asset management and maintenance, two of whom shall be appointed by the
3244 metropolitan area planning council, two of whom shall be appointed by the Massachusetts
3245 Association of Planning Directors who shall be a resident of a municipality within the turnpike
3246 corridor. Each member of the road and bridge advisory board shall have one vote. A majority of
3247 members shall constitute a quorum and the road and bridge advisory board may act by such
3248 majority vote represented in the quorum.

3249 (b) For the conduct of its business, the road and bridge advisory board shall adopt and
3250 may revise and amend by-laws. The road and bridge advisory board shall convene its first
3251 meeting within 60 days after the transfer of the state highway system, to the division of roads and
3252 bridges of the Massachusetts surface transportation authority and shall thereafter convene regular
3253 meetings in accordance with its by-laws. The road and bridge advisory shall annually elect a
3254 chairperson and vice chairperson and any other officers that the road and bridge advisory board
3255 shall determine. Each member of the road and bridge advisory board shall serve for a term of two
3256 years and shall be eligible for reappointment. In the event of a vacancy, a successor shall be
3257 named by the person or organization who originally appointed the vacated member and such
3258 successor shall serve for the remainder of the unexpired term. Each member of said road and
3259 bridge advisory board shall serve without compensation but may be reimbursed, as an expense of
3260 said road and bridge advisory board, for all reasonable expenses incurred in the performance of
3261 its duties as approved by the road and bridge advisory board.

- 3262 (c) The purposes of the road and bridge advisory board shall be:
- 3263 (i) to review and prepare comments on all documents submitted to it pursuant to section
3264 57 and to make recommendations to the division within thirty days of receipt of such
3265 documents;
 - 3266 (ii) to coordinate and share information and best practices in matters of the operation and
3267 maintenance of roads and bridges;
 - 3268 (iii) to make recommendation to the division on its roads and bridges charges;
 - 3269 (iv) to hold hearings, which may be held jointly with the division at the discretion of the
3270 road and bridge advisory board and said division, on matters relating to said division;

3271 (v) to review the annual report of the Authority and to prepare comments thereon to the
3272 Authority and the governor, and to make such examinations of the reports on the
3273 division's records and affairs as the road and bridge advisory board deems appropriate;
3274 and

3275 (vi) to make recommendations to the governor and the general court respecting the
3276 Authority and its road and bridge programs. The road and bridge advisory board shall
3277 have all powers necessary or convenient to carry out and effectuate the forgoing
3278 purposes.

3279 (d) The road and bridge advisory board may incur expenses, not to exceed fifty thousand
3280 dollars annually for expenditures authorized under paragraph (b) and for personnel and office
3281 expenses. Such expenses shall be paid by the division in the current fiscal year from its operating
3282 budget and, for each year thereafter, shall be provided for in the current expense budgets of the
3283 authority's division of roads and bridges.

3284 (e) The road and bridge advisory board shall be deemed to be a governmental body for
3285 purposes of, and shall be subject to, section eleven A and one-half of chapter thirty A of the
3286 General Laws and shall also be subject to section ten of chapter sixty-six of the General Laws.

3287
3288 Section 59. The Massachusetts surface transportation authority's division of roads and bridges
3289 shall submit to the parkway advisory board, pursuant to section 60, all contracts, plans,
3290 agreements and memoranda of understanding relative to the land use plans, air rights, zoning
3291 restrictions and environmental impacts associated with the operation and maintenance of
3292 parkways owned by the division within the geographic area defined in section 33 of chapter 92
3293 using standards set forth in the Historic Parkway Preservation Treatment Guidelines. The

3294 parkway advisory board shall, within 30 days from receipt of all contracts, plans, agreements and
3295 memoranda of understanding submitted by the division for review, provide comments and
3296 recommendations to the division. The division shall prepare a written response to the reports of
3297 the parkway advisory board and shall state the basis for any substantial divergence between the
3298 actions of the division and the recommendations contain in such reports of the parkway advisory
3299 board.

3300
3301 Section 60. (a) There shall be a parkway advisory board to the division of roads and bridges of
3302 the Massachusetts surface transportation authority to consist of nine members, two of whom
3303 shall be appointed by the governor and who shall be residents of a municipality outside the
3304 geographic area defined in section 33 of chapter 92, two of whom shall be appointed by the
3305 mayor of the city of Boston, one of whom shall be appointed by the commissioner of
3306 conservation and recreation, one of whom shall be appointed by the Massachusetts Audubon
3307 Society who shall be a resident of a municipality within the geographic area defined in section 33
3308 of chapter 92, one of whom shall be appointed by the Massachusetts Sierra Club who shall be a
3309 resident of a municipality outside the geographic area defined in section 33 of chapter 92, one of
3310 whom shall be appointed by the Environmental League of Massachusetts who shall be a resident
3311 of a municipality within the geographic area defined in section 33 of chapter 92, one of whom
3312 shall be appointed by Environment Massachusetts who shall be a resident of a municipality
3313 outside the geographic area defined in section 33 of chapter 92. Each member of the parkway
3314 advisory board shall have one vote. A majority of members shall constitute a quorum and the
3315 parkway advisory board may act by such majority vote represented in the quorum.

3316 (b) For the conduct of its business, the parkway advisory board shall adopt and may
3317 revise and amend by-laws. The parkway advisory board shall convene its first meeting within 60
3318 days after the transfer of parkways and bridges from the department of conservation and
3319 recreation to the division of roads and bridges of the Massachusetts surface transportation
3320 authority and shall thereafter convene regular meetings in accordance with its by-laws. The
3321 parkway advisory board shall annually elect a chairperson and vice chairperson and any other
3322 officers that the parkway advisory board shall determine. Each member of the parkway advisory
3323 board shall serve for a term of two years and shall be eligible for reappointment. In the event of a
3324 vacancy, a successor shall be named by the person or organization who originally appointed the
3325 vacated member and any such successor shall serve for the remainder of the unexpired term.
3326 Each member of said parkway advisory board shall serve without compensation but may be
3327 reimbursed, as an expense of said parkway advisory board, for all reasonable expenses incurred
3328 in the performance of its duties as approved by the parkway advisory board.

3329 (c) The purposes of the parkway advisory board shall be:

3330 (i) to review and prepare comments on all documents submitted to it pursuant to section
3331 59 and to make recommendations to the division within thirty days of receipt of such
3332 documents.

3333 (ii) to coordinate and share information and best practices in matters of the operation and
3334 maintenance of historic parkways;

3335 (iii) to make recommendation to the division on its parkway charges;

3336 (iv) to hold hearings, which may be held jointly with the division at the discretion of the
3337 parkway advisory board and said division, on matters relating to said division;

3338 (v) to review the annual report of the Authority and to prepare comments thereon to the
3339 Authority and the governor, and to make such examinations of the reports on the
3340 division's records and affairs as the parkway advisory board deems appropriate; and
3341 (vi) to make recommendations to the governor and the general court respecting the
3342 Authority and its parkway programs. The parkway advisory board shall have all powers
3343 necessary or convenient to carry out and effectuate the forgoing purposes.

3344 (d) The parkway advisory board may incur expenses, not to exceed fifty thousand dollars
3345 annually for expenditures authorized under paragraph (b) and for personnel and office expenses.
3346 Such expenses shall be paid by the division in the current fiscal year from its operating budget
3347 and, for each year thereafter, shall be provided for in the current expense budgets of the
3348 authority's division of roads and bridges.

3349 (e) The parkway advisory board shall be deemed to be a governmental body for purposes
3350 of, and shall be subject to, section eleven A and one-half of chapter thirty A of the General Laws
3351 and shall also be subject to section ten of chapter sixty-six of the General Laws.

3352
3353 Section 61. No rule or regulation shall prohibit the use of passenger or station wagon type motor
3354 vehicles whose gross weight is less than 5000 pounds and which are registered for commercial
3355 use, on ways, parkways or boulevards where non-commercial passenger-type motor vehicles are
3356 permitted to operate. This section shall apply only to ways, parkways or boulevards previously
3357 under the jurisdiction of the department of conservation and recreation

3358
3359 Section 62. The division may replace or rebuild any bridge over the Charles river within the
3360 metropolitan parks district whenever funds for the purpose shall become available by gift under
3361 the provisions of this section; provided, that no such bridge shall be replaced or rebuilt unless the

3362 consent of the city council and of the selectmen of any town in which any part of the bridge is
3363 situated shall first be obtained. Any such bridge may be replaced or rebuilt without a draw for the
3364 passage of vessels, and may be of no greater height above the water than, in the judgment of the
3365 division, the architectural appearance of the bridge would require, except that every such bridge
3366 over the Charles river basin shall be so constructed as to leave a clear height of at least twelve
3367 feet above the ordinary level of the water in the basin over the main ship channel, and the piers
3368 and other obstructions to the flow of the river shall be constructed in such form and in such
3369 places as the secretary of war of the United States shall approve. When the work of replacing or
3370 rebuilding any such bridge is completed, the bridge shall be maintained and policed under and in
3371 accordance with the laws governing such maintenance and policing at the time when the work
3372 was begun. The state treasurer may receive, hold, manage and invest any funds given or
3373 bequeathed to him in trust by any person, upon such terms, conditions and limitations as the
3374 donor may impose, for the purpose of enabling the division to carry out the provisions of this
3375 section, and the division, whenever it shall deem that the public interests so require, may expend,
3376 under authority of this section any such funds in accordance with the terms, conditions or
3377 limitations aforesaid. Any owner or lessee of property abutting on the Charles river above any
3378 drawless bridge built under the authority of this section and under authority of the act of congress
3379 entitled "An Act to authorize the construction of drawless bridges across a certain portion of the
3380 Charles river in the State of Massachusetts", approved February twenty-seven, nineteen hundred
3381 and eleven, shall be entitled to adequate compensation for damages, if any, caused to said
3382 property or leasehold interests therein, by reason of the interference with access by water to said
3383 property due to the construction of any such drawless bridge, in accordance with provisos
3384 contained in said act of congress. Upon petition of any such owner or lessee entitled to such

3385 damages, filed in the supreme judicial court within one year after any such bridge without a draw
3386 is opened for public travel, said court shall appoint three commissioners to hear the parties in
3387 interest, and to assess the damages to said property; and the decision of said commissioners as to
3388 the amount of said damages and as to questions of fact involved shall be final.

3389
3390 Section 63. The division may transfer, for care and control, including police protection, any
3391 lands or rights or easements or interest in land held by it to any city, town, county, or local board
3392 of a city or town within the urban parks district, with the consent of such city, town, county or
3393 board, and upon such terms and for such period as may mutually be agreed upon, and enter into
3394 an agreement with any such city, town, county or board for the joint care and control or police
3395 protection of such lands or rights therein; and any city, town, or county, or any local board within
3396 the urban parks district, may transfer, for care and control, including police protection, any land,
3397 rights, easements or interest in land in its control, although the same be already a part of a public
3398 way owned or controlled by it, to the division for such period and upon such terms as may
3399 mutually be agreed upon, and may enter into an agreement with the division for the joint care
3400 and control, including police protection, of such land or public way.

3401
3402 SECTION 21. Section 1 of chapter 81B is hereby amended by striking out section 1 and
3403 inserting in place thereof the following section:

3404 Section 1. There is hereby created a body politic and corporate to be known as the
3405 Massachusetts Surface Transportation Authority which, while within the executive office of
3406 transportation and construction, shall not be subject to the supervision and regulation of said
3407 executive office or any other department, commission, board, bureau, or agency, except as

3408 specifically provided in any general or special law to the contrary. The authority is hereby
3409 authorized and empowered, subject to the provisions of this chapter, to own, construct, maintain,
3410 repair, reconstruct, improve, rehabilitate, finance, refinance, use, police, administer, control and
3411 operate (a) the state highway system as defined in this chapter; (b) the turnpike as defined in the
3412 chapter; and (c) the metropolitan highway system as defined in this chapter.

3413 The authority is hereby constituted a public instrumentality. The exercise by the
3414 authority of the powers conferred by this chapter shall be deemed and held to be the performance
3415 of an essential governmental function.

3416 SECTION 22. Section 1 of chapter 81B is hereby amended by striking out section 1 and
3417 inserting in place thereof the following section:

3418 Section 1. There is hereby created a body politic and corporate to be known as the
3419 Massachusetts Surface Transportation Authority which, while within the executive office of
3420 transportation and construction, shall not be subject to the supervision and regulation of said
3421 executive office or any other department, commission, board, bureau, or agency, except as
3422 specifically provided in any general or special law to the contrary. The authority is hereby
3423 authorized and empowered, subject to the provisions of this chapter, to own, construct, maintain,
3424 repair, reconstruct, improve, rehabilitate, finance, refinance, use, police, administer, control and
3425 operate (a) the state highway system as defined in this chapter; (b) the turnpike as defined in the
3426 chapter; (c) the metropolitan highway system as defined in this chapter; and (d) the state public
3427 transit system as defined in this chapter.

3428 The authority is hereby constituted a public instrumentality. The exercise by the
3429 authority of the powers conferred by this chapter shall be deemed and held to be the performance
3430 of an essential governmental function.

3431 SECTION 23. Section 3 of chapter 81B is hereby amended by striking out the definition
3432 of “state highway system” and inserting in place thereof the following definition:
3433 “State highway system”, all roadways, bridges, tunnels, overpasses, interchanges, parking
3434 facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
3435 information centers and administration, storage, maintenance and other buildings that the
3436 authority owns, constructs or operates and maintains pursuant to the provisions of this chapter
3437 and any additional highway, tunnel and bridge components as the general court may from time to
3438 time determine. The term “state highway system” shall include the turnpike and the
3439 metropolitan highway system.

3440 SECTION 24. Section 4 of chapter 81B is hereby amended by striking out subsection (e)
3441 and (f) and inserting in place thereof the following 2 subsections:

3442 (e) to own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,
3443 administer, control and operate the state highway system or any part thereof and the state public
3444 transit system or any part thereof, consistent with agreements entered into with the Authority to
3445 the extent applicable, as it may determine; provided, however, that the provisions of chapter
3446 ninety-one shall not apply to the authority, except for any parts or areas thereof subject to said
3447 chapter ninety-one on March first, nineteen hundred and ninety-seven;

3448 (f) to acquire sites abutting the state highway system and the state public transit system
3449 and to construct or contract for the construction of buildings and appurtenances for gasoline
3450 stations, restaurants, parking facilities, tourist information centers and other services and to lease
3451 such facilities in such manner and under such terms as it may determine;

3452 SECTION 25. Section 4 of chapter 81B is hereby amended by striking out subsection (k)
3453 and inserting in place thereof the following subsection:

3454 (k) to fix and revise from time to time and charge and collect tolls for transit over the
3455 metropolitan highway system; provided, however, that it shall furnish upon request to a user of
3456 the metropolitan highway system a toll receipt showing the amount of toll paid, the classification
3457 of the vehicle and the date of payment; provided further, that the authority shall convene at least
3458 two public hearings to be held within the metropolitan Boston area at least 30 days prior to the
3459 effective date of any proposed change in toll structure within the metropolitan highway system
3460 and shall allow for a one week comment period after each such hearing during which written
3461 testimony and comments shall be accepted;

3462 SECTION 26. Section 4 of chapter 81B is hereby amended by striking out subsection (l)
3463 and inserting in place thereof the following subsection:

3464 (l) to adopt such rules and regulations pursuant to the provisions of chapter thirty A and
3465 not repugnant to the provisions of the General Laws made applicable to the authority, as the
3466 authority determines necessary or appropriate to provide for or govern the construction or
3467 reconstruction, including contractor qualification, operation, maintenance, repair, rehabilitation,
3468 improvement, use, policing, control or administration of the state highway system or state public
3469 transit system or the authority's business or property. Such regulations may include the authority
3470 to grant easements, permits or other forms of authorization for the installation, construction,
3471 maintenance, repair, renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits,
3472 cables, wires, towers, poles and other equipment and appliances of any public utility, private
3473 entity or corporation or person owning or operating such facilities in, on, along, over or under the
3474 state highway system or state public transit system.

3475 Such regulations may impose penalties for violations thereof which, in the case of civil
3476 penalties, may be recovered only after notice and hearing conducted by the authority or its

3477 designee and subject to judicial review and enforcement pursuant to the provisions of said
3478 chapter thirty A or such other civil proceedings under the laws of the commonwealth or the
3479 United States as the law may provide and, in the case of criminal penalties, may be recovered in
3480 a proceeding in a trial court of the commonwealth by indictment or complaint. The amount of
3481 any such civil or criminal penalty, with the exception of penalties imposed under section
3482 nineteen, shall not exceed five hundred dollars for each offense, unless the law otherwise
3483 provides. The full amount of a civil penalty shall be paid to the authority and eighty percent of a
3484 penalty recovered in a criminal proceeding shall be accounted for and paid to the authority. The
3485 authority may further provide in such regulations for adjudicatory proceedings that it or its
3486 designee conducts which are subject to judicial review and enforcement according to the
3487 provisions of said chapter thirty A;

3488

3489 SECTION 27. Section 10 of chapter 81B is hereby amended by adding the following
3490 subsection:-

3491 (b) The authority is hereby authorized to charge and collect and from time to time fix and
3492 revise tolls for transit over or through the metropolitan highway system or any part thereof
3493 subject to such classifications of vehicles and manners of collection as the authority determines
3494 desirable and subject to provisions of clause (k) of section four. Such tolls shall be so fixed and
3495 adjusted as to provide, at a minimum, a fund sufficient with other revenues, if any, to pay (a)
3496 costs incurred in furtherance of this chapter related to the metropolitan highway system
3497 including, but not limited to, the cost of owning, constructing, maintaining, repairing,
3498 reconstructing, improving, rehabilitating, policing, using, administering, controlling and
3499 operating the metropolitan highway system; and (b) the principal of, redemption premium, if

3500 any, and the interest on notes or bonds relating to the metropolitan highway system as the same
3501 shall become due and payable and to create and maintain reserves established for any of the
3502 authority's corporate purposes; provided, however, that the authority shall not charge or collect a
3503 toll for transit through the Callahan tunnel, the Sumner tunnel or the Ted Williams tunnel by
3504 official vehicles of the commonwealth or any municipality, political subdivision or
3505 instrumentality thereof, including police, fire and ambulance vehicles, while such vehicles are on
3506 official business. The authority shall maintain the confidentiality of all information including, but
3507 not limited to, photographs or other recorded images and credit and account data, relative to
3508 account holders who participate in its electronic toll collection system. Such information shall
3509 not be a public record and shall be used for enforcement purposes only with respect to toll
3510 collection regulations. An account holder may, upon written request to the authority, have access
3511 to all information pertaining solely to the account holder. For each violation of applicable
3512 authority regulations related to electronic toll collection, a violation notice shall be sent to the
3513 registered owner of the vehicle in violation. The notice shall include the registration number of
3514 the vehicle, the state of issuance of such registration and the date, time and place of the violation.
3515 The notice may be based in whole or in part upon inspection of any photographic or other
3516 recorded image of a vehicle and the written certification by a state police officer or other person
3517 employed by or under contract with the authority or its electronic toll collection system
3518 contractor that it is so based shall be prima facie evidence of the facts contained therein and shall
3519 be admissible in any administrative or judicial proceeding to adjudicate the liability for such
3520 violation.

3521 SECTION 28. Chapter 81B is hereby amended by adding the following 3 sections:-

3522 Section 42. (a) No proposal for a systemwide change in fares under the division of public transit
3523 or decrease in systemwide service of 10 per cent or more shall be effective until said proposal
3524 shall first have been the subject of one or more public hearings and shall have been reviewed by
3525 the Mass Transit Advisory Board and, for a systemwide increase in fares of 10% or more, the
3526 Massachusetts Surface Transportation Authority Board of Directors has made findings on the
3527 environmental impact of such increase in fares and, for a systemwide decrease in service of 10%
3528 or more, the decrease shall be the subject of an environmental notification form initiating review
3529 pursuant to sections 61 and 62H, inclusive, of chapter 30. Any systemwide increase in fares of
3530 10 per cent or more shall conform to the fare policy established pursuant to paragraph (c). The
3531 authority shall increase fares only to provide needed revenue and shall not increase fares solely
3532 for the purpose of funding the stabilization fund established pursuant to section 19.

3533 (b) The Massachusetts Surface Transportation Authority board of shall not establish a
3534 fare in excess of one-half the regular adult cash fare for pupils of public day or evening schools,
3535 pupils of private day schools or private evening schools or industrial day or evening schools
3536 giving substantially the same character and grade of instruction as the schools conducted at
3537 public expense and of a not higher grade than a high school for transportation between such
3538 schools and their homes, or for children between the ages of five and 11 years, inclusive, or for
3539 persons 65 and older who reside within the commonwealth, or for persons with disabilities who
3540 reside within the commonwealth. Any such fare so established shall provide for free transfer
3541 privileges.

3542 (c) The authority, in consultation with the division of public transit, shall adopt, and
3543 revise as appropriate, a fare policy which addresses fare levels, including discounts, fare equity

3544 and a fare structure, including, but limited to, fare media and passes. Said fare policy shall
3545 include a system for free or substantially price-reduced transfer privileges.

3546

3547 Section 43. The authority shall establish and implement policies that provide for the
3548 maximization of nontransportation revenues from all sources. The authority shall report to the
3549 general court 30 days prior to the board's approval of the preliminary annual budget on efforts of
3550 the authority to maximize nontransportation revenues. The authority, in consultation with the
3551 division of public transit, shall establish and implement policies that maximize and increase total
3552 fare revenue and ridership by improving service quality, expanding transit service where
3553 appropriate, establishing fare policies that promote ridership growth, marketing its transit
3554 services and fare media and providing desirable services and benefits to transit riders.

3555 The authority shall establish and implement policies that increase the proportion of the
3556 division's expenses covered by system revenues, provided that the division shall take all
3557 necessary steps to increase system revenues and improve operating efficiency before considering
3558 any reductions in service levels; provided that the division takes all necessary steps to maximize
3559 nontransportation revenues, increase ridership and improve fare collection practices before
3560 implementing fare increases. Nothing in this chapter shall preclude the authority from increasing
3561 fares, if necessary, to meet debt service obligations.

3562 For the purposes of measuring the efficiency of the division of public transit operations
3563 and evaluating the proportion of division's expenses covered by system revenues, the authority
3564 shall determine, among other accountability measures, the net operating investment per
3565 passenger-mile ratio. To calculate said ratio, the authority shall use for the values of the variables

3566 in said ratio the data reported each fiscal year to the federal transit agency, so-called, for the
3567 purposes of the national transit database.

3568 In conjunction with the preparation of the preliminary operating budget for the
3569 subsequent fiscal year, the authority shall establish a target net operating investment per
3570 passenger mile ratio that is expected to be achieved in the subsequent fiscal year. The authority
3571 shall forward a report to the secretary of transportation, the general court, and the Mass Transit
3572 Advisory Board not later than April 1 detailing the actual net operating investment per passenger
3573 mile ratio achieved in the prior two fiscal years, the ratio projected to be achieved in the current
3574 fiscal year and the ratio expected to be achieved in the subsequent two fiscal years. Said report
3575 shall be accompanied by an explanation of the reasons for year-to-year change in said ratio.

3576 Beginning in fiscal year 2012, the authority shall seek to achieve and maintain a target ratio of
3577 not more than 20 cents for any fiscal year; provided, that the inability to achieve the ratio of 20
3578 cents shall not, by itself, require the authority to reduce service levels, increase fares or take any
3579 other specific action; provided, that if the authority is unable to achieve or maintain the target
3580 ratio of 20 cents, or less, it shall, for fiscal year 2012 and subsequent fiscal years, include in said
3581 report the reasons therefor and the plans of the authority for seeking to achieve the target ratio of
3582 20 cents.

3583

3584 Section 44. (a) If the authority shall operate or contract for the operation of a mass transportation
3585 service or route which is not substantially similar to a service or route previously operated by the
3586 authority or the division of public transit and which is in competition with a pre-existing mass
3587 transportation service or route provided by a private company, and if such competition causes
3588 substantial economic damage to such company, the company may file a claim for relief with the

3589 authority within six months of the commencement of such new operation. The claim for relief
3590 shall state all of the facts relevant to the claimed competition and to the alleged damage suffered
3591 therefrom. Thereupon the authority shall make a prompt and full investigation of the claim.
3592 During its investigation and any subsequent arbitration the authority shall have access to the
3593 books and records of the company, including but not limited to copies of all federal and state tax
3594 returns of such company for prior years. Within 120 calendar days after the filing of the claim for
3595 relief the authority shall issue a report setting forth its findings with respect to said claim,
3596 together with a detailed statement of the facts as to the respective patronage, revenues and costs
3597 on the allegedly competing routes and, if deemed appropriate, an offer of relief. Such offer may
3598 include a proposal that the authority purchase all or a portion of the assets of such company, or
3599 that the authority grant to such company a contract pursuant to the provisions of section 4 of
3600 chapter 81D, or it may propose such other plan or alternative plans of relief as it shall deem
3601 reasonable and in the public interest. Within 90 calendar days of receipt of such report the
3602 company shall accept or reject any offer or offers of the authority or it shall make one or more
3603 counter-offers. The authority shall accept or reject any counter-offers within 30 calendar days of
3604 receipt. The authority may modify or revoke any such offer and the company may modify or
3605 revoke any such counter-offer at any time before acceptance or rejection.

3606 (b) If the authority shall decline to make any offer to the company, or if all offers or
3607 counter-offers shall be rejected, or if the authority or the company shall fail to act with respect to
3608 such offers or counter-offers within the time prescribed herein, the matter shall be referred to a
3609 board of arbitration for final and binding adjudication. Unless the parties shall agree in writing to
3610 some other method of constituting the board of arbitration, of selecting its members and of
3611 providing for the rules of procedure by which it shall be governed, the board shall be appointed

3612 and its proceedings regulated in accordance with the provisions of the applicable sections of
3613 chapter 251. The function of the board of arbitration shall be to determine whether the operations
3614 of the authority in competition with those of the company during the period complained of have
3615 constituted a proximate cause of substantial damage to the company; to identify and designate
3616 the portion of the company's operations so damaged, such designation to include a complete list
3617 of the physical assets of the company, real and, personal fairly allocable to such portion; and to
3618 fix the fair value of such portion of the company's operations as of the time that such
3619 competition commenced. In determining such fair value the board of arbitration shall follow
3620 generally accepted accounting principles and shall place particular emphasis on capitalization of
3621 the average net income of the company for prior years, excluding, however, from such average
3622 net income any amounts received by such company under the provisions of section 25B of
3623 chapter 58, and upon an appraisal of the listed physical assets of the company valued at their cost
3624 basis less depreciation in a manner consistent with the valuation and depreciation methods
3625 employed by the company in filing federal and state income tax returns for such prior years.
3626 Under no method of valuation shall any value be placed upon franchises or good will. Within 30
3627 calendar days after the award of the board of arbitration the company shall sell, and the authority
3628 shall purchase, the physical assets listed by the board, and the authority shall pay to the company
3629 the fair value of the portion of the company's operations as found by the board. The cost to the
3630 authority of any acquisition under this section shall be paid from the proceeds of bonds or bond
3631 anticipation notes issued as hereinafter provided. An award under this section shall be subject to
3632 the availability of such bond or note proceeds and any sale hereunder may be postponed by the
3633 agreement of the parties pending the availability of such funds.

3634 (c) The procedure set forth in this section shall constitute the exclusive remedy of a
3635 private mass transportation company against the authority for relief from the effects of the
3636 division's operations or activities, and no action or suit shall be brought against the authority on
3637 account of alleged damage suffered except to enforce compliance with the provisions of this
3638 section. Nothing herein shall prohibit the authority and the company from entering into an
3639 agreement in settlement of the claim for relief at any time, notwithstanding the rejection of an
3640 offer or counteroffer, the pendency of arbitration proceedings or the existence of an award. All
3641 time requirements set forth herein may be extended by the written agreement of the authority and
3642 the company. It is the intent of this section to encourage cooperation between the authority and
3643 private companies so as to provide fair and reasonable relief as speedily as possible in case of
3644 damaging competition.

3645 SECTION 29. The General Laws are hereby amended by inserting after chapter 81C the
3646 following chapter:-

3647 Chapter 81D

3648 THE DIVISION OF PUBLIC TRANSIT

3649 Section 1. (a) Without limiting the generality of the powers granted to the authority under the
3650 provisions of chapter 81B or other provisions of this chapter, the following provisions are made
3651 for the operation, improvement and construction of the state public transit system.

3652 (b) There is hereby established a division of public transit within the authority.

3653

3654 Section 2. The division shall be under the direction of an administrator, who shall be appointed
3655 by the chief executive officer of the Massachusetts surface transportation authority and who shall
3656 serve at his pleasure. The administrator shall be responsible for administering and enforcing the

3657 provisions of this chapter relative to the administration of the division under his control and
3658 supervision unless otherwise provided herein, subject to the supervision of the chief executive
3659 officer of the authority.

3660 The administrator shall be exempt from chapter 31 and the position of administrator shall
3661 be classified in accordance with section 45 of chapter 30 and the salary shall be determined in
3662 accordance with section 46C of said chapter 30. The administrator shall be appointed with due
3663 regard to his fitness, by reason of his experience in matters relating to transportation
3664 infrastructure, including roads and bridges, such as their construction, operations, financing or
3665 other relevant experience relative to the efficient exercise of his powers and duties. The
3666 commissioner shall administer this section and the General Laws, rules and regulations that grant
3667 powers to or impose duties upon the division, subject to the supervision of the chief executive
3668 officer.

3669 (a) The administrator shall establish a procedure for recommending to the chief executive
3670 officer approval or disapproval of all contracts, including specifications, made by the division,
3671 and any changes, alterations, amendments, or modifications thereof and for contract appeals of
3672 all claims made under any contract with the division with the exception of claims subject to
3673 section 39Q of chapter 30. Any person aggrieved by a decision of the chief executive officer
3674 acting in regard to contract appeals may bring suit against the authority for recovery of damages
3675 based on such claim under the provisions of chapter 258.

3676 To assist the chief executive officer and administrator in performing this function, the
3677 chief executive officer may appoint and remove a person of legal training and experience, who
3678 shall be a member of the bar of the commonwealth, to the position of hearing examiner. The
3679 hearing examiner shall devote full time during business hours to the duties of his position. The

3680 position shall be classified in accordance with section 45 of chapter 30 and the salary shall be
3681 determined in accordance with section 46C of said chapter 30. The chief executive officer may
3682 refer any dispute concerning contracts, contract specifications or the execution of contracts not
3683 subject to the aforesaid section 39Q of said chapter 30 to the hearing examiner for a report on the
3684 matter including a recommendation as to the disposition of the dispute.

3685 The hearing examiner shall hear all claims by contractors from determinations of the
3686 department with the exception of claims subject to said section 39Q of said chapter 30; and shall,
3687 after hearing, render to the chief executive officer a report of the matter including a
3688 recommendation as to the disposition of the claim. Said examiner shall at the request of the
3689 contractor or of the division or on his own motion summon witnesses and require the production
3690 of books and records and take testimony under oath. Such reports shall be maintained as public
3691 records in a place and form fully accessible to the public.

3692 (b) The administrator shall appoint and may remove all employees in the division, subject
3693 to the approval of the chief executive officer of the authority. Except as provided in this chapter
3694 or as otherwise provided by law, all such appointments and removals shall be made in
3695 accordance with the provisions of chapter 31. From time to time the administrator may, subject
3696 to appropriation and regulation, employ such consultants as he may consider necessary, provided
3697 that consultants shall be engaged to perform only those services for the division which regular
3698 employees of the division are unable to perform owing to lack of special expertise or other
3699 inability to perform such services on the schedule or in the manner required by the division.

3700 (c) The administrator shall from time to time establish such bureaus, sections, and district
3701 and other offices as shall be necessary for efficient and economical administration of the
3702 division, and, if necessary for such purpose, may from time to time with the approval of the chief

3703 executive officer consolidate or abolish the same. The administrator shall prepare and keep
3704 current a general statement of the organization of the division, of the assignment of functions to
3705 its various administrative units, officials and employees, and of the established places at which
3706 and the methods whereby the public may secure information or make requests, such statement to
3707 be known as the division’s “description of organization”. He shall file with the state secretary an
3708 attested copy of such description and of each amendment thereto.

3709 (d) The administrator may promulgate rules and regulations to effectuate the purposes of
3710 this chapter.

3711

3712 Section 3. As used in this chapter, the following words shall, unless the context otherwise
3713 requires, have the following meanings:—

3714 “Area constituting the authority”, the service area of the division consisting of the 14 cities and
3715 towns, the 51 cities and towns, and other served communities.

3716 “Authority”, the Massachusetts Surface Transportation Authority established in chapter 81B.

3717 “Board”, the board of directors of the authority.

3718 “Capital investment program”, the program of capital spending as promulgated by the executive
3719 office of transportation each fiscal year based on a five year capital spending projection that
3720 advances the program for mass transportation of the authority.

3721 “Dedicated revenue source”, monies provided to the authority in accordance with section 35T of
3722 chapter 10.

3723 “Equipment”, all rolling stock, and other conveyances, vehicles, rails, signal and control systems,
3724 lighting and power distribution systems, fences, station equipment, fare collection equipment,

3725 incidental apparatus and other tangible personal property, whether or not affixed to realty,
3726 required or convenient for the mass movement of persons.

3727 “Express service”, all mass transportation service provided by or under the control of the
3728 division, whether by ownership, lease, contract or otherwise, over rights of way with fully
3729 controlled access and restricted to the use of such service exclusively or on a shared basis with
3730 other mass transportation service, including, but not limited to, rapid transit service, the Highland
3731 Branch and Mattapan high-speed services and express bus, monorail and other similar services,
3732 and such term shall also mean all commuter railroad passenger service provided by or under the
3733 control of the division.

3734 “Fare revenue”, the amount of money directly paid by passengers on all modes of service,
3735 provided that said revenue shall include both the fares accounted for by the division as revenues
3736 and as credits to expenditures.

3737 “51 cities and towns”, the cities and towns of Bedford, Beverly, Braintree, Burlington, Canton,
3738 Cohasset, Concord, Danvers, Dedham, Dover, Framingham, Hamilton, Hingham, Holbrook,
3739 Hull, Lexington, Lincoln, Lynn, Lynnfield, Manchester-by-the-Sea, Marblehead, Medfield,
3740 Melrose, Middleton, Nahant, Natick, Needham, Norfolk, Norwood, Peabody, Quincy, Randolph,
3741 Reading, Salem, Saugus, Sharon, Stoneham, Swampscott, Topsfield, Wakefield, Walpole,
3742 Waltham, Wellesley, Wenham, Weston, Westwood, Weymouth, Wilmington, Winchester,
3743 Winthrop and Woburn.

3744 “Fourteen cities and towns”, the cities and towns of Arlington, Belmont, Boston, Brookline,
3745 Cambridge, Chelsea, Everett, Malden, Medford, Milton, Newton, Revere, Somerville and
3746 Watertown.

3747 “Local service”, all mass transportation service provided by or under the control of the division,
3748 other than express service.

3749 “Massachusetts Bay Transportation Authority State and Local Assistance Fund”, the fund
3750 established pursuant to section 35T of chapter 10.

3751 “Mass transportation facilities”, all real property, including land, improvements, terminals,
3752 stations, garages, yards, shops and structures appurtenant thereto, and all easements, air rights,
3753 licenses, permits and franchises, used in connection with the mass movement of persons.

3754 “Maximize”, increase to the highest level possible consistent with the principles of sound
3755 financial planning and accepted transportation practices.

3756 “Net operating investment per passenger-mile ratio”, the ratio whereby operating expenses minus
3757 the sum of nontransportation revenues and fare revenues are divided by passenger miles and
3758 expressed as a monetary amount per mile.

3759 “Nontransportation revenues”, any and all division revenue sources resulting from sources other
3760 than state or local taxes, state or authority bonds, federal mass transportation assistance and
3761 fares.

3762 “Operating expense”, salaries, wages, benefits, materials and supplies, and purchased
3763 transportation, excluding debt service and capital expenses, for all modes of service.

3764 “Other served communities”, the cities and towns of Abington, Acton, Amesbury, Andover,
3765 Ashburnham, Ashby, Ashland, Attleboro, Auburn, Ayer, Bellingham, Berkley, Billerica,
3766 Boxborough, Boxford, Bridgewater, Brockton, Carlisle, Carver, Chelmsford, Dracut, Duxbury,
3767 East Bridgewater, Easton, Essex, Fitchburg, Foxborough, Franklin, Freetown, Georgetown,
3768 Gloucester, Grafton, Groton, Grove land, Halifax, Hanover, Hanson, Haverhill, Harvard, Holden,
3769 Holliston, Hopkinton, Ipswich, Kingston, Lakeville, Lancaster, Lawrence, Leicester, Leominster,

3770 Littleton, Lowell, Lunenburg, Mansfield, Marlborough, Marshfield, Maynard, Medway,
3771 Merrimac, Methuen, Middleborough. Millbury, Millis, Newbury, Newburyport, North Andover,
3772 North Attleborough, Northborough, Northbridge, Norton, North Reading, Norwell, Paxton,
3773 Pembroke, Plymouth, Plympton, Princeton, Raynham, Rehoboth, Rochester, Rockland.
3774 Rockport, Rowley, Salisbury, Scituate, Seekonk, Sherborn, Shirley, Shrewsbury, Southborough,
3775 Sterling, Stoughton, Stow, Sudbury, Sutton, Taunton, Tewksbury, Townsend, Tyngsborough,
3776 Upton, Wareham, Way land, West Boylston, West Bridgewater, Westborough, West Newbury,
3777 Westford, Westminster, Whitman, Worcester, Wrentham, and such other municipalities as may
3778 be added in accordance with section 6 or in accordance with any special act to the area
3779 constituting the authority.

3780 “Passenger miles”, the sum of the distances ridden by each passenger for all modes of service.

3781 “Program for mass transportation”, a comprehensive, coordinated program of construction,
3782 reconstruction, and development of mass transportation facilities and equipment throughout the
3783 area constituting the division, promulgated by the executive office of transportation, for the
3784 benefit of the inhabitants thereof and the commonwealth that establishes a planning horizon of
3785 not more than 20 years and incorporates an ongoing capital investment program.

3786 “Rider”, a person whose residence is in one of the 14 cities or towns, one of 51 cities or towns,
3787 or one of the other served communities and uses local service or express service of the division.

3788 “Secretary”, the secretary of the executive office of transportation.

3789 “Service quality standards”, objectives established by the division for the effectiveness and
3790 quality of each mode of service, rapid transit, light rail, bus, and commuter rail, based on
3791 measurements of: (a) comfort, (b) communication, (c) convenience, (d) rider satisfaction, (e)
3792 reliability, (f) security, and (g) environmental benefit.

3793 “System revenues”, revenues generated by the division, excluding the dedicated revenue source
3794 and municipal assessments.

3795

3796 Section 4. The division is hereby authorized and empowered:

3797 (1) To establish within the area constituting the division a principal office and such other
3798 offices as may be deemed necessary.

3799 (2) To hold, operate and manage the mass transportation facilities and equipment
3800 acquired by the division.

3801 (3) To appoint and employ officers, agents, and employees to serve at the pleasure of the
3802 administrator, except as may otherwise be provided in collective bargaining agreements, and to
3803 fix their compensation and conditions of employment.

3804 (4) To make, and from time to time revise and repeal, by-laws, rules, regulations and
3805 resolutions.

3806 (5) To establish transit facilities and related infrastructure, including terminals, stations,
3807 access roads, and parking, pedestrian access facilities and bicycle parking and access facilities as
3808 may be deemed necessary and desirable. The division may charge reasonable fees for the use of
3809 such facilities as it may deem desirable, or it may allow the use of such facilities free of charge.

3810 (6) To accept gifts, grants and loans from agencies of local, state and federal
3811 governments, or from private agencies or persons, and to accede to such conditions and
3812 obligations as may be imposed as a prerequisite to any such gift, grant or loan.

3813 (7) To provide mass transportation service, whether directly, jointly or under contract, on
3814 an exclusive basis, in the area constituting the division and without being subject to the
3815 jurisdiction and control of the department of telecommunications and energy in any manner

3816 except as to safety of equipment and operations and, with respect only to operations of the
3817 division with equipment owned and operated by the division, without, except as otherwise
3818 provided in this chapter, being subject to the jurisdiction and control of any city or town or other
3819 licensing authority; provided, that schedules and routes shall not be considered matters of safety
3820 subject to the jurisdiction and control of said department. Except as otherwise provided in this
3821 chapter, the board shall determine the character and extent of the services and facilities to be
3822 furnished, and in these respects their authority shall be exclusive and shall not be subject to the
3823 approval, control or direction of any state, municipal or other department, board or commission
3824 except the advisory board as provided in this chapter. Nothing contained in this paragraph shall
3825 be construed as exempting any privately owned or controlled carrier, whether operating
3826 independently, jointly or under contract with the division, from obtaining any license required
3827 under section 1 of chapter 59A.

3828 (8) To operate mass transportation facilities and equipment, directly or under contract in
3829 areas outside the area constituting the authority; but only pursuant to (i) an agreement with or
3830 purchase of a private mass transportation company, part of whose operations were, at the time
3831 the authority was established, within the area constituting the authority or (ii) an agreement with
3832 a transportation area or a municipality for service between the area of the authority and that of
3833 such transportation area or municipality, where no private company is otherwise providing such
3834 service.

3835 (9) To provide for construction, extension, modification or improvement of the mass
3836 transportation facilities in the territory of the authority

3837 (10) To sell, lease or otherwise contract for advertising in or on the facilities of the
3838 division.

3839 (11) To ensure that land devoted to any public use other than mass transportation may be
3840 taken by the division only (i) if any substantial interference with such public use is temporary or
3841 any permanent interference therewith is not substantial, or both, or (ii) in the case of takings not
3842 authorized by clause (i), upon providing equivalent land for such public use. Interference with
3843 the public use of a street or public utility line shall not be considered to be substantial unless the
3844 interference with the traffic or utility system of which it is a part is substantial.

3845
3846 Section 5. (a) There shall be a mass transit advisory board within the division of public transit of
3847 the Massachusetts surface transportation authority consisting of a representative of each city or
3848 town paying an assessment to the authority. Each such representative shall be, in the case of a
3849 Plan D or Plan E city, the city manager, in the case of every other city, the mayor, or the
3850 chairman of the board of selectmen of every town. Each city manager, mayor, or chairman may
3851 appoint a designee to act for him on the mass transit advisory board by filing the name of said
3852 designee with the authority.

3853 The total voting strength of cities and towns on the mass transit advisory board shall be
3854 no less one than one vote for each city or town together with additional votes calculated by
3855 multiplying one and one-half times the total number of cities and towns paying assessments to
3856 the Massachusetts surface transportation trust fund by a fraction of which the numerator shall be
3857 the total amount of all assessment made by the state treasurer to such city or town under this
3858 chapter and the denominator shall be the total amount of all assessment made by the state
3859 treasurer to all such cities and towns. The determination of votes shall be based upon the most
3860 recent annual assessment. The total vote of each city and town shall be determined by the

3861 authority and delivered in writing to the mass transit advisory board 30 days after the state
3862 treasurer has sent the warrants for payments to the cities and towns.

3863 Whenever the comments and recommendations of the mass transit advisory board, or of
3864 the 14 cities and towns or of the 51 cities and towns or of the other served communities, is
3865 required for any action by the authority, such approval shall be deemed to have been granted
3866 within thirty days of the submission thereof, the mass transit advisory board, 14 cities and towns
3867 or the 51 cities and towns or the other served communities has or have communicated its or their
3868 disapproval to the authority, in writing, the mass transit advisory board's qualified approval.

3869 Any notice or submission hereunder to the mass transit advisory board or to the 14 cities
3870 and towns or to the 51 cities and towns or to the other served communities shall be given in such
3871 manner as the authority deems reasonable.

3872 Except as otherwise provided by vote of the mass transit advisory board or of the 14
3873 cities and towns or of the 51 cities and towns or of the other served communities, respectively, a
3874 meeting may be called by the representative or representatives of cities and towns having 5 per
3875 cent or more of the votes of the mass transit advisory board or of 14 cities and towns or of 51
3876 cities and towns or of the other served communities, as the case may be. The first meeting of the
3877 14 cities and towns and of the 51 cities and towns and of the other served communities, which
3878 shall be immediately followed by the first meetings of the 14 cities and towns and of the 51 cities
3879 and towns and of the served communities shall be held as soon as practicable upon the call of the
3880 authority. The mass transit advisory board shall act by a majority vote, except that it may
3881 delegate its power of approval to an executive committee formed and elected pursuant to duly
3882 adopted by-laws of the board and constituting among its members as least one-half of the total

3883 vote of the board, and may at any time, revoke such delegation provided that not such executive
3884 committee shall be empowered to approve the governor's appointments to the board of directors.
3885 The mass transit advisory board may incur expenses, as authorized by majority vote of such
3886 board, for staff, stenographic, clerical and other purposes. Such expenses as do not annually
3887 exceed 0.25 per cent of the assessment upon member communities shall be paid by the authority.

3888 (b) The mass transit advisory board shall be deemed to be a governmental body for
3889 purposes of, and shall be subject to, section eleven A and one-half of chapter thirty A of the
3890 General Laws and shall also be subject to section ten of chapter sixty-six of the General Laws.

3891 (c) Additional purposes of the mass transit advisory board shall be as follows:

3892 (i) To consider matter committed to the approval of the advisory board under paragraphs (d)
3893 and (p) of section 5 of chapter 161A of the General Laws;

3894 (ii) To make recommendation to the division on its mass transit charges;

3895 (iii) To hold hearings, which may be held jointly with the division at the discretion of the
3896 mass transit advisory board and said division, on matters relating to said division;

3897 (iv) To review the annual report of the Authority and to prepare comments thereon to the
3898 Authority and the secretary of transportation, and to make such examinations of the
3899 reports on the division's records and affairs as the advisory board deems appropriate; and

3900 (v) To make recommendations to the governor and the general court respecting the Authority
3901 and its mass transit programs. The mass transit advisory board shall have all powers
3902 necessary or convenient to carry out and effectuate the forgoing purposes.

3903

3904 Section 6. Unless otherwise required under section 6A of chapter 31 or any other general or
3905 special law to the contrary, the administrator shall design and implement a program for

3906 performance evaluation of employees. The sole purpose of said program shall be the
3907 improvement of the performance of individual employees and the division and, notwithstanding
3908 any general or special law to the contrary, all information compiled by said program shall be
3909 confidential. Said division may consult with individuals and organizations and may contract for
3910 technical assistance for the purpose of said program to the extent it deems necessary.

3911
3912 Section 7. Notwithstanding any contrary provision of law, whenever there exists a continued
3913 interruption, stoppage or slowdown of transportation of passengers on any vehicle or line of the
3914 division or a strike causing the same, and which is in violation of an injunction, a temporary
3915 injunction, a restraining order, or other order of a court of competent jurisdiction, and which
3916 threatens the availability of essential services of transportation to such an extent as to endanger
3917 the health, safety or welfare of the community, the governor may declare that an emergency
3918 exists. During such emergency he may take possession of, and operate in whole or in part, the
3919 lines and facilities of the division in order to safeguard the public health, safety and welfare.
3920 Such power and division may be exercised through any department or agency of the
3921 commonwealth or through any person or persons and with the assistance of such public or
3922 private instrumentalities as may be designated by him. Such lines and facilities shall be operated
3923 for the account of the division. The powers hereby granted to the governor shall expire 45 days
3924 after his proclamation that a state of emergency exists.

3925
3926 Section 8. In addition to the powers granted to the authority under chapter 81B and section 4 and
3927 all other powers granted by law, the authority shall have the power to establish on a self-
3928 liquidating basis one or more separate units of mass transportation facilities and equipment to

3929 furnish, in each instance, express service or local service between specified terminal points and
3930 over a fixed route or routes. In establishing such separate units, the authority may enter into one
3931 or more unit lease arrangements with such persons, firms and corporations as the authority shall
3932 select and franchise. Each such unit lease arrangement shall provide for the following:

3933 (i) Acquisition by the authority of real property, including easements and rights of way,
3934 necessary or desirable for the operation of such units of mass transportation facilities and
3935 equipment, parking and other related auxiliary services and facilities, by purchase or exercise of
3936 the authority's power of eminent domain under paragraph (15) of section 1;

3937 (ii) design, construction and acquisition of mass transportation facilities and equipment;

3938 (iii) operation of the mass transportation facilities and equipment so designed,
3939 constructed and acquired by a lessee of said facilities and equipment: (1) for a period not in
3940 excess of 40 years; (2) at a rental or lease charge at least sufficient to discharge the authority's
3941 financial obligations incurred in connection with said unit of facilities and equipment under the
3942 authority's powers as hereinafter set forth in subsection (b); and (3) upon such provisions and
3943 conditions as to fares and other matters relating to the conduct and operation of said mass
3944 transportation facilities and equipment as the authority and lessee shall agree; and

3945 (iv) power in the authority to cancel or terminate said unit lease arrangement at stated
3946 times which shall be not less frequent than once in each calendar year.

3947 (b) To meet the expenditures necessary in carrying out the provisions of this section, the
3948 authority may issue bonds in accordance chapter 81B, and such bonds shall provide, in addition
3949 to other provisions allowed under said chapter, that all payments of principal and interest shall be
3950 made solely from (1) the rental or lease charges received by the authority under its lease with the
3951 lessee of mass transportation facilities and equipment as aforesaid, which said lease may be

3952 assigned by the authority to secure the obligations of said bonds; or (2) in the event the authority
3953 terminates said lease from the income derived from operation of said mass transportation
3954 facilities and equipment; provided, that bonds issued for the purposes of this section shall not be
3955 included in the computation of the bonds to which the limitations on amount contained in section
3956 22 of chapter 81B shall apply.

3957

3958 Section 9. The authority shall have the duty to develop and finance, and the division shall have
3959 the duty to operate the mass transportation facilities and equipment in the public interest,
3960 consistent with the purposes and provisions of this chapter. The division shall provide a high
3961 standard of service to its riders, and to achieve maximum effectiveness in complementing other
3962 forms of transportation in order to promote the general economic and social well-being of the
3963 area constituting the division and of the commonwealth.

3964

3965 Section 10. The division may sell at public or private sale any land, or rights in land, the title to
3966 which has been acquired by the division, upon determination by the board of directors of the
3967 Massachusetts surface transportation authority that such land or rights in land are no longer
3968 necessary for the division's purposes. In the event of such public or private sale the division shall
3969 execute a deed thereof, with or without covenants of title and warranty, in the name and behalf of
3970 the authority, to the purchaser, his heirs and assigns, and deposit said deed with the state
3971 treasurer, together with a certificate of the terms of the sale and the price paid or agreed to be
3972 paid at said sale. Upon receipt of said price, and upon the terms agreed to in said deed, the
3973 treasurer shall deliver the deed to said purchaser. The state treasurer may, by the attorney
3974 general, sue for and collect the price and otherwise enforce the terms of any such sale.

3975 The division may, with the approval of the authority, transfer to another division, or to a
3976 city, town, or public authority or agency, any land the title to which has been acquired by it and
3977 which said board of commissioners determines is no longer necessary for the division's
3978 purposes.

3979 The division may also, with the approval of the authority, lease or rent any land, or rights
3980 in land, the title to which has been acquired by it, and which land, or rights therein, said board of
3981 directors determines are not presently needed for the division's purposes.

3982 The foregoing provisions of law with reference to the sale, leasing or renting of land
3983 acquired by the division, shall also apply to land, or rights in land, acquired by the division for
3984 maintenance sites.

3985 In addition to the foregoing, the division may also transfer to another state department,
3986 land acquired from said state department, which is no longer needed for the purposes for which it
3987 was acquired. Said land shall be subject to such restrictions as may be imposed by the division
3988 for the use thereof.

3989
3990 Section 11. If the division seeks to contract for local and express bus services theretofore
3991 performed by division employees, it shall conduct a public hearing in each of the affected areas.
3992 The division shall cooperate with the chief executive officers of each of the cities and towns in
3993 the affected areas to determine the appropriate, geographically convenient locations at which
3994 such hearings shall be held. Said hearings shall be held within 30 days after the division's
3995 requests for proposals and before the awarding of a contract for said services. The division shall
3996 provide written notice 10 days before the hearing to elected officials from affected areas. The
3997 division shall be represented at the meeting by the administrator or his designee who is familiar

3998 with the proposed contract. The public hearing shall be conducted in the evening hours in a
3999 location in the area to be affected by said proposed contract. The division shall present reasons
4000 for the proposed contract. Persons in attendance at the public hearing shall have a reasonable
4001 opportunity to ask questions and present reasons why such proposed contract shall not be
4002 executed. Within 30 days after said hearing and before the execution of any contract, the division
4003 shall give written notice of its decision and the reasons therefor to persons who received written
4004 notice of the hearing. The division shall continue to conduct public hearings pursuant to this
4005 section each year the contract is in effect. Nothing in this section shall be construed as affecting
4006 the applicability of sections 52 to 55, inclusive, of chapter 7 to any such contract.

4007

4008 Section 12. The division shall on or before April 1 of each year, render to the board of the
4009 authority, the secretary of transportation, Mass Transit Advisory Board, and the general court, a
4010 report of its operations for the preceding calendar year, including therein a description of the
4011 organization of the division, its service quality standards, trends in revenue and ridership, service
4012 improvements and recommendations for legislation, if any, and the program for mass
4013 transportation as most recently revised.

4014

4015 Section 13. Any agreement entered into by the division with a municipality outside of the
4016 territory of the division for service to such municipality directly by the division, or through
4017 agreement with a private company, shall provide for reimbursement by such municipality to the
4018 division only for the net additional expense of such service as determined by the division. Such
4019 agreements may be for such terms, not exceeding five years, as the parties may determine, except
4020 as provided in paragraph (x) of section 4 of chapter 81B. They shall not be subject to the

4021 provisions of section 4 of chapter 40 or section 31 of chapter 44. Municipalities may appropriate
4022 from taxes or from any available funds to meet their obligations under any such contracts.

4023

4024 Section 14. Any private company lawfully providing mass transportation service in the area
4025 constituting the division at the time the division is established may continue to operate the same
4026 route or routes and levels of service as theretofore, and may conduct such further operations as
4027 the division may permit in the future with or without a contract; provided, that the division shall
4028 in all respects have the same powers and duties in respect to such private carriers as are provided
4029 by law for the department of telecommunications and energy except as to safety of equipment
4030 and operations, schedules and routes not being, however, considered safety of equipment and
4031 operations for the purposes of this paragraph; and provided further, that whenever the division
4032 desires to add new routes for service in any area, it shall give preference in the operation of such
4033 routes to the private carrier then serving such area unless the division concludes that such carrier
4034 has not demonstrated an ability to render such service according to the standards of the division,
4035 that such service can be operated directly by the division at substantially lesser expense to the
4036 division and the public than if operated by such private carrier, or that for substantial and
4037 compelling reasons in the public interest operation by such private carrier is not feasible.

4038

4039 Section 15. The division, during construction projects, may require the relocation or removal of
4040 public utility facilities; provided, that if such project is in whole or in part funded by a federal
4041 grant, the division may reimburse said utility for such costs of relocation and removal as may be
4042 agreed upon by said utility and the division.

4043

4044 Section 16. The division shall provide gate attendants daily from seven o'clock ante meridian
4045 until two o'clock ante meridian on the following day, on High street in the city of Medford at the
4046 railroad crossing.

4047

4048 Section 17. No alcoholic beverages shall be sold on any of the properties under the supervision
4049 and control of the division, its tenants or lessees; provided, however, that this subsection shall
4050 not apply to properties used for railroad purposes, as defined in chapter 160, including all
4051 properties used for railroad-related purposes, including, but not limited to, railroad stations and
4052 terminals.

4053

4054 Section 18. No person shall have in his possession on a facility or conveyance under the
4055 supervision or control of the authority, alcoholic beverages with the intent to consume same on
4056 said facility or conveyance except as provided in section 17. A violation of this section shall be
4057 punishable as provided in section 40A of chapter 272 and said alcoholic beverages shall be
4058 forfeited to said division.

4059

4060 Section 19. The division shall create, after public hearing and in consultation with the Mass
4061 Transit Advisory Board, mechanisms for ensuring reliable, high-quality and cost-effective
4062 operations by establishing and implementing service quality standards.

4063

4064 Section 20. The division shall promote, in consultation with the Mass Transit advisory board,
4065 maximization of fare revenue and nontransportation revenue, described herein, through

4066 reasonable and equitable fares, ridership growth, and transit-oriented development of land and air
4067 rights controlled by the division.

4068

4069 Section 21. Any city or town seeking to receive transportation service from the division, may
4070 place upon the official ballot at any biennial or regular or special city election or annual or
4071 special town election the following question:

4072 “Shall this (city, town) be added to the Division of Public Transit of the Massachusetts
4073 Surface Transportation Authority”

4074 Yes.: _____ No.: _____;

4075 Such question shall not be placed upon the official ballot unless the city council or town
4076 meeting shall have voted to have such question so placed or unless a petition signed by not less
4077 than 5 per cent of the registered voters of the city or town, certified as such by the registrars of
4078 voters thereof, shall have been filed with the city or town clerk, at least 90 days before the date
4079 of any such election. Forms for such petitions shall be made available without cost by the city or
4080 town clerk and each form shall bear the following heading:

4081 “The undersigned registered voters of the (city, town) hereby petition for the placement
4082 upon the official ballot of the question whether this (city, town) shall be added to the area
4083 constituting the Division of Public Transit of the Massachusetts Surface Transportation
4084 Authority”.

4085 The votes upon such question shall be counted and returned to the city or town clerk in
4086 the same manner as votes for candidates in municipal elections. Said clerk shall forthwith notify
4087 the division of the results of the vote. If a majority of the votes cast upon the question shall be in
4088 the affirmative, the city or town shall be deemed to be added to the division effective on the first

4089 day of January next following the notification by the clerk. If the city council or town meeting of
4090 more than one city or town shall vote to have such question placed on the official ballot, or if a
4091 petition signed as provided in this section shall be filed with more than one city or town clerk,
4092 and if such combination of cities or towns, if regarded as a single municipality, would be
4093 contiguous to the area constituting the division, such question shall be placed upon the official
4094 ballot in each such city or town. The votes upon such questions shall be counted and returned to
4095 each city or town clerk in the same manner as votes for candidates in municipal elections. The
4096 city or town clerks for each said city or town shall forthwith notify the division of the result of its
4097 vote. If a majority of the votes cast upon the vote in each city or town shall be in the affirmative,
4098 each said city or town shall be deemed to be within the division effective on the first day of
4099 January next following the notifications by the clerks. The division may not provide service to a
4100 city or town that fails to join the transportation area, unless such city or town was receiving
4101 service as of July 1, 2000.

4102
4103 Section 22. Notwithstanding the provisions of any general or special law to the contrary, all
4104 cities and towns of the authority shall contribute to the Massachusetts Bay Transportation
4105 Authority State and Local Assistance Fund an amount in the aggregate not less than
4106 \$136,026,868 which, after fiscal year 2006, shall be adjusted each July 1 by the growth rate of
4107 the inflation index over the preceding 12 months; provided, that, after said fiscal year, in no case
4108 shall said assessment exceed 102.5 per cent of the previous year's assessment. Each
4109 municipality's share of said assessment shall equal its weighted percentage of the total population
4110 of the authority. For the purposes of this calculation, said weights shall be as follows: Boston,
4111 18; Brookline and Cambridge, 12; the 14 cities and towns excluding Boston, Brookline and

4112 Cambridge, 9; the 51 cities and towns, 3; other served communities, 1. Population shall mean
4113 population as most recently estimated and published by the United States Census Bureau. On or
4114 before March 1 of each year, the authority shall certify to the state treasurer the amount to be
4115 assessed to each city and town as aforesaid on account of the ensuing fiscal year, and the state
4116 treasurer shall, on behalf of commonwealth, assess each such city and town on account of such
4117 year in accordance with the provisions of section 20 of chapter 59. Beginning on July 1, 2001, a
4118 city or town that is also a member of a regional transit authority or that at any time joins a
4119 regional transit authority shall have 100 per cent of the amount assessed for the operation of the
4120 regional transit authority credited against its share of the assessment made under this section;
4121 provided, however, that the amount credited shall not exceed the total amount of the assessment;
4122 and provided further, that the amount credited shall be the most recently audited regional transit
4123 authority assessment available on January 1 of each year and shall be used to calculate the
4124 upcoming fiscal year's estimated cherry sheet assessments. The total amount of regional transit
4125 authority credits authorized herein shall be re-assessed to the 14 cities and towns and the 51
4126 cities and towns based on the weighted percentage of said cities and towns' share of the
4127 population of said 14 and 51 cities and towns. For the purposes of this section, the words
4128 "inflation index" shall mean the per cent change in inflation as measured by the per cent change
4129 in the consumer price index for all urban consumers for the Boston metropolitan area as
4130 determined by the bureau of labor statistics of the United States department of labor.

4131 A city or town assessed by the authority that is not receiving paratransit services for the disabled
4132 from the authority shall have 50 per cent of the amount it expended in the previous fiscal year for
4133 the operation of or membership in a local or regional paratransit service credited against its share
4134 of the assessment made under this section. The amount credited shall not exceed the total amount

4135 of the assessment. The credit shall apply only to services provided to individuals eligible for
4136 paratransit services. As used in this paragraph, "paratransit services" shall mean services
4137 provided to individuals with disabilities who, as the result of a physical or mental impairment,
4138 including a vision impairment, are unable to board, ride or disembark from a vehicle in the
4139 authority's regular transportation system without the assistance of another individual, except the
4140 operator of a wheelchair lift or other boarding assistance device.

4141

4142 Section 24. In the event of any conflict between the regulatory powers and duties of the
4143 department of telecommunications and energy and the regulatory powers and duties of the
4144 division within its area, the department of telecommunications and energy shall resolve such
4145 dispute and exercise such powers as it deems required in the particular instance.

4146

4147 Section 25. The division shall have the power to procure electric utility services, including the
4148 purchase, generation, transmission, transformation and distribution of the supplies of electricity
4149 necessary to operate its mass transportation facilities and equipment, at the lowest reasonable
4150 cost consistent with the provision of public transportation services in an efficient, reliable and
4151 economic manner. In procuring such electric utility services, the division may solicit offers and
4152 proposals to provide such electric utility services from owners or operators, including the New
4153 England power pool, of facilities that generate, transmit, transform, or distribute electric power
4154 and energy, and shall take into consideration factors relating to the public interest, including but
4155 not limited to the following:

4156 (a) the lowest prices that may be offered by responsible bidders, including electric
4157 companies, municipal lighting plants, political subdivisions, and alternate energy producers as
4158 defined in chapter 164;

4159 (b) the demonstrated ability of any prospective supplier of electric utility services to
4160 provide reliable and continuous service and stability of price; and

4161 (c) consistency with the environmental and conservation goals of the commonwealth;
4162 provided, however, the division must fulfill all obligations of contracts and agreements lawfully
4163 entered into and now in force.

4164

4165 Section 26. The division shall have the power to engage in electric utility business which shall
4166 include the generation, transformation, transmission and distribution of electricity for public
4167 consumption of electricity used in connection with the mass movement of persons. The division
4168 shall be classified as a domestic electric utility pursuant to chapter 164A solely for the purpose of
4169 purchasing electricity and becoming a member of the New England power pool. The division
4170 may exercise any of its rights and powers necessary or convenient to carry out and effectuate the
4171 purpose of providing light, heat and power in connection with the mass movement of persons. In
4172 addition, the division shall have the following powers:

4173 (a) to purchase electric power and energy, including, without limiting the generality of
4174 the foregoing, all or a portion of the capacity and output of one or more specific electric power
4175 facilities, and steam whether or not produced by an electric power facility;

4176 (b) to purchase electric power and energy and other products of electric power facilities
4177 from other utilities, public and private, within and without the commonwealth, political

4178 subdivisions; provided, however, that nothing in this section shall be construed to authorize
4179 resale of electric power and energy so purchased except as otherwise authorized by law;

4180 (c) to contract for the use of transmission and distribution facilities owned by others for
4181 the delivery to the division, and any such owner is hereby authorized to enter into such contracts
4182 with the corporation;

4183 (d) to contract with respect to the purchase, sale, delivery, exchange, interchange,
4184 wheeling, pooling, transmission or use of electric power and energy and to otherwise participate
4185 in the New England power pool, as defined by section 1 of chapter 164A; and

4186 (e) to do all things necessary, convenient or desirable to carry out the purposes of
4187 providing electricity in connection with the mass movement of persons or powers expressly
4188 granted or necessarily implied in this chapter.

4189

4190 Section 27. An officer of the division may forthwith give to a person who violates the provisions
4191 of section 43A of chapter 272 a written notice to appear before the clerk of the district court
4192 having jurisdiction at any time during office hours, not later than 21 days after the date of such
4193 violation. Such notice shall be signed by the officer and shall be signed by the offender in
4194 acknowledgment that the notice has been received. The officer shall deliver to the offender at the
4195 time and place of the violation a copy of said notice. Whenever it is not possible to deliver a
4196 copy of said notice to the offender at the time and place of the violation, said copy shall be
4197 mailed or delivered by the officer or by his commanding officer to the offender's last known
4198 address, within five days of the offense, exclusive of Sundays and legal holidays. Such notice
4199 mailed by the officer, his commanding officer, or the person so authorized to the last address of
4200 said offender shall be deemed a sufficient notice, and a certificate of the officer or person so

4201 mailing such notice that it has been mailed in accordance with this section shall be deemed prima
4202 facie evidence thereof and shall be admissible in any court of the commonwealth as to the facts
4203 contained therein. At or before the completion of each tour of duty, the officer shall give his
4204 commanding officer those copies of each notice of such violation he has taken cognizance of
4205 during such tour which have not already been delivered or mailed by him as aforesaid. Said
4206 commanding officer shall retain and safely preserve one of such copies and shall, at a time not
4207 later than the next court day after said delivery or mailing, deliver another of such copies to the
4208 clerk of the court before whom the offender has been notified to appear. The clerk of each
4209 district court shall maintain a separate docket of all such notices to appear.

4210 Any person so notified to appear before the clerk of a district court may appear before
4211 such clerk and confess the offense charged, either personally or through an agent duly authorized
4212 in writing, or by mail to such clerk, with the notice, and the sum of \$25, such payment to be
4213 made only by postal note, money order, or check. Payment of such sum shall operate as a final
4214 disposition of the case. Proceedings under this paragraph shall not be criminal and no person
4215 notified to appear before the clerk of a district court as provided herein shall be required to report
4216 to any probation officer, and no record of the case shall be entered in the probation records.

4217 If any person notified to appear before the clerk of the district court fails to appear and
4218 pay the fine provided hereunder or, having appeared desires not to avail himself of the procedure
4219 hereinbefore provided for the non-criminal disposition of the case, the clerk shall notify the
4220 officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear
4221 in accordance with the summons issued upon such complaint, the clerk shall send such person,
4222 by certified mail, return receipt requested, a notice that the complaint is pending and that if the
4223 person fails to appear within 21 days from the sending of such notice, the court shall issue a

4224 warrant for his arrest. If a person fails to appear within 21 days from the sending of such notice,
4225 the court shall issue a warrant for his arrest.

4226 If, after an officer delivers a notice to an offender, the offender continues to violate said
4227 section 43A of said chapter 272, an officer of the division may arrest such offender without a
4228 warrant. Any offender arrested under this section shall be subject to the fines and penalties
4229 provided under the provisions of said section 43A of said chapter 272.

4230

4231 Section 28. Agreements between the division and a railroad for the provision of commuter rail
4232 service shall provide that the division shall secure and maintain a liability insurance policy
4233 covering the liability of the division and the railroad for property damage, personal injury, bodily
4234 injury and death arising out of such commuter rail service. Such policy shall name the division as
4235 named insured, and the railroad as an additional insured, shall have policy limits of not less than
4236 \$75,000,000 per occurrence annually and \$75,000,000 in the aggregate annually, and shall be
4237 subject to self-insured retention in an amount not less than \$7,500,000. In no event shall the
4238 division or the railroad be liable in excess of the coverage limits of such insurance policy for any
4239 and all claims for damage, whether compensatory or punitive, for property damage, personal
4240 injury, bodily injury and death arising out of such commuter rail service.

4241 For the purposes of this section, the term “railroad” shall include any person, railroad
4242 corporation or other legal entity in the business of providing rail transportation which contracts
4243 with the division of public transit for the provision of commuter rail services and the term
4244 “commuter rail service”, shall include all services performed by a railroad pursuant to a contract
4245 with the division of public transit in connection with the transportation of rail passengers
4246 including, but not limited to, the operation of trains, trackage and equipment, or the construction,

4247 reconstruction or maintenance of railroad equipment, tracks and any appurtenant facilities or the
4248 provision of trackage rights over lines owned by any such railroad.

4249

4250 Section 29. Whenever the division deems it necessary to make surveys, soundings, test pits,
4251 borings, drillings or examinations to obtain information for or to expedite the construction of
4252 public transportation facilities or other projects under its jurisdiction, said division, or its
4253 authorized agents or employees may, after 30 days notice by registered or certified mail and
4254 without the necessity of any judicial orders or other legal proceedings, enter upon any lands,
4255 waters and premises, not including buildings, in the commonwealth, including lands both
4256 publicly and privately owned, including land owned by railroad corporations, for the purpose of
4257 making such surveys, soundings, test pits, borings, drillings or examinations as it may deem
4258 necessary or convenient for the purposes of this section, and the entry shall not be deemed to be
4259 a trespass. Said division shall make reimbursement for any injury or damage to lands resulting
4260 from entry caused by any act of its authorized agents or employees and shall, so far as possible,
4261 restore such lands to the same condition as prior to the making of such surveys, soundings, test
4262 pits, borings, drillings or examinations.

4263

4264 Section. 30. Any bank, as defined in section 1 of chapter 167, or any credit union, as defined in
4265 section 1 of chapter 171, is hereby authorized, subject to agreement entered into with the
4266 division, or any regional transit authority established pursuant to chapter 161B, to sell prepaid
4267 monthly passes, authorized by the division, for use on the facilities of the division or such
4268 regional transit authorities.

4269

4270 Section 31. The division may promulgate rules and regulations pertaining to the parking of
4271 motor vehicles in any terminals, stations, garages, yards, shops, parking lots, or parking garages
4272 owned or operated by the division, but specifically excluding any streets, ways, highways, roads
4273 and parkways. The division may, by a vote of the authority board, adopt the provisions of section
4274 20A of chapter 90; provided, however, that the Authority board establishes rules and regulations
4275 creating regional districts throughout the division consisting of contiguous cities or towns within
4276 which the parking clerk shall regularly conduct hearings.

4277

4278 Section 32. Any of the 51 cities and towns and other served communities may for the purpose of
4279 providing local bus service enter into agreements with any person lawfully authorized to operate
4280 any motor bus on any public way therein for the carrying of passengers for hire. Said city, town
4281 or community shall have the same powers and duties in respect to such private bus carriers as are
4282 provided by law for the department of telecommunications and energy, except as to safety of
4283 equipment and operations, schedules, and routes not being, however, considered safety of
4284 equipment and operations for purposes of this paragraph; provided that the division shall be
4285 notified of the establishment of any such contract local service, but shall not have control or
4286 jurisdiction over said service.

4287

4288 SECTION 30. Chapter 90 of the General Laws, as most recently amended by section 19
4289 of chapter 303 of the Acts of 2008, is hereby further amended by striking out section 34 and
4290 inserting in place thereof the following section:-

4291 Section 34. The fees received under the preceding sections, together with all other fees received
4292 by the registrar or any other person under the laws of the commonwealth relating to the use and

4293 operation of motor vehicles and trailers shall be paid by the registrar or by the person collecting
4294 the same into the treasury of the commonwealth and disposed of as provided in section 35LL of
4295 chapter 10.

4296 SECTION 31. Section 34 ½ of chapter 90 is hereby repealed.

4297 SECTION 32. Chapter 92 is hereby amended by striking out section 35 and inserting in
4298 place thereof the following section:-

4299 Section 35. The commission may connect any way, park or other public open space with any part
4300 of the towns of the urban parks district by suitable roadways or boulevards, in this chapter called
4301 boulevards, and for this purpose exercise any of the rights and powers granted the commission in
4302 respect to reservations. The commission shall submit its plans for any such connection to the
4303 Secretary of Transportation and the administrator of the division of roads and bridges so that it
4304 may be included in their capital plans.

4305 SECTION 33. Sections 36, 49 to 52, inclusive, 69, 80, and 86 chapter 92 are hereby
4306 repealed.

4307 SECTION 34. Said chapter 92 is hereby amended by striking out section 37 and
4308 inserting in place thereof the following section:-

4309 Section 37. Except as provided in section 38, the commissioner, in consultation with the
4310 director, may make rules and regulations for the government and use of the reservations under
4311 the division's care and to govern the public use of the Charles river, the Neponset river and the
4312 Mystic river, within the urban park district, and of the ponds and other waters along which it
4313 holds abutting lands for reservations in said district; provided, that no rule or regulation shall
4314 affect the water rights of any person, whether a mill owner or otherwise.

4315 A police officer employed by a city or town in whose boundaries, reservations, roads,
4316 driveways, parkways, boulevards or bridges are located shall have all the same powers they have
4317 as a police officer of the city or town to enforce the laws of the commonwealth and the rules and
4318 regulations of the department on any bikeway, pathway, park, reservation or other land under the
4319 care of the division.

4320 The division shall cause such rules and regulations to be posted in the reservation,
4321 bikeway, pathway, park or other land to which they apply, and shall also cause the same to be
4322 published at least once in a newspaper published in the county where said reservation, bikeway,
4323 pathway, park or other land is in whole or in part situated, and such posting and publication shall
4324 be sufficient notice to all persons. The sworn certificate of the director of such posting and
4325 publishing shall be prima facie evidence thereof.

4326 Whoever violates any rule or regulation made hereunder shall be punished by fine not
4327 exceeding \$200.

4328 SECTION 35. Section 41 of said chapter 92 is hereby amended by striking the words
4329 “and boulevards”.

4330 SECTION 36. Section 42 of chapter 92 is hereby amended by inserting after the word
4331 “commission” the following words:- , in consultation with division of roads and bridges,”

4332 SECTION 37. Chapter 92 is hereby amended by striking out section 53 and inserting in
4333 place thereof the following section:-

4334 Section 53. The commission may provide band concerts in such parks or other places under its
4335 control for boulevard or reservation purposes, and at such times, as it may select. If the site of the
4336 band concert will also take place on a parkway formerly under its control, the commission shall
4337 in a timely manner inform the administrator of the division of roads and bridges of the

4338 Massachusetts Surface Transportation Authority. Said commission shall include in its annual
4339 estimate of the expense of maintenance of the urban parks system for each year such sum as it
4340 may recommend should be appropriated for the purposes of this section.

4341 SECTION 38. Section 84 of said chapter 92 is hereby amended by striking the words “or
4342 boulevard”.

4343 SECTION 39. Said chapter 92 is hereby amended by striking out section 87 and
4344 inserting in place thereof the following section:-

4345 Section 87. The department may transfer, for care and control, including police protection, any
4346 lands or rights or easements or interest in land held by it under sections thirty-three and thirty-
4347 five to any city, town, county, or local board of a city or town within the urban parks district,
4348 with the consent of such city, town, county or board, and upon such terms and for such period as
4349 may mutually be agreed upon, and enter into an agreement with any such city, town, county or
4350 board for the joint care and control or police protection of such lands or rights therein;, and any
4351 city, town, or county, or any local board within the urban parks district, may transfer, for care
4352 and control, including police protection, any land, rights, easements or interest in land in its
4353 control, to the department for such period and upon such terms as may mutually be agreed upon,
4354 and may enter into an agreement with the department for the joint care and control, including
4355 police protection, of such land..

4356 SECTION 40. Said chapter 92 is hereby amended by striking out section 88 and
4357 inserting in place thereof the following section:-

4358 Section 88. The division may join with any city, town or county in the laying out,
4359 improvement, relocation, widening, repairing, maintaining and caring for any property or stream
4360 which lies along or connects any reservation owned or controlled by the division, and in the

4361 expense of such work, and for such purposes or any of them, may make contribution to such city,
4362 town or county by a grant of land or rights in land or by payment of money for its portion of such
4363 expense.

4364 SECTION 41. Chapter 161 of the General Laws is hereby repealed.

4365 SECTION 42. Chapter 161A is hereby repealed.

4366 SECTION 43. The General Laws are hereby amended by striking out chapter 161B and
4367 inserting in place thereof the following chapter:

4368 CHAPTER 161B.

4369 TRANSPORTATION FACILITIES, HIGHWAY SYSTEMS AND URBAN DEVELOPMENT
4370 PLANS

4371

4372 Section 1. Wherever used in this chapter, unless the context otherwise requires, the following
4373 words or terms shall have the following meanings:

4374 “Authority”, an authority established by section three or section fourteen.

4375 “Area constituting the division of public transit for mass transit”, the service area of the division
4376 of public transit of the Massachusetts surface transportation authority consisting of the 14 cities
4377 and towns, the 51 cities and towns, and other served communities.

4378 “Equipment”, all rolling stock, and other conveyances, vehicles, rails, signal and control systems,
4379 lighting and power distribution systems, fences, station equipment, fare collection equipment,
4380 incidental apparatus and other tangible personal property, whether or not affixed to realty,
4381 required or convenient for the mass movement of persons.

4382 “Fiscal year”, the year beginning with July first and ending with the following June thirtieth.

4383 “Mass transportation facilities”, all real property, including land, improvements, terminals,
4384 stations, garages, yards, shops, and structures appurtenant thereto, and all easements, air rights,
4385 licenses, permits and franchises, used in connection with the mass movement of persons.

4386 “Net cost of service”, the difference between (a) all income received by the authority, including
4387 but not limited to revenues and receipts from operations, advertising, parking, sale of capital
4388 assets in the ordinary course of business, and gifts and grants for current purposes, and (b) all
4389 current expenses incurred by the authority, including but not limited to expenses for operations,
4390 wages, contracts for service by others, maintenance, debt service, including any debts, liabilities
4391 and obligations assumed under the provisions of law and including any applicable sinking fund
4392 requirements, taxes and rentals, payments into a reserve account established pursuant to the
4393 provisions of paragraph (q) of section six, and all other expenses which the authority determines
4394 not to capitalize, when such expenses exceed such income. Expenditures from the proceeds of
4395 bonds or bond anticipation notes shall not be included in current expenses.

4396 “Net saving”, any excess of the income items included in the definition of the net cost of service
4397 over the expense items included in that computation.

4398

4399 Section 2. The territory within and the inhabitants of each of the following groups of cities and
4400 towns may, upon compliance with section fourteen, become a body politic and corporate and a
4401 political subdivision of the commonwealth under the name preceding each group.

4402 Southeastern Regional Transit Authority. The cities of New Bedford and Fall River, and the
4403 towns of Westport, Acushnet, Dartmouth, Fairhaven, Freetown, Somerset and Swansea;

4404 Greater Attleboro-Taunton Regional Transit Authority. The cities of Attleboro and Taunton and
4405 the towns of North Attleborough, Rehoboth, Seekonk, Mansfield, Norton, Raynham, Berkley
4406 and Dighton;

4407 Brockton Regional Transit Authority. The city of Brockton and the towns of Abington, Avon,
4408 Bridgewater, East Bridgewater, Easton, Hanson, Stoughton, West Bridgewater and Whitman;

4409 Montachusets Regional Transit Authority. The cities of Gradner, Fitchburg and Leominster, and
4410 the towns of Lunenburg and Westminster;

4411 Merrimac Valley Regional Transit Authority. The cities of Lawrence and Haverhill and the
4412 towns of Andover, Groveland, Merrimac, Methuen and North Andover;

4413 Lowell Regional Transit Authority. The city of Lowell and the towns of Billerica, Chelmsford,
4414 Dracut, Tewksbury, Tyngsboro and Westford;

4415 Berkshire Regional Transit Authority. The city of Pittsfield and the towns of Dalton,
4416 Lanesborough, Lee, Lenox, Hindsdale and Richmond;

4417 “The Pioneer Valley Transit Authority”. The cities of Chicopee, Holyoke, Northampton,
4418 Springfield, Westfield, and the towns of Agawam, East Longmeadow, Easthampton, Hadley,
4419 Longmeadow, Ludlow, South Hadley, West Springfield, Wilbraham and Amherst;

4420 Worcester Regional Transit Authority. The city of Worcester and the towns of Auburn, Boylston,
4421 Grafton, Holden, Leicester, Millbury, Paxton, Shrewsbury and West Boylston;

4422 Cape Cod Regional Transit Authority. The towns of Barnstable, Bourne, Brewster, Chatham,
4423 Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro,
4424 Wellfleet and Yarmouth.

4425 An authority established under the provisions of section three or section fourteen shall
4426 have the power to hold property, to sue and be sued in law and equity and to prosecute and

4427 defend in all actions relating to its property and affairs. Each authority shall be liable for its debts
4428 and obligations, but the property of an authority shall not be subject to attachment or levied upon
4429 by execution or otherwise. Process may be served upon the administrator of an authority or his
4430 designee. Section three of chapter twelve shall not apply to the authorities established under this
4431 chapter.

4432

4433 Section 3. Any city or town, or group or combination of cities or towns, other than a city or town
4434 included in the area constituting the division of public transit for mass transit in which the
4435 Authority operates a fixed bus service, may, upon compliance with this section and with the
4436 approval of a city manager in the case of a city under a Plan E form of government, the mayor
4437 and city council in the case of all other cities, or the board of selectmen in the case of a town, be
4438 made into a body politic and corporate and a political subdivision of the commonwealth under
4439 the name of the municipality within the new authority having the greatest population, or under
4440 any other appropriate regional name agreed to by a majority of the member municipalities, and
4441 followed by the words "Transit Authority".

4442 Any such authority shall be deemed to be established upon written notification to the
4443 chief executive officer of the Massachusetts surface transportation authority that the member
4444 municipalities have voted to establish a regional transit authority. Having so notified the chief
4445 executive officer of the Massachusetts surface transportation authority, the advisory board
4446 established pursuant to section five shall proceed to appoint an administrator in accordance with
4447 section four. Once established, each such authority shall have the same powers, limitations,
4448 duties and organization as an authority established pursuant to section fourteen and shall in all

4449 respects be subject to the provisions of this chapter, except section fourteen, as if it were an
4450 authority so established.

4451 Any city or town, or group or combination of cities or towns, other than a city or town
4452 included in the area constituting the division of public transit for mass transit in which the
4453 Authority operates fixed route bus service or is in an authority established pursuant to section 14
4454 may, with the approval of a city manager in the case of a city under a Plan E form of
4455 government, the mayor and city council in the case of all other cities, or the board of selectmen
4456 in the case of a town and subject to the approval of the advisory board to a regional transit
4457 authority, join an authority which is not separated from the city or town or group or combination
4458 of cities and towns by more than 1 other municipality.

4459

4460 Section 4. The affairs of an authority shall be managed by an administrator who shall be
4461 appointed by and serve at the pleasure of the advisory board of the authority established pursuant
4462 to section five; provided, however, that the administrator shall not be appointed until after the
4463 board has provided the notification required by clause (c) of section fourteen; and provided,
4464 further, that the administrator shall not hold any elective office, except that of town meeting
4465 member, in any city or town within the jurisdiction of such authority. The administrator shall be
4466 the chief executive officer of the authority and shall receive such annual salary as shall be
4467 determined by said advisory board. Upon his appointment, the administrator shall give the chief
4468 executive officer of the Massachusetts surface transportation authority a bond for the faithful
4469 performance of his official duties in such penal sum and with such sureties as may be approved
4470 by the advisory board.

4471

4472 Section 5. There shall be an advisory board to each authority consisting of the city manager, in
4473 the case of a Plan D or Plan E city, or the mayor of each other city, and the chairman of the board
4474 of selectmen of each town having such board, or the town manager or town administrator of each
4475 other town. Each mayor or city manager and each chairman, may, by writing filed with the
4476 authority, from time to time appoint a designee to act for him on the advisory board. Each city
4477 and town shall have one vote on the advisory board plus additional votes and fractions thereof
4478 determined by multiplying one and one half times the total number of cities and towns in the
4479 authority by a fraction of which the numerator shall be the total amount of all assessments made
4480 by the state treasurer to such city or town under this chapter and the denominator shall be the
4481 total amount of all such assessments made by the state treasurer to such cities and towns. The
4482 total vote of each city and town shall each year be determined by the authority and delivered in
4483 writing to the advisory board thirty days after the state treasurer has sent his warrants for
4484 payments to the cities and towns. The determination of votes shall be based upon the most recent
4485 annual assessment. Until the first such assessment, the fraction specified above shall be replaced
4486 by a fraction of which the numerator shall be the population of each such city or town and the
4487 denominator shall be the total population of all cities and towns in the authority. Population data
4488 shall be determined in accordance with the latest decennial census made by the United States
4489 Department of Commerce.

4490 One representative of the disabled commuter population shall serve on the advisory board
4491 as a non-voting member for a 1 year term. Every city or town in the region, on a rotating basis as
4492 determined by the board, shall appoint a representative successively. The mayor or city manager
4493 and the chairman, town manager or town administrator shall appoint a resident of the city or
4494 town for this purpose. This representative shall be mobility impaired or have a family member

4495 who is mobility impaired, be a caretaker of a person who is mobility impaired, or work for an
4496 organization that serves the needs of the physically disabled. The representative of a city or town
4497 may be reappointed after representatives from the other cities and towns within the region have
4498 served their 1 year terms.

4499 The advisory board shall act by majority vote, except that it may delegate its power of
4500 approval to an executive committee formed and elected pursuant to duly adopted by-laws of the
4501 board and constituting among its members at least a majority of the total vote of the board, and
4502 may, at any time, revoke such delegation. Until the board has adopted by-laws and elected
4503 officers, the mayor or city manager of the city having the largest population or in the case of an
4504 authority composed entirely of towns, the selectmen of the town having the largest population
4505 within the area constituting the authority may call meetings of the advisory board by sending
4506 notice to each other mayor or city manager and chairman and shall preside at such meetings.

4507 The advisory board may incur expenses, not to exceed ten thousand dollars annually, for
4508 stenographic and clerical work, and such expenses shall be paid by the authority.

4509

4510 Section 6. In addition to all power otherwise granted to an authority by law, the authority shall
4511 have the following powers, in each case to be exercised by the administrator of the authority
4512 unless otherwise specifically provided:—

4513 (a) to adopt and use a corporate seal and designate the custodian thereof;

4514 (b) to establish within its area a principal office and such other offices as may be deemed
4515 necessary;

4516 (c) to hold and manage the mass transportation facilities and equipment acquired by the
4517 authority;

4518 (d) to appoint and employ officers, agents and employees to serve at the pleasure of the
4519 administrator except as may otherwise be provided in collective bargaining agreements, and to
4520 fix their compensation and conditions of employment provided, however, no person employed as
4521 administrative or staff personnel shall hold any elective office, except that of town meeting
4522 member, in any city or town within the jurisdiction of such authority; provided, further, that for
4523 policies of group life insurance and accidental death and dismemberment insurance, and group
4524 health insurance purchased by such authority, all active employees and their dependents of such
4525 authority shall contribute to the total monthly premium or rate applicable to said coverages at not
4526 less than the current employee share of monthly premium or rate established pursuant to the
4527 provisions of section eight of chapter thirty-two A;

4528 (e) to make, and from time to time revise and repeal, by-laws, rules, regulations, and
4529 resolutions, and to establish penalties for violation thereof, not to exceed fifty dollars;

4530 (f) to enter into agreements, subject to approval of the regional transit advisory board,
4531 with other parties, including, without limiting the generality of the foregoing, government
4532 agencies, municipalities, authorities, private transportation companies, railroads, corporations
4533 and other concerns, providing (i) for construction, operation and use by such other party of any
4534 mass transportation facility and equipment; or (ii) for the acquisition of any mass transportation
4535 facility and equipment of another party where the whole or any part of the operations of such
4536 other party takes place within the area constituting the authority. Any such other party is hereby
4537 given power and authority to enter into any such agreements, subject to such provisions of law as
4538 may be applicable. Any agreement with a private company under any provision of this chapter
4539 which provides for the rendering of transportation service by such company and for financial
4540 assistance to such company by subsidy, lease or otherwise, shall include such standards for such

4541 service as the authority may deem appropriate and shall not bind the authority for a period of
4542 longer than one year from its effective date, but this shall not prohibit agreements for longer than
4543 one year if the authority's obligations thereunder are subject to annual renewal or annual
4544 cancellation by the authority for just cause or lack of sufficient appropriation. Such agreements
4545 may provide for cash payments for services rendered, but not more than will permit any private
4546 company a reasonable return.

4547 (g) to establish at or near its terminals and stations such off-street parking facilities and
4548 access roads as may be deemed necessary and desirable. The authority may charge such fees for
4549 the use of off-street facilities as it may deem desirable, or it may allow the use of such facilities
4550 free.

4551 (h) to accept gifts, grants, and loans from agencies of local, state, and federal
4552 governments, or from private agencies or persons, subject to approval of the regional transit
4553 advisory board, and to accede to such conditions and obligations as may be imposed as a
4554 prerequisite to any such gift, grant, or loan.

4555 (i) to provide mass transportation service on an exclusive basis, except as provided in
4556 paragraph (j) of section eight in the area constituting the authority and without being subject to
4557 the jurisdiction and control of the department of telecommunications and energy in any manner
4558 except as to safety of equipment and operations; provided that schedules and routes shall not be
4559 considered matters of safety subject to the jurisdiction and control of said department. Nothing
4560 contained in this paragraph shall be construed as exempting any privately owned or controlled
4561 carrier, whether operating independently, or under contract with the authority, from obtaining
4562 any license required under section one of chapter one hundred and fifty-nine A.

4563 (j) to provide mass transportation service under a contract in areas outside the area
4564 constituting the authority but only pursuant to an agreement with another transportation authority
4565 or transportation area or a municipality for service between the area of the authority and that of
4566 such other authority, area or municipality, where no private company is otherwise providing such
4567 service, subject to approval by the regional transit advisory board.

4568 (k) to provide for construction, extension, modification or improvement of the mass
4569 transportation facilities and equipment in the area constituting the authority; provided, that any
4570 such construction, extension, modification or improvement shall be subject to the approval of the
4571 advisory board, unless specifically authorized by legislation.

4572 (l) to conduct research, surveys, experimentation, evaluation, design, and development, in
4573 cooperation with other government agencies and private organizations when appropriate, with
4574 regard to the mass transportation needs of the area, and to the facilities, equipment, and services
4575 necessary to meet such needs.

4576 (m) to grant such easements over any real property held by the authority as will not in the
4577 judgment of the authority unduly interfere with the operation of any of its mass transportation
4578 facilities.

4579 (n) to sell, lease, or otherwise contract for advertising in or on the facilities of the
4580 authority.

4581 (o) to issue bonds, notes and other evidences of indebtedness as hereinafter provided.

4582 (p) consistent with the constitution and laws of the commonwealth, the authority shall
4583 have such other powers, including the power to buy, sell, lease, pledge and otherwise deal with
4584 its real and personal property, as may be necessary for or incident to carrying out the foregoing
4585 powers and the accomplishment of the purpose of this chapter.

4586 (q) to establish a reserve account for the purpose of meeting the cost of extraordinary
4587 expenses of the authority. The account shall consist of annual payments made by the authority
4588 into said account in an amount not to exceed three percent of the prior year's local assessment.
4589 Any balance remaining in said account at the end of each fiscal year of the authority shall be
4590 carried forward into the next fiscal year; provided, however, the aggregate amount of said
4591 account shall not exceed twenty percent of the prior year's local assessment at any time during
4592 any fiscal year of the authority. Any expenditure made by an authority pursuant to this paragraph
4593 for extraordinary expenses shall be subject to the approval of the division of public transit of the
4594 Massachusetts surface transportation authority. The division of public transit of the
4595 Massachusetts surface transportation authority shall issue guidelines to each authority
4596 establishing the type of extraordinary expenses said account may be used for and detailing the
4597 procedures for the approval process for said expenditures.

4598

4599 Section 7. In addition to the powers granted to the authority under section six and all other
4600 powers granted by law, the authority shall have the power to establish on a self-liquidating basis
4601 one or more separate units of mass transportation facilities and equipment. In establishing such
4602 separate units, the authority may enter into one or more unit lease arrangements with such
4603 persons, firms and corporations as the authority shall select and franchise. Each such unit lease
4604 arrangement shall provide for the following:

4605 (i) acquisition by the authority of real property, including easements and rights of way,
4606 necessary or desirable for the operation of such units of mass transportation facilities and
4607 equipment, parking and other related auxiliary services and facilities;

4608 (ii) design, construction and acquisition of mass transportation facilities and equipment;

4609 (iii) operation of the mass transportation facilities and equipment so designed,
4610 constructed and acquired by a lessee of said facilities and equipment (1) for a period not in
4611 excess of forty years, (2) at a rental or lease charge at least sufficient to discharge the authority's
4612 financial obligations incurred in connection with said unit of facilities and equipment under the
4613 authority's powers, and (3) upon such provisions and conditions as to fares and other matters
4614 relating to the conduct and operation of said mass transportation facilities and equipment as the
4615 authority and lessee shall agree; and

4616 (iv) power in the authority to cancel or terminate said unit lease arrangement at stated
4617 times which shall not be less frequent than once in each fiscal year.

4618 To meet the expenditures necessary in carrying out the provisions of this section, the
4619 authority may issue bonds in accordance with the provisions of clause (2) of the first paragraph
4620 of section nineteen and such bonds shall provide, in addition to other provisions allowed under
4621 this chapter, that all payments of principal and interest shall be made solely from (i) the rental or
4622 lease charges received by the authority under its lease with the lessee of mass transportation
4623 facilities and equipment as aforesaid, which said lease may be assigned by the authority to secure
4624 the obligations of said bonds; or (ii) in the event the authority terminates said lease from the
4625 income derived from operation of said mass transportation facilities and equipment.

4626
4627 Section 8. An authority shall be subject to the following limitations, conditions, obligations and
4628 duties:—

4629 (a) The authority shall have the duty to develop, finance and contract for the operation of
4630 mass transportation facilities and equipment in the public interest consistent with the purposes
4631 and provisions of this chapter, and to achieve maximum effectiveness in complementing other

4632 forms of transportation in order to promote the general economic and social well-being of the
4633 area and of the commonwealth.

4634 (b) No real estate shall be sold unless notice thereof shall have been given to the advisory
4635 board not less than thirty days prior to the date of sale and unless the sale shall have been
4636 advertised once a week for three successive weeks prior to the date of sale in a newspaper of
4637 general circulation in the city or town in which the real property to be sold is located, such real
4638 property shall be sold to the highest bidder.

4639 (c) Any concession in or lease of property for a term of more than one year shall be
4640 awarded to the highest bidder therefor unless the authority shall find, subject to the approval of
4641 the advisory board, that sound reasons in the public interest require otherwise.

4642 (d) No change in fares shall be effective unless submitted to the advisory board and
4643 approved by it.

4644 (e) No substantial change in mass transportation service in the region constituting the
4645 authority shall be made unless notice thereof shall have been given to the advisory board at least
4646 thirty days prior to the change, and approved by said board.

4647 (f) The authority shall in consultation with the regional transit advisory board and the
4648 division of public transit of the Massachusetts surface transportation authority prepare and
4649 annually revise its program for public mass transportation which shall include a long-range
4650 program for the construction, reconstruction or alteration of facilities for mass transportation of
4651 persons within the area constituting the authority together with a schedule for the implementation
4652 of such program and comprehensive financial estimates of costs and revenues.

4653 Such program, whether prepared by the authority directly, jointly or under contract with
4654 the areawide planning agency, shall be performed in accordance with any agreements that may

4655 exist between the regional transit advisory board, the division of public transit of the
4656 Massachusetts surface transportation authority, the authority, and the areawide planning agency
4657 officially established or designated to carry out areawide, comprehensive planning on a
4658 continuing and cooperative basis for the region in which the transportation authority is
4659 principally located. Such mass transportation program shall be consistent with the plans for
4660 urban transportation and comprehensive development for the regional area and, so far as
4661 practicable, shall meet the criteria established by any federal law authorizing federal assistance to
4662 preserve, maintain, assist, improve, extend or build local, metropolitan or regional mass
4663 transportation facilities or systems.

4664 In addition to the contracts and agreements authorized in paragraph (f) of section six, the
4665 authority may enter into contracts or agreements with any such areawide planning agency or, if
4666 the authority determines that an agreement with such agency is not practicable, then with any
4667 other public or private party for the provision of planning services. Such services may include,
4668 but are not limited to the following: feasibility and need studies, transportation planning, family
4669 and business relocation planning, and such other planning services that the authority may
4670 require.

4671 (g) The authority shall on or before October first of each year render to the chief
4672 executive officer of the Massachusetts surface transportation authority, the regional transit
4673 advisory board, the clerk of the senate and the clerk of the house of representatives, and the
4674 house and senate chairmen of the joint committee on transportation, a report of its operations for
4675 the preceding fiscal year, including therein a description of organization of the authority, its
4676 recommendations for legislation, and its comprehensive program for mass transportation as most
4677 recently revised.

4678 (h) All current expenses of the authority shall be in accordance with an annual budget
4679 prepared by the administrator and submitted to the advisory board no later than April first of
4680 each year for the ensuing fiscal year. On or before June first the advisory board shall approve
4681 said budget as submitted or subject it to such itemized reductions therein as the advisory board
4682 shall deem appropriate.

4683 (i) Any agreement entered into by an authority with a contiguous municipality outside of
4684 the area of such authority for service to such municipality through an agreement with a private
4685 company, shall provide for reimbursement by such municipality to an authority only for the
4686 additional expense of such service as determined by the authority. Such agreements may be for
4687 such terms, not exceeding five years, as the parties may determine, except as provided in
4688 paragraph (f) of section six. They shall not be subject to the provisions of section four of chapter
4689 forty or section thirty-one of chapter forty-four. Municipalities may appropriate from taxes or
4690 from any available funds to meet their obligations under any such contracts.

4691 (j) Any private company lawfully providing mass transportation service in the area
4692 constituting the authority at the commencement of operations by the authority may continue so to
4693 operate the same route or routes and levels of service as theretofore, and may conduct such
4694 further operations, without a contract, as the authority subject to the approval of the department
4695 of telecommunications and energy may permit.

4696 (k) As a condition of any assistance to a private carrier operating under lease, contract, or
4697 other arrangement with the Authority, the rights, benefits, and other employee protective
4698 conditions and remedies of the Urban Mass Transportation Act of 1964, as amended (P.L. 88-
4699 365) as determined by the Secretary of Labor, shall apply for the protection of the employees
4700 affected by such assistance. Pursuant to said Urban Mass Transportation Act, the terms and

4701 conditions of a fair and equitable employee protective arrangement pursuant to this paragraph
4702 shall be a proper subject of collective bargaining and arbitration with the labor organizations that
4703 represent such employees. Such protective arrangement shall include, without limitation,
4704 provisions for the continuing employment or reemployment of those employees who are, or may
4705 be, displaced or otherwise affected by such assistance, paid training and re-training programs,
4706 preservation of all employment and retirement rights and interest, and any other protections
4707 which are necessary or appropriate to minimize the injury to such persons, provided, however,
4708 that any such protection shall not be detrimental to the employment or retirement rights and
4709 interests of any other persons affected by such assistance. The contract, lease, or other
4710 arrangement for the granting of any such assistance to a private carrier shall specify the terms
4711 and conditions of, the protective arrangements.

4712

4713 Section 9. If in any year the Massachusetts surface transportation authority shall be called upon
4714 to pay any amount on account of the net cost of service of any regional transit authority except
4715 the Cape Cod Regional Transit Authority, unless said authority elects not to assess costs as
4716 provided in section nine A, the total amount of such net cost of service shall be assessed upon the
4717 cities and towns which are members of such authority in the proportion which the loss
4718 attributable to each route in each such city or town bears to the loss attributable to all such routes
4719 in all such cities and towns. The loss attributable to each such route in each such city or town
4720 shall be determined on the basis of the difference between the revenues collected from such route
4721 in such city or town and the cost of providing such route therein.

4722 Such determination shall be made by such authority in accordance with sound accounting
4723 practice and guidelines developed in consultation with the regional transit advisory board and the

4724 division of public transit of the Massachusetts surface transportation authority. Amounts assessed
4725 under this section shall be the most recently audited regional transit authority assessment
4726 available on January 1 of each year and shall be used to calculate the upcoming fiscal year's
4727 estimated cherry sheet assessments.

4728

4729 Section 9A. If in any year the Massachusetts surface transportation authority shall be called upon
4730 to pay any amount on account of the net cost of service of the Cape Cod Regional Transit
4731 Authority, the total amount of such net cost of service may be assessed in whole or in part upon
4732 the cities and towns which are members of such Authority on the basis of the total passenger
4733 miles and the number of trips attributable to the residents of cities and towns within said
4734 Authority. Any such assessment formula shall be subject to the approval of the regional transit
4735 advisory board and the division of public transit of the Massachusetts surface transportation
4736 authority and the advisory board of the Authority.

4737 Such determination shall be made by said Authority in accordance with sound accounting
4738 practice and guidelines developed in consultation with the regional transit advisory board and the
4739 division of public transit of the Massachusetts surface transportation authority. Amounts assessed
4740 under this section shall be the most recently audited regional transit authority assessment
4741 available on January 1 of each year and shall be used to calculate the upcoming fiscal year's
4742 estimated cherry sheet assessments.

4743

4744 Section 10. If as of the last day of June in any year there was any net cost of service, an
4745 authority shall notify the state treasurer, the regional transit advisory board, and the division of
4746 public transit of the Massachusetts surface transportation authority of the amount of such net cost

4747 of service and all other facts required by the treasurer in order to proceed in accordance with the
4748 provisions of this chapter to assess such net cost. Upon notification of the amount of such net
4749 cost the commonwealth shall pay over to the authority said amount.

4750 The Massachusetts surface transportation authority may borrow, from time to time, on the
4751 credit of the commonwealth such amounts as may be necessary to make payments required of
4752 the Massachusetts surface transportation authority under this section or under section eleven and
4753 to pay any interest or other charges incurred in borrowing such money, and may issue notes of
4754 the commonwealth therefor, bearing interest payable at such times and at such rates as shall be
4755 fixed by the state treasurer. Such interest and other charges shall be included in the assessments
4756 under this chapter in proportion to the respective assessments on the cities and towns constituting
4757 the authority for the net cost of service of the period to which any such payment relates. No note
4758 issued under this paragraph shall mature more than two years from its date but notes payable
4759 earlier may be refunded one or more times, provided that no refunding note shall mature more
4760 than two years from the date of the original loan being refunded. Such notes shall be issued for
4761 such maximum term of years, not exceeding two years, as the governor may recommend to the
4762 general court in accordance with Section three of Article LXII of the Amendments to the
4763 Constitution of the Commonwealth.

4764 Pending any payment from the state treasurer to the authority and at any other time when
4765 the authority in the opinion of the administrator has not sufficient cash to make the payments
4766 required of it in the course of its duties as such payments become due, the authority may
4767 temporarily borrow money and issue notes of the authority therefor.

4768 If at any time any principal or interest is due or about to come due on any note issued by
4769 the authority pursuant to this section and funds to pay the same are not available, the

4770 administrator shall certify to the chief executive officer of the Massachusetts surface
4771 transportation authority the amount required to meet the obligation and the Massachusetts
4772 surface transportation authority shall thereupon pay over to the authority that amount. If the
4773 Massachusetts surface transportation authority shall not make the payment within a reasonable
4774 time, the authority or any holder of an unpaid note issued by the authority pursuant to this
4775 section, acting in the name and on behalf of the authority, shall have the right to require the
4776 Massachusetts surface transportation authority to pay the authority the amount remaining unpaid,
4777 which right shall be enforceable as a claim against the Massachusetts surface transportation
4778 authority. The authority or any holder of an unpaid note issued pursuant to this section may file a
4779 petition in the superior court to enforce a claim or intervene in any proceeding already
4780 commenced to enforce such a claim. Chapter 258 shall apply to the petition insofar as it relates to
4781 the enforcement of a claim against the Massachusetts surface transportation authority. Any
4782 holder of an unpaid note who shall have filed such a petition may apply for an order of the court
4783 requiring the authority to apply funds received by the authority on its claim against the
4784 Massachusetts surface transportation authority to the payment of the holder's unpaid note, and, if
4785 the court finds such amount to be due to the holder, shall issue the order.

4786 All assessments made under this chapter shall be made as provided in section twenty of
4787 chapter fifty-nine.

4788 If in any year the income received by the authority, including but not limited to revenues
4789 from leasing, advertising, parking, sale of capital assets, gifts and grants, exceeds the expenses
4790 incurred by the authority, including but not limited to expenses for wages, contracts for service
4791 by others, maintenance, debt service, taxes, rentals, payments to any governmental body and all
4792 other costs, the authority shall determine the amount of such excess. Such excess shall be placed

4793 in a reserve fund up to such amount as shall be determined by the authority with the approval of
4794 the advisory board. Any amount of excess not placed in such reserve fund shall be applied to
4795 reimbursing the Massachusetts surface transportation authority for any amounts which it may
4796 have paid under the provisions of this section, and the Massachusetts surface transportation
4797 authority shall thereupon distribute the amounts so received among the cities and towns
4798 constituting the authority up to the amounts which they were respectively assessed in the
4799 previous fiscal year. All remaining amounts in excess shall be so distributed up to the amounts
4800 assessed in each fiscal year immediately preceding, commencing with the most recent such year.

4801

4802 Section 11. No section 11.

4803

4804 Section 12. The state auditor, in conjunction with the internal special audit unit of Massachusetts
4805 surface transportation authority, as established in section 40 of chapter 81B, shall biennially
4806 make an audit of the accounts of each authority and make a report thereon to the chief executive
4807 officer of the Massachusetts surface transportation authority, the regional transit advisory board,
4808 the governor and the general court. In making such audits, said auditor, in conjunction with the
4809 Massachusetts surface transportation authority's inspector general, may call upon any of the
4810 departments, commissions, officers and agencies of the commonwealth for such information as
4811 may be needed in the course of making such audits. The state auditor, in conjunction with the
4812 Massachusetts surface transportation authority's inspector general, may employ such auditors,
4813 accountants and other assistants as he deems necessary for carrying out his duties under this
4814 section, and chapter thirty-one and the rules made thereunder shall not apply to such employees.

4815 The Massachusetts surface transportation authority shall be reimbursed by the authority for the
4816 cost of the audit.

4817 A copy of each biennial audit shall be provided to the chairs of the senate and house
4818 committees on transportation, the chairs of the senate and house committee on ways and means.

4819

4820 Section 13. An authority and all its real and personal property shall be exempt from taxation and
4821 from betterments and special assessments; and an authority shall not be required to pay any tax,
4822 excise or assessment to or for the commonwealth or any of its political subdivisions; nor shall an
4823 authority be required to pay any fee or charge for any permit or license issued to it by the
4824 commonwealth, by any department, board or officer thereof, or by any political subdivision of
4825 the commonwealth, or by any department, board or officer of such political subdivision. Bonds
4826 and notes issued by an authority, their transfer and the income therefrom, including any profit
4827 made on the sale thereof, shall at all times be free from taxation within the commonwealth.

4828

4829 Section 14. An authority described in section two of this chapter shall be deemed to be
4830 established (a) after twenty per cent of the votes on the advisory board have recorded themselves
4831 in favor of calling a meeting to vote on the establishment of the authority, (b) notice of the
4832 meeting has been sent by a member municipality of the authority to, the chief executive officer
4833 of the Massachusetts surface transportation authority, the regional transit advisory board, and
4834 every other member municipality at least two weeks prior to said meeting, (c) the advisory
4835 board has sent the chief executive officer of the Massachusetts surface transportation authority
4836 written notification that the advisory board has voted to establish the authority; provided that
4837 such notification shall not be given except after a majority of municipalities have voted to

4838 establish the authority and after a majority of the regional transit advisory board have voted to
4839 establish the authority.

4840 The membership of the authority upon its establishment as provided in this section shall
4841 consist of those cities and towns which affirmatively vote for the formation of the authority as
4842 provided in the first paragraph. Nothing contained in this section shall prevent any city or town,
4843 including a city or town which did not vote for the formation of the authority under the first
4844 paragraph from joining an authority subsequent to the formation thereof.

4845

4846 Section 15. Any city or town which is a member of an authority may place upon the official
4847 ballot at any biennial or regular or special city election or annual or special town election the
4848 following question:

4849

4850 “Shall this (city, town) continue to be a member of the (name) (name) Regional Transit
4851 Authority?”

4852

4853 Such question shall not be placed upon the official ballot unless the city council or town
4854 meeting shall have voted that such question be so placed, or a petition signed by not less than
4855 five per cent of the registered voters of the city or town, certified as such by the registrars of
4856 voters thereof, shall have been filed with the city or town clerk, at least sixty days before the date
4857 for any such election. Forms for such petitions shall be made available without cost by the city or
4858 town clerk and each form shall bear the following heading: “The undersigned registered voters of
4859 the (city or town) hereby petition for the placement upon the official ballot of the question

4860 whether this (city, town) shall continue to be a member of the (name) Regional Transit
4861 Authority”.

4862

4863 The votes upon such a question shall be counted and returned to the city or town clerk in
4864 the same manner as votes for candidates in municipal elections. Said clerk shall forthwith notify
4865 the authority of the result of the vote. If a majority of the votes cast upon the question shall be in
4866 the negative, the authority shall forthwith take all steps necessary and appropriate for the
4867 termination of membership of such city or town in such authority.

4868

4869 Section 16. In the event of any conflict between the regulatory powers and duties of the
4870 department of telecommunications and energy in respect to mass transportation service within an
4871 area, the department of telecommunications and energy shall resolve such dispute and exercise
4872 such powers as it deems required in the particular instance.

4873

4874 Section 17. An authority is hereby authorized to provide by resolution at one time or from time
4875 to time for the issue of bonds of the authority for any one or more of the following purposes:

4876 (1) To acquire by purchase or otherwise, plan, design, construct, reconstruct, alter,
4877 recondition and improve for lease to any eligible private company, mass transportation facilities
4878 and equipment.

4879 (2) To pay any capital costs of the authority, whether or not bonds for any such purchase
4880 may also be issued under clause (1).

4881 Bonds may be issued for any costs of the foregoing incurred either before or after the
4882 issue of the bonds. Bonds issued under either of the foregoing clauses may be issued in sufficient

4883 amount to pay the expenses of issues and to establish such reserves as may be required by any
4884 applicable trust agreement or bond resolution. The aggregate principal amount of bonds for all
4885 authorities established under this chapter which may be outstanding at any one time under this
4886 section shall not exceed the sum of twenty million dollars; provided, however, that no such
4887 bonds may be issued under this section without the prior approval of the chief executive officer
4888 of the Massachusetts surface transportation authority. Seventy-five percent of the bond proceeds
4889 shall be extended only for projects for which the authority has agreements with the federal
4890 government, or other sources, including but not limited to, other governmental jurisdictions or
4891 private entities providing for matching grants or for expenditures which are preliminary to the
4892 obtaining of federal grants.

4893 The chief executive officer of the Massachusetts surface transportation authority shall
4894 make, and from time to time revise, guidelines for the allocation and distribution of the principal
4895 amount of said bonds, or any part thereof, among the authorities established by this act.

4896 The chief executive officer of the Massachusetts surface transportation authority shall
4897 adopt rules and regulations governing the procedures by which private companies shall apply for
4898 assistance pursuant to any agreements financed from proceeds of bonds or bond anticipation
4899 notes as provided in paragraph (e) of section five and governing the use of such assistance. Such
4900 rules and regulations shall include (a) requiring any private company which receives such
4901 assistance to agree to limit its profits and its expenses for salaries and overhead so as to make
4902 available as much of its earnings as possible for repayment to the authority of such assistance;
4903 (b) requiring such repayment; (c) enabling the authority and the chief executive officer of
4904 Massachusetts surface transportation authority to examine and audit the books and records of
4905 such company for the purpose of establishing and enforcing such limitation and repayment; and

4906 (d) requiring the authority to transfer to the Massachusetts surface transportation authority, the
4907 Massachusetts surface transportation authority's share of such repayment.

4908 The bonds of each issue shall be dated, shall bear interest at such rates, shall mature at
4909 such time or times not exceeding forty years from their date or dates as may be determined by
4910 the authority and may be made redeemable before maturity at the option of the authority at such
4911 price or prices and under such terms and conditions as may be fixed by the authority prior to the
4912 issue of the bonds. The authority shall determine the form of the bonds, including any interest
4913 coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the
4914 denomination or denominations of the bonds, and the place or places of payment of principal and
4915 interest, which may be at any bank or trust company within or without the commonwealth. In
4916 case any officer whose signature or a facsimile of whose signature shall appear on any bonds or
4917 coupons shall cease to be such officer before the delivery of such bonds, such signature or such
4918 facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had
4919 remained in office until such delivery. All bonds issued under the provisions of this act shall
4920 have and are hereby declared to have all the qualities and incidents of negotiable instruments
4921 under the Uniform Commercial Code. The bonds may be issued in coupon or in registered form,
4922 or both, as the authority may determine, and provisions may be made for the registration of any
4923 coupon bonds as to principal alone, and also as to both principal and interest, for the
4924 reconversion into coupon bonds of any bonds registered as to both principal and interest and for
4925 the exchange of coupon and registered bonds. The authority may sell such bonds in such manner,
4926 either at public or private sale, and for such price as it may determine to be for the best interest of
4927 the authority.

4928 The proceeds of such bonds shall be disbursed in such manner and under such
4929 restrictions, if any, as the authority may provide. The authority may also provide for the
4930 replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds and
4931 bond anticipation notes may be issued under the provisions of this chapter after obtaining the
4932 consent of the Massachusetts surface transportation authority, and without any other proceedings
4933 or the happening of any other conditions or things than those proceedings, conditions or things
4934 which are specifically required by this chapter. Provisions of this chapter relating to the
4935 preparation, adoption or approval of plans, programs, projects, budgets and expenditures shall
4936 not affect the issue of bonds and notes and the bonds and notes may be issued either before or
4937 after such preparation, adoption or approval.

4938 While any bonds or notes issued or assumed by the authority remain outstanding, the
4939 powers, duties and existence of the authority and the provisions for payments by the
4940 Massachusetts surface transportation authority to the authority shall not be diminished or
4941 impaired in any way that will affect adversely the interests and rights of the holders of such
4942 bonds or notes.

4943
4944 Section 18. In the discretion of the authority such bonds shall be secured by a trust agreement by
4945 and between the authority and a corporate trustee, which may be any trust company or bank
4946 having the powers of a trust company within the commonwealth. Either the resolution providing
4947 for the issue of bonds or such trust agreement may contain such provisions for protecting and
4948 enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in
4949 violation of law, including covenants setting forth the duties of the authority in relation to the
4950 acquisition, improvement, maintenance, operation, repair and insurance of property, and the

4951 custody, safeguarding and application of all moneys and may pledge or assign the revenues to be
4952 received, but shall not convey or mortgage any property.

4953

4954 Section 19. Bonds issued under this chapter are hereby made securities in which all public
4955 officers and public bodies of the commonwealth and its political subdivisions, all insurance
4956 companies, and savings banks, co-operative banks and trust companies in their banking
4957 departments, banking associations, investment companies, executors, trustees and other
4958 fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to
4959 invest in bonds or other obligations of a similar nature may properly and legally invest funds,
4960 including capital in their control or belonging to them, and such bonds are hereby made
4961 obligations which may properly and legally be made eligible for the investment of savings
4962 deposits and the income thereof in the manner provided by section fifteen B of chapter one
4963 hundred and sixty-seven. Such bonds are hereby made securities which may properly and legally
4964 be deposited with and received by any state or municipal officer or any agency or political
4965 subdivision of the commonwealth for any purpose for which the deposit of bonds or other
4966 obligations of the commonwealth now or may hereafter be authorized by law.

4967

4968 Section 20. Any holder of bonds issued under the provisions of this chapter or of any of the
4969 coupons appertaining thereto, and the trustee under the trust agreement, if any except to the
4970 extent the rights herein given may be restricted by such resolution or trust agreement, may, either
4971 at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and
4972 all rights under the laws of the commonwealth or granted hereunder or under such resolution or
4973 trust agreement, and may enforce and compel the performance of all duties required by this

4974 chapter or by such resolution or trust agreement to be performed by the authority or by any
4975 officer thereof.

4976

4977 Section 21. An authority is authorized to provide by resolution at one time or from time to time
4978 for the issue of interest bearing or discounted notes for the purposes and in the amounts that
4979 bonds may be issued. The notes shall be payable within three years from their dates, but the
4980 principal of and interest on notes issued for a shorter period may be renewed or paid from time to
4981 time by the issue of other notes hereunder maturing within the required time from the date of the
4982 original loan being refunded. When bonds are issued for the purposes for which the notes were
4983 issued, the proceeds of the bonds shall be used to repay the notes, except that interest on the
4984 notes may be financed as a current expense to the extent deemed appropriate by the authority.
4985 The notes may be secured by a trust agreement or by the provisions of a resolution, as in the case
4986 of bonds. Bond anticipation notes may be issued either before or after the authorization of the
4987 bonds being anticipated. If any bond anticipation note is paid otherwise than from the proceeds
4988 of bonds or renewal notes, such payment shall be included in the measure of the net cost of
4989 service. But, if bonds or renewal notes are later issued to provide for such payment, there shall be
4990 a corresponding offset against the net cost of service.

4991

4992 Section 22. Each authority, in conjunction with the regional transit advisory board, is directed
4993 from time to time to take all necessary action to secure any federal assistance which is or may
4994 become available to the Massachusetts surface transportation authority for any of the purposes of
4995 this chapter. If any federal law, administrative regulation or practice requires any action relating
4996 to such federal assistance to be taken by any department or instrumentality of the commonwealth

4997 other than the authority such other department or instrumentality is authorized and directed to
4998 take all such action, including without limitation filing applications for assistance, supervising
4999 the expenditure of federal grants or loans and making any determinations and certifications
5000 necessary or appropriate to the foregoing, and the authority is authorized and directed to take all
5001 action necessary to permit such other department or instrumentality to comply with all federal
5002 requirements.

5003

5004 Section 23. The chief executive officer of the Massachusetts surface transportation authority may
5005 enter into contract or contracts with the authorities created pursuant to this chapter providing that
5006 fifty per cent of the net cost of service of each authority shall be paid by the Massachusetts
5007 surface transportation authority, and shall not be assessed upon the cities and towns constituting
5008 the authorities established by section two and section three. Such amount, not to be so assessed
5009 shall be called contract assistance.

5010 Contracts shall provide for payment of debt service by the Massachusetts surface
5011 transportation authority when due except to the extent that the authority shall have previously
5012 notified the state treasurer that the revenues of the authority are sufficient for the purpose.

5013 Any debt service on bonds issued by an authority, for which contract assistance is
5014 provided, shall mature serially beginning not later than ten years after the date of issue and
5015 ending not later than forty years after the date of the bonds, so that the amounts payable in the
5016 several years for principal and interest combined shall be as nearly equal as in the opinion of the
5017 authority as is practicable to make them or, in the alternative, in accordance with a schedule
5018 providing a more rapid amortization of principal.

5019 Any contracts or agreements made between an authority and any private company or
5020 carrier for which contract assistance is provided shall be subject to the following limitations: (i)
5021 in determining whether assistance is needed under this paragraph with respect to an operating
5022 agreement with a private transportation company, and in determining the terms of such
5023 assistance, the authority shall review the entire transportation operations of the company and its
5024 affiliates and shall make a finding that the assistance will not permit the applicant company to
5025 make more than a reasonable return overall; and (ii) that the assistance shall cover only those
5026 services determined by the authority to be in the public interest.

5027 Any contract under this section shall include such provisions as the chief executive
5028 officer of the Massachusetts surface transportation authority deems necessary and desirable to
5029 assure the efficient operation of the authority, and the minimum burden on the Massachusetts
5030 surface transportation authority and on the cities and towns within the authority, and to insure
5031 contract assistance is provided for projects which are consistent with the program for public mass
5032 transportation of the authority.

5033

5034 Section 24. Section ten of chapter forty A, sections twenty-eight, fifty-nine to sixty-four,
5035 inclusive, eighty-three to eighty-five, inclusive, and ninety-two to one hundred and four,
5036 inclusive, of chapter one hundred and fifty-nine, and sections eighty-nine, one hundred and three
5037 and one hundred and thirteen of chapter one hundred and sixty-one, shall apply to the
5038 transportation authorities created by this chapter, its property and employees in the same manner
5039 as though each were a street railway company.

5040

5041 Section 25. Nothing in this chapter shall be deemed to authorize or permit any authority
5042 established by this chapter to directly operate any mass transportation service.

5043

5044 Section 26. The regional transit authorities shall establish a stabilization fund into which the
5045 authorities shall deposit revenues in excess of expenditures. Said stabilization fund shall have a
5046 fund balance no greater than 15% of total revenues for all regional transit authorities for the
5047 fiscal year most recently ended. Monies from said fund shall be subject to appropriation and used
5048 for capital improvements and expenditures, to offset the unforeseen and dramatic loss of
5049 revenues within a fiscal year, and to pay current expenses after implementing all efficiencies and
5050 savings possible. The authorities may not assume draws from said stabilization fund in preparing
5051 their annual budgets. In the event that an authority requires a draw from said fund, it shall file
5052 with the chief executive officer of the Massachusetts surface transportation authority, the
5053 regional transit advisory board, the joint committee on transportation and the house and senate
5054 committees on ways and means a financial plan that projects to produce in the following fiscal
5055 year an excess of revenues over expenses, all measures taken to implement efficiencies and
5056 savings, the amount necessary to offset operating losses, and any other information that said
5057 chief executive officer, regional transit advisory board, or committees may require.

5058

5059 Section 27. (a) There shall be a regional transit advisory board within the division of public
5060 transit of the Massachusetts surface transportation authority to represent the needs of 15
5061 Regional Transit Authorities in the Commonwealth of Massachusetts.

5062 The regional transit advisory board shall consist of 17 members, including the following:
5063 one representative from each of the regional transit authorities, as defined in Chapter 161B

5064 Section 2, to serve a term of 2 years; one representative, appointed by the governor, who shall be
5065 experts with experience in the fields of transportation law or public policy, transportation
5066 planning, or design and construction of transportation projects, neither of whom shall reside in an
5067 area constituting the division for public transit for mass transit for a term of 3 years; and the chief
5068 executive officer of the authority, or his designee. The members of the advisory board shall be
5069 appointed no later than August 1, 2009.

5070 The first meeting of the regional transit advisory board shall be held as soon as
5071 practicable upon the call of the chief executive officer of the authority. The regional transit
5072 advisory board shall act by a majority vote, except that it may delegate its power of approval to
5073 an executive committee formed and elected pursuant to duly adopted by-laws of the board and
5074 constituting among its members as least one-half of the total vote of the regional transit advisory
5075 board, and may at any time, revoke such delegation provided that not such executive committee
5076 shall be empowered to approve the governor's appointments to the Massachusetts Surface
5077 Transportation Authority's Board of Directors. Until the regional transit advisory board has
5078 adopted by-laws and elected officers, the chief executive officer of the authority may call
5079 meetings of the regional transit advisory board by sending notice to the executive director of
5080 each regional transit authority and shall preside at such meetings.

5081 The regional transit advisory board may incur expenses, not to exceed ten thousand
5082 dollars annually, for stenographic and clerical work, and such expenses shall be paid by the
5083 Massachusetts Surface Transportation Authority.

5084 (b) The regional transit advisory board shall be deemed to be a governmental body for
5085 purposes of, and shall be subject to, section eleven A and one-half of chapter thirty A of the
5086 General Laws and shall also be subject to section ten of chapter sixty-six of the General Laws.

5087 (c) The purpose of the regional transit advisory board shall be as follows:

5088 (i) oversee the federally funding Rural Transit Authority Program (RTAP) under contract

5089 with the Massachusetts Surface Transportation Authority;

5090 (ii) coordinate and share information and best practices in matters of security and public

5091 safety planning and preparedness, service delivery, including the disabled and senior

5092 population, cost savings, and administrative efficiencies;

5093 (iii) to create, after public hearings and in consultation with the administrator of the

5094 division of public transit, mechanisms for ensuring reliable, high-quality and cost-

5095 effective operations by establishing and implementing service quality standards;

5096 (iv) to adopt, and revise as appropriate, a system wide fare policy which addresses fare

5097 levels, including discounts, fare equity and a fare structure, including, but limited to, fare

5098 media and passes. Said fare policy shall include a system for free or substantially price-

5099 reduced transfer privileges;

5100 (v) to make recommendation to the division on its regional transit charges;

5101 (vi) to hold hearings, which may be held jointly with the division at the discretion of the

5102 regional transit advisory board and said division, on matters relating to said division;

5103 (vii) to review the annual report of the Authority and to prepare comments thereon to the

5104 Authority and the secretary of transportation, and to make such examinations of the

5105 reports on the division's records and affairs as the regional transit advisory board deems

5106 appropriate; and

5107 (viii) to make recommendations to the governor and the general court respecting the

5108 Authority and its regional transit programs. The regional transit advisory board shall

5109 have all powers necessary or convenient to carry out and effectuate the forgoing
5110 purposes.

5111 SECTION 44. Section 9, 9A and 23 of chapter 161B are hereby repealed.

5112 SECTION 45. Chapter 161C is hereby repealed.

5113 SECTION 46. Section 1 of chapter 258 of the General Laws, as appearing in the 2006
5114 Official Edition, is hereby amended by inserting after the word “including”, in line 40, the words
5115 “the Massachusetts Surface Transportation Authority established pursuant to chapter 81B,”.

5116 SECTION 47. Section 1 of chapter 258 of the General Laws, as appearing in the 2006
5117 Official Edition, is hereby amended by striking out, in lines 50 to 51, the words “the
5118 Massachusetts Bay Transportation Authority,”.

5119 SECTION 48. Said section 1 of said chapter 258, as so appearing, is hereby further
5120 amended by striking out, in lines 51 to 52, the words “the Massachusetts Turnpike Authority,”.

5121 SECTION 49. Section 2 of chapter 258 of the General Laws, as appearing in the 2006
5122 Official Edition, is hereby amended by striking out, in lines 8 to 9, the words “one hundred
5123 thousand dollars” and inserting in place thereof the figure “\$250,000”.

5124 SECTION 50. Notwithstanding any general or special law to the contrary, the secretary
5125 of transportation shall establish an office of transition management within the executive office to
5126 help accomplish the purposes of this act. The office shall be charged with the duty of monitoring
5127 compliance with this act, recommending to the secretary rules and regulations not inconsistent
5128 with this act to facilitate the orderly expeditious transfer of assets and functions from the
5129 executive office, the Massachusetts Turnpike Authority, the Massachusetts Bay Transportation
5130 Authority, the Massachusetts Port Authority, the department of conservation and recreation and
5131 the department of highways to the Massachusetts Surface Transportation Authority, developing

5132 administrative processes to assure continuity of employment and operations during the
5133 transitions, recommending legislation to resolve issues or assist government agencies with the
5134 transition of transportation agencies, and reporting at least quarterly on the progress of the
5135 transition, beginning with the quarter ending June 30, 2009.

5136 Notwithstanding the preceding paragraph, the office shall submit its quarterly reports to
5137 the governor and the chairs of the joint committee on transportation. Said reports shall include
5138 the status of the transition of roads, bridges, parkways and any other transportation assets of the
5139 Massachusetts Turnpike Authority, the Massachusetts Bay Transportation Authority, the
5140 Massachusetts Port Authority, the department of conservation and recreation and the department
5141 of highways and shall include approximate schedules for the completion of the transition.

5142 SECTION 51. Notwithstanding any general or special law to the contrary, the bureau for
5143 environmental health within the department of public health shall conduct a comprehensive
5144 baseline study of the health effects of particulate air pollution from surface transportation in
5145 Massachusetts. The study shall focus on understanding the health impacts from fine and ultrafine
5146 particulate matter upon populations that are located within 500 feet of any roadway with 50,000
5147 or more motor vehicle trips per day, or any rail line regularly used by diesel locomotives;
5148 provided further, that said study may include, but shall not be limited to, examining respiratory
5149 and cardiovascular disease and cancer incidence that may be affected by exposure to traffic-
5150 related particles. The following departments and agencies of the commonwealth shall provide
5151 information to the bureau relevant to this study: the department of environmental protection, the
5152 executive office of transportation, the Massachusetts Surface Transportation Authority and the
5153 central transportation planning staff of the Boston metropolitan planning organization. The
5154 bureau shall report its findings, or a progress report, together with any recommended response

5155 actions by the commonwealth to the house and senate committees on ways and means not later
5156 than December 31, 2009. The report shall be concluded no later than June 30, 2010.

5157 **SECTION 52.** (a) In order to provide funds during the period from the effective date of
5158 this act until December 31, 2009 the state treasurer, on behalf of the commonwealth, is hereby
5159 authorized and directed to loan to the Authority through investment in a note or other appropriate
5160 instrument of the Authority, and the Authority is authorized to borrow from the state treasurer, at
5161 any time and from time to time on or prior to December 31, 2009, on such terms and conditions
5162 as the state treasurer and the Authority shall agree, an amount not in excess of 100 million
5163 dollars. Any amount so borrowed by the Authority, with interest thereon at such reasonable rate
5164 as the state treasurer and the Authority shall agree, shall be repaid to the commonwealth to be
5165 credited on the books of the commonwealth as of no later than June 30, 2010.

5166 (b) The Authority is also authorized to issue at one time or from time to time prior to June
5167 30, 2014, notes of the Authority in the aggregate principal amount of one billion dollars
5168 outstanding at any one time, excluding notes refunded by other notes issued under this
5169 paragraph, for the purpose of providing funds for: (i) repaying the commonwealth for any
5170 amounts borrowed by the Authority from the commonwealth including interest thereon pursuant
5171 to paragraph (c); (ii) paying all or part of the cost of the Authority's projects undertaken at any
5172 time prior to December 31, 2013; (iii) paying all or any part of the current expenses of the
5173 Authority in anticipation of receipt of revenues of the Authority, but in no event shall the
5174 aggregate amount of notes outstanding for this purpose exceed one-half of the budgeted current
5175 expenses of the Authority for the fiscal year in which such notes are outstanding; and, (iv)
5176 paying all or any part of the interest payable on any notes of the Authority issued under this
5177 paragraph. Notes issued by the Authority in accordance with this paragraph shall be issued for

5178 such term or terms as the Authority shall determine and may be renewed from time to time;
5179 provided, however, all such notes and any renewals thereof shall mature and be payable no later
5180 than June 30, 2014 except that notes issued in anticipation of revenues shall be payable and shall
5181 mature no later than one year from their date. Notes issued by the Authority in accordance with
5182 this paragraph, except notes issued in anticipation of revenues, shall be issued in anticipation of
5183 bonds to be issued by the Authority pursuant to section 22 of chapter 81B. All notes issued
5184 pursuant to this paragraph shall be authorized, issued and sold in the same manner as, and shall
5185 otherwise be subject to, section 22 and the other provisions of chapter 81B relating to bonds;
5186 provided, however, that notes issued under this paragraph shall be issued at a fixed rather than a
5187 variable rate or rates of interest.

5188 (c) The commonwealth, acting by and through the secretary of administration and finance
5189 with the approval of the governor, upon application of the Authority, shall guarantee the
5190 principal of and interest on notes of the Authority issued in accordance with paragraph (b). The
5191 secretary of administration and finance with the approval of the governor and without further
5192 authority may approve the form, terms and conditions of, and may execute and deliver on behalf
5193 of the commonwealth such guaranty and any related agreements with or for the benefit of the
5194 holders of such notes containing such terms, conditions and covenants of the commonwealth as
5195 the secretary of administration and finance may deem reasonable including provision for the
5196 payment of notes not paid or refunded by the Authority by application of the proceeds of the loan
5197 authorized in paragraph (d) . Without limiting the generality of the foregoing, such guaranty may
5198 take the form of an agreement to reimburse the issuer of a letter of credit or other credit facility
5199 which relates to such notes. The full faith and credit of the commonwealth shall be pledged for
5200 the guaranty provided for in this paragraph. The total principal amount of notes to be guaranteed

5201 under this paragraph shall not exceed one billion dollars in the aggregate; provided, however,
5202 that any note being refunded by the issuance of a guaranteed note shall not, and the refunding
5203 note shall, be included within such total amount.

5204 (d) If the Authority shall fail or otherwise be unable to refund or pay when due any
5205 guaranteed note or notes, or the interest thereon, issued by the Authority in accordance with
5206 paragraph (c), such notes, and the interest thereon, upon presentation to the state treasurer, shall
5207 be paid by the commonwealth. For the purpose of providing funds to pay any such guaranteed
5208 notes and interest or to reimburse the treasury for any such payments the state treasurer shall,
5209 upon the request of the governor, issue and sell bonds of the commonwealth in an amount
5210 specified by the governor from time to time, but not exceeding in the aggregate the sum of one
5211 billion dollars for principal and one hundred fifty million dollars for interest. Bonds issued by the
5212 commonwealth under this paragraph shall be designated on their face, Massachusetts Surface
5213 Transportation Authority Loan, Act of 2009. Such bonds shall be issued for such maximum term
5214 or terms not exceeding twenty years as the governor may recommend to the general court in
5215 accordance with section three of Article LXII of the Amendments to the Constitution of the
5216 Commonwealth. The Authority shall reimburse the commonwealth in accordance with a
5217 schedule to be determined by the secretary of administration and finance at the time such bonds
5218 are issued, from any moneys of the Authority which are available for such purposes. Bonds and
5219 interest thereon issued by the commonwealth under the authority of this section shall,
5220 notwithstanding any other provisions of this act, be general obligations of the commonwealth, in
5221 anticipation of the receipt of proceeds of such bonds, the treasurer may issue and sell temporary
5222 notes and renewals thereof in an amount outstanding at one time not in excess of the amount of
5223 bonds specified by the governor pursuant to this paragraph, for a term not to exceed three years,

5224 including any renewals thereof. The principal of and interest on such notes may be paid from the
5225 proceeds of said renewal notes or bonds and to the extent not so paid shall be paid from any
5226 other funds or receipts; provided, however, that if and to the extent that the principal amount of
5227 such notes is paid from other than the proceeds of said renewal notes or bonds, the principal
5228 amount of said bonds which may be issued under this section shall be reduced by a like amount.
5229 Such notes and any renewals thereof shall be general obligations of the commonwealth.

5230 (e) The state treasurer may borrow, from time to time, on the credit of the commonwealth
5231 such amounts as may be necessary to make any loans required of the commonwealth under
5232 paragraph (a) and to pay any interest or other charges incurred in borrowing such money, and
5233 may issue notes of the commonwealth therefor, bearing interest payable at such times and at such
5234 rates as shall be fixed by him. No note issued under this paragraph shall mature more than one
5235 and one-half years from its date but notes may be refunded one or more times. Such notes shall
5236 be issued for such maximum term of years, not exceeding one and one-half years, as the
5237 governor may recommend to the general court in accordance with section three of Article LXII
5238 of the Amendments to the Constitution of the Commonwealth.

5239 **SECTION 53.** The Office of the State Auditor shall perform a close out audit of each
5240 agency or authority admitted to the Massachusetts Surface Transportation Authority. Said audit
5241 shall include a catalogue of any issues relating to the agency or authority's current and future
5242 finances and operations, current and future revenues or debt structure, and internal policies and
5243 procedures, that he believes are not within Financial Accounting Board Standards of practice or
5244 may violate other laws, rules and procedures of the General Laws.

5245 **SECTION 54.** (a) The Massachusetts Surface Transportation Authority is hereby
5246 authorized and empowered to provide by resolution for the issuance of revenue bonds of the
5247 Authority, at one time or from time to time, for the purpose of providing funds for:--

5248 (1) Refunding the Western Turnpike Revenue Bonds then outstanding, including the payment
5249 of the redemption premium thereon;

5250 (2) Paying the cost of constructing such extensions, enlargements and improvements to the
5251 Western Turnpike as may be authorized by said resolution; and

5252 (3) Providing funds for paying the current expenses of the Authority prior to the time when the
5253 revenues of the projects will be available for such purposes.

5254

5255 (b) The proceeds of such bonds shall be deposited with the Trustee and applied as follows:--

5256 (1) Such amount of the proceeds as may be required for paying the principal of and the
5257 redemption premium on the Western Turnpike Revenue Bonds then outstanding shall be
5258 deposited with the trustee under the trust agreement securing said bonds in trust for the sole and
5259 exclusive purpose of paying such principal and redemption premium, and said bonds shall
5260 thereupon be called for redemption at the earliest practicable date;

5261 (2) The Trustee shall set aside from such proceeds such amount as may be provided in the
5262 trust agreement for paying the current expenses of the Authority prior to the time when the
5263 revenues of the projects will be available for such purpose;

5264 (3) The balance of such proceeds shall be deposited with the Trustee to the credit of a special
5265 fund or funds to be used solely for the payment of the cost of the extensions, enlargements and
5266 improvements of the Western Turnpike which shall be authorized by said resolution and shall be
5267 disbursed in such manner and under such restrictions as may be provided in the trust agreement.

5268 (c)The Authority is hereby authorized and empowered, in its sole discretion, to assume the
5269 Western Turnpike Revenue Bonds then outstanding.

5270 (d) Upon the issuance of revenue bonds under subsection (a) and the application of the proceeds
5271 of said bonds as provided in subsection (b), or the assumption of revenue bonds under subsection
5272 (c), title to the Western Turnpike shall be vested in the Authority, said Turnpike shall thereafter
5273 be maintained, repaired and operated by the Authority, the trustee under the trust agreement
5274 securing the outstanding Western Turnpike Revenue Bonds shall deposit with the Trustee for the
5275 credit of the appropriate funds all moneys then in its hands which pertain to the Western
5276 Turnpike.

5277 (e) The Massachusetts Turnpike Authority shall transfer the Turnpike, as defined in section 3 of
5278 chapter 81A of the General Laws, its right to collect toll revenues on the Turnpike, and all
5279 related assets, liabilities, expenses and obligations to the division of roads and bridges in the
5280 Massachusetts Surface Transportation Authority no later than July 1, 2009. The transfer by the
5281 Massachusetts Turnpike Authority of the Turnpike, as defined in section 3 of chapter 81A, may
5282 be made pursuant to such other terms and conditions as may be acceptable to said transferor and
5283 said Massachusetts Surface Transportation Authority, but such terms shall be consistent with and
5284 permitted by the terms of said Massachusetts Turnpike Authority's enabling act and any trust
5285 agreement to which said Massachusetts Turnpike Authority is a party as of the effective date of
5286 this act.

5287 On July 1, 2009, ownership, possession and control of the Turnpike, as defined in section 3 of
5288 chapter 81A, shall pass to and be vested in the Massachusetts Surface Transportation Authority
5289 without consideration or further evidence of transfer.

5290 (f) All books, maps, papers, plans, records and documents of whatever description pertaining to
5291 the design, construction, operation, and affairs of the Turnpike, as defined in section 3 of chapter
5292 81A, which are in the possession of the Massachusetts Turnpike Authority on June 30, 2009, or
5293 which thereafter come into the possession of the Massachusetts Turnpike Authority also shall be
5294 transferred and delivered to the Authority to its use, ownership, possession and control.

5295 (g) On July 1, 2009, all proceeds of the western Turnpike revenue bonds, any other bonds and
5296 grants and other aid which are held by the Massachusetts Turnpike Authority for the benefit of
5297 the Turnpike at the effective date of this act shall then and thereafter be deemed to be held in
5298 trust for, and shall upon demand of the Authority be transferred to the Authority to be applied by
5299 the Authority to projects for which such bonds, grants or other aid was authorized. All proceeds,
5300 if any, of bonds, grants or other aid referred to herein, which shall be so held in trust and
5301 transferred upon demand, shall be in the amount as certified by the executive director of the
5302 Massachusetts Turnpike Authority to the state treasurer.

5303 SECTION 55. The commonwealth shall transfer the roadways, driveways, parkways,
5304 boulevards and bridges, and land thereunder, in the care, custody and control of the department
5305 of conservation and recreation, and all appurtenant facilities, works and systems, as well as any
5306 machinery and equipment related to the operation and maintenance of said assets and the roads
5307 and bridges, as well as any machinery and equipment related to the operation and maintenance of
5308 said assets, and all appurtenant facilities, works and systems in the custody and control of the
5309 department of highways to the division of roads and bridges in the Massachusetts Surface
5310 Transportation Authority not later than July 1, 2009.

5311 The division of capital asset management and maintenance shall take any required actions
5312 relative to specifically defining and documenting the boundaries of the transfer affected by this
5313 section.

5314 Nothing in this section shall be construed to transfer any lands, parks, reservations, approaches
5315 or other facilities under the care, custody or control of the department of conservation and
5316 recreation.

5317 On July 1, 2009, ownership, possession and control of the facilities transferred under this section
5318 shall pass to and be vested in the Massachusetts Surface Transportation Authority without
5319 consideration or further evidence of transfer.

5320 SECTION 56. The Massachusetts Port Authority shall transfer the Maurice J. Tobin
5321 Memorial Bridge, located in Chelsea, Massachusetts, its right to collect toll revenues on that
5322 bridge, and all related assets, liabilities, expenses and obligations to the division of roads and
5323 bridges in the Massachusetts Surface Transportation Authority not later than July 1, 2010. The
5324 transfer by the Massachusetts Port Authority of that bridge may be made pursuant to such other
5325 terms and conditions as may be acceptable to the Massachusetts Port Authority and said
5326 Massachusetts Surface Transportation Authority, but such terms shall be consistent with and
5327 permitted by the terms of said Massachusetts Port Authority's enabling act, any trust agreement
5328 to which said Massachusetts Port Authority is a party as of the effective date of this act.

5329 On July 1, 2009, ownership, possession and control of the bridge shall pass to and be vested in
5330 the Massachusetts Surface Transportation Authority without consideration or further evidence of
5331 transfer.

5332 All books, maps, papers, plans, records and documents of whatever description pertaining to the
5333 design, construction, operation, and affairs of the bridge which are in the possession of the

5334 Massachusetts Port Authority on June 30, 2010, or which thereafter come into the possession of
5335 the Massachusetts Port Authority also shall be transferred and delivered to the Authority to its
5336 use, ownership, possession and control.

5337 On July 1, 2010, all proceeds of bonds and grants and other aid which are held by the
5338 Massachusetts Port Authority for the benefit of the bridge at the effective date of this act shall
5339 then and thereafter be deemed to be held in trust for, and shall upon demand of the Authority be
5340 transferred to the Authority to be applied by the Authority to projects for which such bonds,
5341 grants or other aid was authorized. All proceeds, if any, of bonds, grants or other aid referred to
5342 herein, which shall be so held in trust and transferred upon demand, shall be in the amount as
5343 certified by the executive director of the Massachusetts Port Authority to the state treasurer.

5344

5345 SECTION 57. (a) The Massachusetts Surface Transportation Authority is hereby
5346 authorized and empowered to provide by resolution for the issuance of revenue bonds of the
5347 Authority, at one time or from time to time, for the purpose of providing funds for:--

5348 (1) Refunding the Metropolitan Highway System Revenue Bonds then outstanding, including
5349 the payment of the redemption premium thereon;

5350 (2) Paying the cost of constructing such extensions, enlargements and improvements to the
5351 Metropolitan Highway System as may be authorized by said resolution; and

5352 (3) Providing funds for paying the current expenses of the Authority prior to the time when the
5353 revenues of the projects will be available for such purposes.

5354

5355 (b) The proceeds of such bonds shall be deposited with the Trustee and applied as follows:--

5356 (1) Such amount of the proceeds as may be required for paying the principal of and the

5357 redemption premium on the Metropolitan Highway System Revenue Bonds then outstanding
5358 shall be deposited with the trustee under the trust agreement securing said bonds in trust for the
5359 sole and exclusive purpose of paying such principal and redemption premium, and said bonds
5360 shall thereupon be called for redemption at the earliest practicable date;

5361 (2) The Trustee shall set aside from such proceeds such amount as may be provided in the
5362 trust agreement for paying the current expenses of the Authority prior to the time when the
5363 revenues of the projects will be available for such purpose;

5364 (3) The balance of such proceeds shall be deposited with the Trustee to the credit of a special
5365 fund or funds to be used solely for the payment of the cost of the extensions, enlargements and
5366 improvements of the Metropolitan Highway System which shall be authorized by said resolution
5367 and shall be disbursed in such manner and under such restrictions as may be provided in the trust
5368 agreement.

5369

5370 (c)The Authority is hereby authorized and empowered, in its sole discretion, to assume the
5371 Metropolitan Highway System Revenue Bonds then outstanding.

5372 (d) Upon the issuance of revenue bonds under subsection (a) and the application of the proceeds
5373 of said bonds as provided in subsection (b), or the assumption of revenue bonds under subsection
5374 (c), title to the Metropolitan Highway System shall be vested in the Authority, said System shall
5375 thereafter be maintained, repaired and operated by the Authority, the trustee under the trust
5376 agreement securing the outstanding Metropolitan Highway System Revenue Bonds shall deposit
5377 with the Trustee for the credit of the appropriate funds all moneys then in its hands which pertain
5378 to the Metropolitan Highway System, and the Massachusetts Turnpike Authority shall be
5379 dissolved.

5380 The Massachusetts Turnpike Authority shall transfer the Metropolitan Highway System, as
5381 defined in section 3 of chapter 81A of the General Laws, its right to collect toll revenues on the
5382 Metropolitan Highway System, and all related assets, liabilities, expenses and obligations to the
5383 division of roads and bridges in the Massachusetts Surface Transportation Authority not later
5384 than July 1, 2010.

5385 The transfer by the Massachusetts Turnpike Authority of the Metropolitan Highway System, as
5386 defined in section 3 of chapter 81A, may be made pursuant to such other terms and conditions as
5387 may be acceptable to said transferor and said Massachusetts Surface Transportation Authority,
5388 but such terms shall be consistent with and permitted by the terms of said Massachusetts
5389 Turnpike Authority's enabling act and any trust agreement to which said Massachusetts Turnpike
5390 Authority is a party as of the effective date of this act.

5391 On July 1, 2010, ownership, possession and control of the Metropolitan Highway System, as
5392 defined in section 3 of chapter 81A, shall pass to and be vested in the Massachusetts Surface
5393 Transportation Authority without consideration or further evidence of transfer.

5394 All books, maps, papers, plans, records and documents of whatever description pertaining to the
5395 design, construction, operation, and affairs of the Metropolitan Highway System, as defined in
5396 section 3 of chapter 81A, which are in the possession of the Massachusetts Turnpike Authority
5397 on June 30, 2010, or which thereafter come into the possession of the Massachusetts Turnpike
5398 Authority also shall be transferred and delivered to the Authority to its use, ownership,
5399 possession and control.

5400 On July 1, 2010, all proceeds of the Metropolitan Highway System revenue bonds, all other
5401 bonds and grants and other aid which are held by the Massachusetts Turnpike Authority at the
5402 effective date of this act shall then and thereafter be deemed to be held in trust for, and shall

5403 upon demand of the Authority be transferred to the Authority to be applied by the Authority to
5404 projects for which such bonds, grants or other aid was authorized. All proceeds, if any, of bonds,
5405 grants or other aid referred to herein, which shall be so held in trust and transferred upon
5406 demand, shall be in the amount as certified by the executive director of the Massachusetts
5407 Turnpike Authority to the state treasurer.

5408 SECTION 58. The Massachusetts Bay Transportation Authority shall transfer all mass
5409 transportation facilities and equipment under its custody and control, the right to collect fare
5410 revenue for services in connection with such mass transportation facilities and equipment, and all
5411 related assets, liabilities, expenses and obligations to the division of public transit in the
5412 Massachusetts Surface Transportation Authority not later than July 1, 2011.

5413 The transfer by the Massachusetts Bay Transportation Authority of the mass transportation
5414 facilities and equipment required in this section may be made pursuant to such other terms and
5415 conditions as may be acceptable to said transferor and said Massachusetts Surface Transportation
5416 Authority, but such terms shall be consistent with and permitted by the terms of said
5417 Massachusetts Bay Transportation Authority's enabling act and any trust agreement to which
5418 said Massachusetts Bay Transportation Authority is a party as of the effective date of this act.
5419 On July 1, 2011, ownership, possession and control of the mass transportation facilities and
5420 equipment referred to in this section shall pass to and be vested in the Massachusetts Surface
5421 Transportation Authority without consideration or further evidence of transfer.

5422 All books, maps, papers, plans, records and documents of whatever description pertaining to the
5423 design, construction, operation, and affairs of the mass transportation facilities and equipment
5424 which are in the possession of the Massachusetts Bay Transportation Authority on June 30, 2011,
5425 or which thereafter come into the possession of the Massachusetts Bay Transportation Authority

5426 also shall be transferred and delivered to the Authority to its use, ownership, possession and
5427 control.

5428 On July 1, 2011, all proceeds of bonds, grants and other aid which are held by the Massachusetts
5429 Bay Transportation Authority at the effective date of this act shall then and thereafter be deemed
5430 to be held in trust for, and shall upon demand of the Authority be transferred to the Authority to
5431 be applied by the Authority to projects for which such bonds, grants or other aid was authorized.
5432 All proceeds, if any, of bonds, grants or other aid referred to herein, which shall be so held in
5433 trust and transferred upon demand, shall be in the amount as certified by the general manager of
5434 the Massachusetts Bay Transportation Authority to the state treasurer.

5435 SECTION 59. Notwithstanding any other provision of this act or other law, commencing
5436 on July 1, 2009, all amounts of any kind received by the commonwealth which are derived from
5437 or related to the operation of the state highway system, as defined in chapter 81B, shall be
5438 deemed to be held in trust for and shall be transferred and paid over to the Massachusetts Surface
5439 Transportation Authority (the “Authority”) when received without further appropriation to be
5440 applied to the purposes of the Authority. All amounts of any kind received by the Massachusetts
5441 Turnpike Authority which are derived from the operation of the turnpike, as defined in chapter
5442 81B, shall be deemed to be held in trust for and shall be transferred and paid over to the
5443 Authority when received without further appropriation to be applied to the purposes of the
5444 Authority.

5445 SECTION 60. Notwithstanding any other provision of this act or other law, commencing
5446 on July 1, 2010, all amounts of any kind received by the Massachusetts Port Authority which are
5447 derived from or related to the operation of the Tobin memorial bridge, as defined in chapter 81B,
5448 shall be deemed to be held in trust for and shall be transferred and paid over to the Massachusetts

5449 Surface Transportation Authority (the “Authority”) when received without further appropriation
5450 to be applied to the purposes of the Authority. All amounts of any kind received by the
5451 Massachusetts Turnpike Authority which are derived from the operation of the metropolitan
5452 highway system, as defined in chapter 81B, shall be deemed to be held in trust for and shall be
5453 transferred and paid over to the Authority when received without further appropriation to be
5454 applied to the purposes of the Authority.

5455 SECTION 61. All amounts of any kind received by the Massachusetts Bay
5456 Transportation Authority which are derived from the operation of the state public transit system,
5457 as defined in chapter 81B, shall be deemed to be held in trust for and shall be transferred and
5458 paid over to the Massachusetts Surface Transportation Authority (the “Authority”) when
5459 received without further appropriation to be applied to the purposes of the Authority.

5460 SECTION 62. (a) Notwithstanding any general or special law to the contrary, this section
5461 shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property
5462 and legal obligations of the functions of the department of conservation and recreation, as the
5463 transferor agency, as they relate to roads, driveways, parkways, boulevards and bridges to the
5464 division of roads and bridges, as the transferee agency.

5465 (b) Upon control of all roads, driveways, parkways, boulevards and bridges at the department of
5466 conservation and recreation being vested in the division of roads and bridges, the employees in
5467 the department of conservation and recreation whose work is directly related to projects to be
5468 administered by the division, shall be transferred to the division.

5469 (c) Subject to appropriation, the employees of the department of conservation and recreation,
5470 including those who immediately before the effective date of this act hold permanent
5471 appointment in positions classified under chapter 31 of the General Laws or have tenure in their

5472 positions as provided by section 9A of chapter 30 of the General Laws or do not hold such
5473 tenure, or hold confidential positions, are hereby transferred to the division of roads and bridges,
5474 without interruption of service within the meaning of said section 9A of said chapter 31, without
5475 impairment of seniority, retirement or other rights of the employee, and without reduction in
5476 compensation or salary grade, notwithstanding any change in title or duties resulting from such
5477 reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits,
5478 and without change in union representation or certified collective bargaining unit as certified by
5479 the state labor relations commission or in local union representation or affiliation. Any collective
5480 bargaining agreement in effect immediately before the transfer date shall continue in effect and
5481 the terms and conditions of employment therein shall continue as if the employees had not been
5482 so transferred. The reorganization shall not impair the civil service status of any such reassigned
5483 employee who immediately before the effective date of this act either holds a permanent
5484 appointment in a position classified under chapter 31 of the General Laws or has tenure in a
5485 position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general
5486 or special law to the contrary, all such employees shall continue to retain their right to
5487 collectively bargain pursuant to chapter 150E of the General Laws and shall be considered
5488 employees for the purposes of said chapter 150E. Nothing in this section shall be construed to
5489 confer upon any employee any right not held immediately before the date of said transfer, or to
5490 prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff or
5491 abolition of position not prohibited before such date.

5492 (d) All petitions, requests, investigations and other proceedings appropriately and duly brought
5493 or duly begun and pending before the effective date of this act, shall continue unabated and
5494 remain in force, but shall be assumed and completed by the division of roads and bridges.

5495 (e) All orders, rules and regulations duly made and all approvals duly granted by the department
5496 of conservation and recreation, which are in force immediately before the effective date of this
5497 act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded
5498 or canceled, in accordance with law, by the division of roads and bridges.

5499 (f) All books, papers, records, documents, equipment, buildings, facilities, cash and other
5500 property, both personal and real, including all such property held in trust, which immediately
5501 before the effective date of this act are in the custody of each transferor agency shall be
5502 transferred to the respective transferee agency.

5503 All questions regarding the identification of such property and of the agencies to which
5504 custody thereof is transferred shall be determined by the secretary of transportation.

5505 (g) All duly existing contracts, leases and obligations of the department of conservation and
5506 recreation as they related to any property transferred to the division of roads and bridges
5507 pursuant to this section shall continue in effect but shall be assumed by the division of roads and
5508 bridges. No existing right or remedy of any character shall be lost, impaired or affected by this
5509 act.

5510 SECTION 63. On July 1, 2009, each employee of the Massachusetts Turnpike Authority
5511 whose salary is paid out of revenue generated by the Turnpike, as defined in section 3 of chapter
5512 81A of the General Laws, and whose salary is accounted for on the books of the Massachusetts
5513 Turnpike Authority as arising from revenue generated by the Turnpike, as so defined, shall
5514 become an employee of the Authority.

5515 On July 1, 2010, all remaining employees of the Massachusetts Turnpike Authority shall
5516 become employees of the Authority.

5517 All officers and employees of the Massachusetts Turnpike Authority transferred to the
5518 service of the Authority shall be transferred without impairment of seniority, civil service status,
5519 retirement or other statutory rights of employees; without reduction in compensation or salary
5520 grade, notwithstanding any change in job titles or duties; without loss of accrued rights to
5521 holidays, sick leave, vacation and benefits; and without change in union representation, except as
5522 otherwise provided in this chapter. Terms of service of employees of the Massachusetts
5523 Turnpike Authority shall not be deemed to be interrupted by virtue of transfer to the Authority.

5524 Rights and obligations under collective bargaining agreements with respect to employees
5525 transferred from the Massachusetts Turnpike Authority, except to the extent expressly
5526 inconsistent with this chapter, shall be assumed by and imposed upon the Authority. Except to
5527 the extent expressly inconsistent with this chapter, any collective bargaining agreement in effect
5528 for such transferred employees immediately before the transfer date shall continue as if the
5529 employees had not been so transferred, until the expiration date of such collective bargaining
5530 agreement. The Authority shall negotiate in good faith pursuant to the provisions of chapter
5531 150E of the General Laws with respect to wages, hours and other terms and conditions of
5532 employment to become effective as of the expiration date of such collective bargaining
5533 agreement. No collective bargaining agreement entered into by the Authority, however, shall
5534 limit inherent management rights which shall include, without limiting the generality of the
5535 foregoing, the following: (i) employment, assignment, and promotion of employees and the
5536 determination of standards therefor; (ii) termination and discharge of employees, provided that a
5537 collective bargaining agreement may protect employees against such actions on arbitrary,
5538 capricious or unreasonable grounds; (iii) determination of the Authority's levels of service,
5539 levels of staffing, and the methods, means and personnel for performing operations; (iv)

5540 supervision, control, and evaluation and establishment productivity standards for employees; and
5541 (v) use of part-time regular employees and of independent contractors or vendors. Nothing in
5542 this section shall be construed to confer upon any employee any right not held immediately prior
5543 to the date of said transfer, or to prohibit any reduction of salary or grade, transfer, reassignment,
5544 suspension, discharge, layoff or abolition of position not prohibited prior to such date.

5545

5546 Notwithstanding the provisions of any general or special law to the contrary, an employee
5547 of the Massachusetts Turnpike Authority who is hired on or after the effective date of this act
5548 shall be eligible for health care coverage under the group insurance commission, provided that
5549 the employee meets the eligibility requirements of the group insurance commission. An
5550 employee of the Massachusetts Turnpike Authority who is hired on or after the effective date of
5551 this act shall not be eligible for coverage under any other plan offered by the Massachusetts
5552 Turnpike Authority.

5553 Notwithstanding the provisions of any general or special law to the contrary, an employee of the
5554 Massachusetts Turnpike Authority whose salary is paid out of revenue generated by the
5555 Turnpike, as defined in section 3 of chapter 81A of the General Laws, and whose salary is
5556 accounted for on the books of the Massachusetts Turnpike Authority as arising from revenue
5557 generated by the Turnpike, as so defined, who is employed by the Massachusetts Turnpike
5558 Authority on the effective date of this act and who becomes an employee of the Authority on
5559 July 1, 2009 and who is eligible for group insurance coverage under insurance plans offered by
5560 the Massachusetts Turnpike Authority or who is insured under such a plan, shall have his
5561 eligibility and coverage transferred to the jurisdiction of the group insurance commission

5562 effective on July 1, 2009 and such a person shall cease to be eligible or insured under the plans
5563 previously offered by the Massachusetts Turnpike Authority.

5564 Notwithstanding the provisions of any general or special law to the contrary, an employee of the
5565 Massachusetts Turnpike Authority who is employed by the Massachusetts Turnpike Authority on
5566 the effective date of this act and who becomes an employee of the Authority on July 1, 2010 and
5567 who is eligible for group insurance coverage under insurance plans offered by the Massachusetts
5568 Turnpike Authority or who is insured under such a plan, shall have his eligibility and coverage
5569 transferred to the jurisdiction of the group insurance commission effective on July 1, 2010 and
5570 such a person shall cease to be eligible or insured under the plans previously offered by the
5571 Massachusetts Turnpike Authority.

5572 The group insurance commission shall provide uninterrupted coverage for group life and
5573 accidental death and dismemberment insurance and group general or blanket insurance providing
5574 hospital, surgical, medical, dental and other health insurance benefits to the extent authorized
5575 under chapter 32A; provided, however, that an employee who was covered by a collective
5576 bargaining agreement on the date of the transfer to the Authority shall continue to receive the
5577 group insurance benefits required by his respective collective bargaining agreement until the
5578 expiration date of such agreement. All questions relating to group insurance rights, obligations,
5579 costs and payments shall be determined by the group insurance commission and shall include the
5580 manner and method for the payment of all required premiums applicable to all such coverage.

5581 If the Massachusetts Turnpike Authority has monies in an employees' group insurance
5582 trust fund related to the employees transferred to the Authority, these funds shall be transferred
5583 to the group insurance commission trust fund established pursuant to section 9 of said chapter
5584 32A.

5585 Nothing in this section shall be construed to affect the eligibility and coverage of retired
5586 employees of the Massachusetts Turnpike Authority and the surviving spouses of active or
5587 retired employees of the Massachusetts Turnpike Authority who are eligible for group insurance
5588 coverage under a plan offered by the Massachusetts Turnpike Authority or who are insured under
5589 a plan offered by the Massachusetts Turnpike Authority.

5590 SECTION 64. On July 1, 2010, each employee of the Massachusetts Port Authority who
5591 is, as of the effective date of this act, employed to work primarily on the Maurice J. Tobin
5592 Memorial Bridge located in Chelsea, Massachusetts shall become an employee of the Authority.
5593 For purposes of this section, all such employees shall be known as “Tobin bridge employees.”

5594 All Tobin bridge employees transferred to the service of the Authority shall be
5595 transferred without impairment of seniority, civil service status, retirement or other statutory
5596 rights of employees; without reduction in compensation or salary grade, notwithstanding any
5597 change in job titles or duties; without loss of accrued rights to holidays, sick leave, vacation and
5598 benefits; and without change in union representation, except as otherwise provided in this
5599 chapter. Terms of service of Tobin bridge employees shall not be deemed to be interrupted by
5600 virtue of transfer to the Authority.

5601 Rights and obligations under collective bargaining agreements with respect to Tobin
5602 bridge employees, except to the extent expressly inconsistent with this chapter, shall be assumed
5603 by and imposed upon the Authority. Except to the extent expressly inconsistent with this
5604 chapter, any collective bargaining agreement in effect for such transferred employees
5605 immediately before the transfer date shall continue as if the employees had not been so
5606 transferred, until the expiration date of such collective bargaining agreement. The Authority
5607 shall negotiate in good faith pursuant to the provisions of chapter 150E of the General Laws with

5608 respect to wages, hours and other terms and conditions of employment to become effective as of
5609 the expiration date of such collective bargaining agreement. No collective bargaining agreement
5610 entered into by the Authority, however, shall limit inherent management rights which shall
5611 include, without limiting the generality of the foregoing, the following: (i) employment,
5612 assignment, and promotion of employees and the determination of standards therefor; (ii)
5613 termination and discharge of employees, provided that a collective bargaining agreement may
5614 protect employees against such actions on arbitrary, capricious or unreasonable grounds; (iii)
5615 determination of the Authority's levels of service, levels of staffing, and the methods, means and
5616 personnel for performing operations; (iv) supervision, control, and evaluation and establishment
5617 productivity standards for employees; and (v) use of part-time regular employees and of
5618 independent contractors or vendors. Nothing in this section shall be construed to confer upon
5619 any employee any right not held immediately prior to the date of said transfer, or to prohibit any
5620 reduction of salary or grade, transfer, reassignment, suspension, discharge, layoff or abolition of
5621 position not prohibited prior to such date.

5622 Notwithstanding the provisions of any general or special law to the contrary, a Tobin bridge
5623 employee who is employed by the Massachusetts Port Authority on the effective date of this act
5624 and who becomes an employee of the Authority on July 1, 2010 and who is eligible for group
5625 insurance coverage under insurance plans offered by the Massachusetts Port Authority or who is
5626 insured under such a plan, shall have his eligibility and coverage transferred to the jurisdiction of
5627 the group insurance commission effective on July 1, 2010 and such a person shall cease to be
5628 eligible or insured under the plans previously offered by the Massachusetts Port Authority.

5629 The group insurance commission shall provide uninterrupted coverage for group life and
5630 accidental death and dismemberment insurance and group general or blanket insurance providing

5631 hospital, surgical, medical, dental and other health insurance benefits to the extent authorized
5632 under chapter 32A; provided, however, that a Tobin bridge employee who was covered by a
5633 collective bargaining agreement on the date of the transfer to the Authority shall continue to
5634 receive the group insurance benefits required by his respective collective bargaining agreement
5635 until the expiration date of such agreement. All questions relating to group insurance rights,
5636 obligations, costs and payments shall be determined by the group insurance commission and
5637 shall include the manner and method for the payment of all required premiums applicable to all
5638 such coverage.

5639 If the Massachusetts Port Authority has monies in an employees' group insurance trust
5640 fund related to the Tobin bridge employees transferred to the Authority, these funds shall be
5641 transferred to the group insurance commission trust fund established pursuant to section 9 of said
5642 chapter 32A.

5643 Nothing in this section shall be construed to affect the eligibility and coverage of retired Tobin
5644 bridge employees and the surviving spouses of active or retired Tobin bridge employees who are
5645 eligible for group insurance coverage under a plan offered by the Massachusetts Port Authority
5646 or who are insured under a plan offered by the Massachusetts Port Authority.

5647 On and after the effective date of this act, the Massachusetts Port Authority shall not hire
5648 any employee to work primarily on the Tobin Bridge.

5649 SECTION 65. On July 1, 2011, each employee of the Massachusetts Bay Transportation
5650 Authority shall become an employee of the Authority.

5651 All officers and employees of the Massachusetts Bay Transportation Authority
5652 transferred to the service of the Authority shall be transferred without impairment of seniority,
5653 civil service status, retirement or other statutory rights of employees; without reduction in

5654 compensation or salary grade, notwithstanding any change in job titles or duties; without loss of
5655 accrued rights to holidays, sick leave, vacation and benefits; and without change in union
5656 representation, except as otherwise provided in this chapter. Terms of service of employees of
5657 the Massachusetts Bay Transportation Authority shall not be deemed to be interrupted by virtue
5658 of transfer to the Authority.

5659 Rights and obligations under collective bargaining agreements with respect to employees
5660 transferred from the Massachusetts Bay Transportation Authority, except to the extent expressly
5661 inconsistent with this chapter, shall be assumed by and imposed upon the Authority. Except to
5662 the extent expressly inconsistent with this chapter, any collective bargaining agreement in effect
5663 for such transferred employees immediately before the transfer date shall continue as if the
5664 employees had not been so transferred, until the expiration date of such collective bargaining
5665 agreement. The Authority shall negotiate in good faith pursuant to the provisions of chapter
5666 150E of the General Laws with respect to wages, hours and other terms and conditions of
5667 employment to become effective as of the expiration date of such collective bargaining
5668 agreement. No collective bargaining agreement entered into by the Authority, however, shall
5669 limit inherent management rights which shall include, without limiting the generality of the
5670 foregoing, the following: (i) employment, assignment, and promotion of employees and the
5671 determination of standards therefor; (ii) termination and discharge of employees, provided that a
5672 collective bargaining agreement may protect employees against such actions on arbitrary,
5673 capricious or unreasonable grounds; (iii) determination of the Authority's levels of service,
5674 levels of staffing, and the methods, means and personnel for performing operations; (iv)
5675 supervision, control, and evaluation and establishment productivity standards for employees; and
5676 (v) use of part-time regular employees and of independent contractors or vendors. Nothing in

5677 this section shall be construed to confer upon any employee any right not held immediately prior
5678 to the date of said transfer, or to prohibit any reduction of salary or grade, transfer, reassignment,
5679 suspension, discharge, layoff or abolition of position not prohibited prior to such date.

5680

5681 Notwithstanding the provisions of any general or special law to the contrary, an employee
5682 of the Massachusetts Bay Transportation Authority who is hired on or after the effective date of
5683 this act shall be eligible for health care coverage under the group insurance commission,
5684 provided that the employee meets the eligibility requirements of the group insurance
5685 commission. An employee of the Massachusetts Bay Transportation Authority who is hired on
5686 or after the effective date of this act shall not be eligible for coverage under any other plan
5687 offered by the Massachusetts Bay Transportation Authority.

5688 Notwithstanding the provisions of any general or special law to the contrary, an employee of the
5689 Massachusetts Bay Transportation Authority who is employed by the Massachusetts Bay
5690 Transportation Authority on the effective date of this act and who becomes an employee of the
5691 Authority on July 1, 2011 and who is eligible for group insurance coverage under insurance
5692 plans offered by the Massachusetts Bay Transportation Authority or who is insured under such a
5693 plan, shall have his eligibility and coverage transferred to the jurisdiction of the group insurance
5694 commission effective on July 1, 2011 and such a person shall cease to be eligible or insured
5695 under the plans previously offered by the Massachusetts Bay Transportation Authority.

5696 The group insurance commission shall provide uninterrupted coverage for group life and
5697 accidental death and dismemberment insurance and group general or blanket insurance providing
5698 hospital, surgical, medical, dental and other health insurance benefits to the extent authorized
5699 under chapter 32A; provided, however, that an employee who was covered by a collective

5700 bargaining agreement on the date of the transfer to the Authority shall continue to receive the
5701 group insurance benefits required by his respective collective bargaining agreement until the
5702 expiration date of such agreement. All questions relating to group insurance rights, obligations,
5703 costs and payments shall be determined by the group insurance commission and shall include the
5704 manner and method for the payment of all required premiums applicable to all such coverage.

5705 If the Massachusetts Bay Transportation Authority has monies in an employees' group
5706 insurance trust fund related to the employees transferred to the Authority, these funds shall be
5707 transferred to the group insurance commission trust fund established pursuant to section 9 of said
5708 chapter 32A.

5709 Nothing in this section shall be construed to affect the eligibility and coverage of retired
5710 employees of the Massachusetts Bay Transportation Authority and the surviving spouses of
5711 active or retired employees of the Massachusetts Bay Transportation Authority who are eligible
5712 for group insurance coverage under a plan offered by the Massachusetts Bay Transportation
5713 Authority or who are insured under a plan offered by the Massachusetts Bay Transportation
5714 Authority.

5715 SECTION 66. Notwithstanding the provisions of any other general or special law to the
5716 contrary, the Authority may enter into contracts to create and permit employee contributions to
5717 individual retirement accounts for employees of the Authority pursuant to sections 64A through
5718 64C, inclusive, of chapter 26 of the General Laws.

5719 SECTION 67. Notwithstanding the provisions of any general or special law to the
5720 contrary, on and after the effective date of this act, the Massachusetts Turnpike Authority shall
5721 not enter into any contract to employ a person as an employee or officer for a fixed term of more
5722 than one year, nor shall it extend any employment contract for a term of more than one year.

5723 SECTION 68. Notwithstanding the provisions of section 2 of chapter 81A of the General
5724 Laws or of any other general or special law to the contrary, on and after the effective date of this
5725 act, the Massachusetts Bay Transportation Authority shall not enter into any contract to employ a
5726 person as an employee or officer for a fixed term of more than one year, nor shall it extend any
5727 employment contract for a term of more than one year.

5728 SECTION 69. Notwithstanding the provisions of any general or special law to the
5729 contrary, on and after the effective date of this act, the Massachusetts Turnpike Authority shall
5730 not extend the term of any collective bargaining agreement to a date after December 31, 2010,
5731 and shall not enter into any collective bargaining agreement with an expiration date after
5732 December 31, 2010.

5733 SECTION 70. Notwithstanding the provisions of any general or special law to the
5734 contrary, on and after the effective date of this act, the Massachusetts Bay Transportation
5735 Authority shall not extend the term of any collective bargaining agreement to a date after
5736 December 31, 2011, and shall not enter into any collective bargaining agreement with an
5737 expiration date after December 31, 2011.

5738 SECTION 71. Notwithstanding the provisions of any general or special law to the
5739 contrary, employees of the Massachusetts Turnpike Authority who (i) are employed by or had
5740 retired from the Massachusetts Turnpike Authority on or before the effective date of this act or
5741 (ii) are inactive members of the Massachusetts Turnpike Authority's retirement system shall be
5742 members of the Massachusetts Turnpike Authority's retirement system. The Massachusetts
5743 Turnpike Authority's retirement system shall pay the cost of benefits to such the employees and
5744 retirees identified in this paragraph and their survivors. The Massachusetts Turnpike Authority's

5745 retirement system shall be responsible for the accrued pension liability attributable to the service
5746 of such employees, retirees and inactive members.

5747 Notwithstanding the provisions of any general or special law to the contrary, employees of the
5748 Massachusetts Turnpike Authority who are hired by the Massachusetts Turnpike Authority after
5749 the effective date of this act shall become members of the state retirement system, and
5750 notwithstanding the provisions of any general or special law to the contrary including, but not
5751 limited to, paragraph (c) of subdivision 8 of section 3 of chapter 32, said system shall be
5752 responsible for all liability attributable to the service of such employees. The liabilities
5753 attributable to the service of such employees shall be recoverable by the commonwealth pursuant
5754 to the terms of section 8. Employees hired by the Massachusetts Turnpike Authority after the
5755 effective date of this act shall not be members of the Massachusetts Turnpike Authority's
5756 retirement system.

5757 SECTION 72. Notwithstanding the provisions of any general or special law to the
5758 contrary, employees of the Massachusetts Bay Transportation Authority who (i) are employed by
5759 or had retired from the Massachusetts Bay Transportation Authority on or before the effective
5760 date of this act or (ii) are inactive members of the Massachusetts Bay Transportation Authority's
5761 retirement system shall be members of the Massachusetts Bay Transportation Authority's
5762 retirement system. The Massachusetts Bay Transportation Authority's retirement system shall
5763 pay the cost of benefits to such the employees and retirees identified in this paragraph and their
5764 survivors. The Massachusetts Bay Transportation Authority's retirement system shall be
5765 responsible for the accrued pension liability attributable to the service of such employees,
5766 retirees and inactive members.

5767 Notwithstanding the provisions of any general or special law to the contrary, employees of the
5768 Massachusetts Bay Transportation Authority who are hired by the Massachusetts Bay
5769 Transportation Authority after the effective date of this act shall become members of the state
5770 retirement system, and notwithstanding the provisions of any general or special law to the
5771 contrary including, but not limited to, paragraph (c) of subdivision 8 of section 3 of chapter 32,
5772 said system shall be responsible for all liability attributable to the service of such employees. The
5773 liabilities attributable to the service of such employees shall be recoverable by the
5774 commonwealth pursuant to the terms of section 8. Employees hired by the Massachusetts Bay
5775 Transportation Authority after the effective date of this act shall not be members of the
5776 Massachusetts Bay Transportation Authority's retirement system.

5777 SECTION 73. Notwithstanding the provisions of any general or special law to the
5778 contrary, employees of the Massachusetts Port Authority who (i) are, on the effective date of this
5779 act, employed to work primarily on the Maurice J. Tobin Memorial Bridge located in Chelsea,
5780 Massachusetts, or who had been so employed and have retired from the Massachusetts Port
5781 Authority on or before the effective date of this act or (ii) are or had been employed to work
5782 primarily on the Maurice J. Tobin Memorial Bridge located in Chelsea, Massachusetts, and are
5783 inactive members of the Massachusetts Port Authority's retirement system shall be members of
5784 the Massachusetts Port Authority's retirement system. The Massachusetts Port Authority's
5785 retirement system shall pay the cost of benefits to such the employees and retirees identified in
5786 this paragraph and their survivors. The Massachusetts Port Authority's retirement system shall
5787 be responsible for the accrued pension liability attributable to the service of such employees,
5788 retirees and inactive members.

5789 Notwithstanding the provisions of any general or special law to the contrary, employees of the
5790 Massachusetts Port Authority who are hired by the Massachusetts Port Authority to work
5791 primarily on the Maurice J. Tobin Memorial Bridge located in Chelsea, Massachusetts after the
5792 effective date of this act shall become members of the state retirement system, and
5793 notwithstanding the provisions of any general or special law to the contrary including, but not
5794 limited to, paragraph (c) of subdivision 8 of section 3 of chapter 32, said system shall be
5795 responsible for all liability attributable to the service of such employees. The liabilities
5796 attributable to the service of such employees shall be recoverable by the commonwealth pursuant
5797 to the terms of section 8. Employees hired by the Massachusetts Port Authority after the
5798 effective date of this act shall not be members of the Massachusetts Port Authority's retirement
5799 system.

5800 Nothing in this act shall be considered in any way to decrease or abridge the annuities, pensions,
5801 retirement allowances, refunds or accumulated total deductions or any right or benefit to which
5802 an employee was entitled immediately before the date of this act.

5803 Except as otherwise expressly provided by this act, employees of the Authority shall become
5804 members of the state retirement system.

5805 SECTION 74. (a) When all payments due on account of the turnpike and the
5806 metropolitan highway system, both as defined in chapter 81B, shall have been made, and when
5807 all bonds issued under the provisions of chapter 81A and the interest thereon shall have been
5808 paid or a sufficient amount of the payment of all such bonds and the interest thereon to the
5809 maturity thereof shall have been set aside in trust for the benefit of the bondholders, and
5810 contributions shall have been made to the several funds of the Massachusetts Turnpike Authority
5811 employees' retirement system established under sections one to twenty-eight, inclusive, of

5812 chapter thirty-two of the General Laws such as are sufficient, in the opinion of the actuary, as
5813 defined in section one of said chapter thirty-two, to provide for the payment of all amounts
5814 payable by the system after that date with respect to all persons then receiving allowances from
5815 the Massachusetts Turnpike Authority employees' retirement system and with respect to all
5816 persons who are then employees, as defined in said section one, of the Massachusetts Turnpike
5817 Authority, whether or not any such amount is or becomes payable to any such person or the
5818 spouse or other beneficiary of any such person, such opinion to be based upon the assumption,
5819 among others, that such persons who are then employees are then or thereafter become entitled to
5820 receive retirement allowances in the amounts then provided by sections five, six and seven of
5821 said chapter thirty-two on the basis of the regular compensation received by, and the years of
5822 creditable service of, such persons at such date, all projects then under the control of the
5823 Massachusetts Turnpike Authority shall be operated and maintained by the division of roads and
5824 bridges of the Massachusetts Surface Transportation Authority.

5825 (b) Upon the transfer provided in subparagraph (a) the members of the Massachusetts Turnpike
5826 Authority employees' retirement system on the effective date of the dissolution of the authority
5827 who do not then transfer to or enter service in a governmental unit in which a contributory
5828 retirement system established under the provisions of sections one to twenty-eight, inclusive, of
5829 said chapter thirty-two, or under corresponding provisions of earlier laws or of any special law,
5830 shall continue to be members of the Massachusetts Turnpike Authority employees' retirement
5831 system and shall then be entitled to apply for and receive retirement allowances from such
5832 system in the amounts, upon the terms, subject to the conditions and with all of the related rights
5833 provided by and under sections six, seven, ten and twelve of said chapter thirty-two.

5834 (c) Effective upon the date of dissolution of the Massachusetts Turnpike Authority (1) the
5835 Massachusetts Turnpike Authority employees' retirement system shall continue under the
5836 provisions of section 1 to 28, inclusive of said chapter 32; (2) the management of the
5837 Massachusetts Turnpike Authority employees' retirement system shall be transferred to the state
5838 board of retirement provided for in section eighteen of chapter ten of the General Laws which
5839 board shall have with respect thereto the general powers and duties set forth in subdivision (5) of
5840 section twenty of said chapter thirty-two; (3) all data, files, papers and records and other
5841 materials of the retirement board provided for in paragraph (b) of subdivision (41/2) of said
5842 section twenty shall be transferred to and held by the state board of retirement; (4) the funds of
5843 the Massachusetts Turnpike Authority employees' retirement system in the custody of the
5844 secretary-treasurer of the Authority shall be transferred to the state treasurer who shall thereafter
5845 be and perform the duties of the treasurer-custodian of such funds which shall then be held by
5846 him for the exclusive benefit and use of the members of the Massachusetts Turnpike Authority
5847 employees' retirement system and their beneficiaries; and (5) the retirement board provided for in
5848 said paragraph (b) of subdivision (41/2) shall be abolished; provided, however, that the members
5849 and officers thereof shall continue to be authorized to do all such things and take all such action
5850 as may be necessary or desirable to be done or taken by them to effectuate the transfers to be
5851 made pursuant to this section.

5852 (d) Effective upon the date of dissolution of the Massachusetts Turnpike Authority or a default in
5853 its obligations under chapter thirty-two of the General Laws, the payment of all annuities,
5854 pensions, retirement allowances and refunds of accumulated total deductions and of any other
5855 benefits granted under the provisions of sections one to twenty-eight, inclusive, of said chapter

5856 thirty-two are hereby made obligations of the commonwealth in the case of any such payments
5857 from funds of the Massachusetts Turnpike Authority employees' retirement system.

5858 SECTION 75. (a) When all payments due on account of the operation of facilities of
5859 mass transportation shall have been made, and when all bonds issued under the provisions of
5860 chapter 161A and the interest thereon shall have been paid or a sufficient amount of the payment
5861 of all such bonds and the interest thereon to the maturity thereof shall have been set aside in trust
5862 for the benefit of the bondholders, and contributions shall have been made to the several funds of
5863 the Massachusetts Bay Transportation Authority police retirement system established under
5864 sections one to twenty-eight, inclusive, of chapter thirty-two of the General Laws such as are
5865 sufficient, in the opinion of the actuary, as defined in section one of said chapter thirty-two, to
5866 provide for the payment of all amounts payable by the system after that date with respect to all
5867 persons then receiving allowances from the Massachusetts Bay Transportation Authority police
5868 retirement system and with respect to all persons who are then employees, as defined in said
5869 section one, of the Authority, whether or not any such amount is or becomes payable to any such
5870 person or the spouse or other beneficiary of any such person, such opinion to be based upon the
5871 assumption, among others, that such persons who are then employees are then or thereafter
5872 become entitled to receive retirement allowances in the amounts then provided by sections five,
5873 six and seven of said chapter thirty-two on the basis of the regular compensation received by,
5874 and the years of creditable service of, such persons at such date, all projects then under the
5875 control of the Massachusetts Bay Transportation Authority shall be operated and maintained by
5876 the division of public transit of the Massachusetts Surface Transportation Authority.

5877

5878 (b) Upon the transfer provided in subparagraph (a) the members of the Massachusetts Bay
5879 Transportation Authority police retirement system on the effective date of the dissolution of the
5880 authority who do not then transfer to or enter service in a governmental unit in which a
5881 contributory retirement system established under the provisions of sections one to twenty-eight,
5882 inclusive, of said chapter thirty-two, or under corresponding provisions of earlier laws or of any
5883 special law, shall continue to be members of the Massachusetts Bay Transportation Authority
5884 police retirement system and shall then be entitled to apply for and receive retirement allowances
5885 from such system in the amounts, upon the terms, subject to the conditions and with all of the
5886 related rights provided by and under sections six, seven, ten and twelve of said chapter thirty-
5887 two.

5888 (c) Effective upon the date of dissolution of the Authority (1) the Massachusetts Bay
5889 Transportation Authority police retirement system shall continue under the provisions of sections
5890 1 to 28, inclusive, of said chapter 32; (2) the management of the Massachusetts Bay
5891 Transportation Authority police retirement system shall be transferred to the state board of
5892 retirement provided for in section eighteen of chapter ten of the General Laws which board shall
5893 have with respect thereto the general powers and duties set forth in subdivision (5) of section
5894 twenty of said chapter thirty-two; (3) all data, files, papers and records and other materials of the
5895 retirement board provided for in paragraph (b) of subdivisions (43/4) of said section twenty shall
5896 be transferred to and held by the state board of retirement; (4) the funds of the Massachusetts
5897 Bay Transportation Authority police retirement system in the custody of the secretary-treasurer
5898 of the Massachusetts Bay Transportation Authority shall be transferred to the state treasurer who
5899 shall thereafter be and perform the duties of the treasurer-custodian of such funds which shall
5900 then be held by him for the exclusive benefit and use of the members of the Massachusetts Bay

5901 Transportation Authority police retirement system and their beneficiaries; and (5) the retirement
5902 board provided for in said paragraph (b) of subdivision (43/4) shall be abolished; provided,
5903 however, that the members and officers thereof shall continue to be authorized to do all such
5904 things and take all such action as may be necessary or desirable to be done or taken by them to
5905 effectuate the transfers to be made pursuant to this section.

5906 (d) Effective upon the date of dissolution of the Massachusetts Bay Transportation Authority or a
5907 default in its obligations under chapter thirty-two of the General Laws, the payment of all
5908 annuities, pensions, retirement allowances and refunds of accumulated total deductions and of
5909 any other benefits granted under the provisions of sections one to twenty-eight, inclusive, of said
5910 chapter thirty-two are hereby made obligations of the commonwealth in the case of any such
5911 payments from funds of the Massachusetts Bay Transportation Authority police retirement
5912 system.

5913 SECTION 76. The provisions of this act shall be deemed to provide an additional,
5914 alternative and complete method for accomplishing the purposes of this act, and shall be deemed
5915 and construed to be supplemental and additional to, and not in derogation of, powers conferred
5916 upon the Authority and others by laws; provided, however, that insofar as the provisions of this
5917 act are inconsistent with the provisions of any general or special law, administrative order or
5918 regulation, the provisions of this act shall be controlling.

5919 SECTION 77. The provisions of this act are severable, and if any provision hereof shall
5920 be held invalid in any circumstances, such invalidity shall not affect any other provisions or
5921 circumstances. This act shall be construed in all respects so as to meet any constitutional
5922 requirements. In carrying out the purposes and provisions of this act, all steps shall be taken
5923 which are necessary to meet constitutional requirements.

5924 SECTION 78. Section 67 is hereby repealed.

5925 SECTION 79. Section 68 is hereby repealed.

5926 SECTION 80. Section 69 is hereby repealed.

5927 SECTION 81. Section 70 is hereby repealed.

5928 SECTION 82. Sections 1, 2, 5, 8, 10 through 12, inclusive, 14 through 18, inclusive, 20,
5929 30 through 40, inclusive, 45, 46, 54, 55, 59, 62 and 63 shall take effect on July 1, 2009.

5930 SECTION 83. Section 3, 9, 19, 21, 23, 25, 27, 43, 56, 57, 60, 64, 78 and 80 shall take
5931 effect on July 1, 2010.

5932 SECTION 84. Sections 4, 6, 7, 13, 22, 24, 26, 28, 29, 42, 58, 61, 65, 79 and 81 shall take
5933 effect on July 1, 2011.

5934 SECTION 85. Except as otherwise provided for in this act, this act shall take effect upon
5935 its passage.