

Senate, No. 2023

[Senate, March 24, 2009 – Recommended new draft (Ways and Means) for Senate, No. 10.]

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.** Subsection (a) of section 8C of chapter 6A of the General Laws, inserted
2 by section 6 of chapter 233 of the acts of 2008, is hereby amended by striking out the words
3 “commissioner of highways” and inserting in place thereof the following words:- administrator
4 of roads and bridges of the Massachusetts Surface Transportation Authority.

5 **SECTION 1A.** Section 8C of chapter 6A of the General Laws, inserted by section 6 of
6 chapter 233 of the acts of 2008, is hereby amended by striking out the first paragraph and
7 inserting in place thereof the following paragraph:-

8 (a) There shall be established a structurally deficient bridge improvement program
9 coordination and oversight council. The council shall consist of a chair appointed by the

10 governor, the secretary of administration and finance, the secretary of transportation, the
11 secretary of energy and environmental affairs, the administrator of the division of roads and
12 bridges of the Massachusetts Surface Transportation Authority, and the commissioner of capital
13 asset management and maintenance, or their designees.

14 **SECTION 2.** Said Chapter 6A of the General Laws is hereby further amended by
15 striking out sections 19 and 19A, as mostly recently amended by section 1 of chapter 298 of the
16 acts of 2008, and inserting in place thereof the following 3 sections:-

17 Section 19. (a) The executive office of transportation shall serve as the principal agency
18 of the executive department for the following purposes: (1) developing, coordinating,
19 administering and managing transportation policies, planning and programs related to design,
20 construction and maintenance; (2) supervising and managing the organization and conduct of the
21 business affairs of the departments, agencies, commissions, offices, boards and divisions, and
22 other agencies within the executive office to improve administrative efficiency and program
23 effectiveness and to preserve fiscal resources; (3) developing and implementing effective
24 policies and programs to assure the coordination and quality of roadway, transit, airport and port
25 infrastructure and security provided by the secretary and all of the departments, agencies,
26 commissions, offices, boards, divisions, authorities and other entities within the executive office.

27 (b) The following state agencies shall be within the executive office of transportation: the
28 Massachusetts Aeronautics Commission; the government center commission established by
29 section 1 of chapter 635 of the acts of 1960; and the registry of motor vehicles. The
30 Massachusetts Surface Transportation Authority, Massachusetts Bay Transportation Authority,
31 the Massachusetts Port Authority, the Massachusetts Turnpike Authority and any duly

32 established regional transportation authority shall also be within the executive office of
33 transportation.

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

39 (d) The secretary may: (1) operate and administer the programs of roadway design,
40 capital improvement, development and planning through the other agencies within the executive
41 office, as appropriate; (2) coordinate and supervise the administration of the executive office and
42 its agencies to promote economy and efficiency and to leverage federal funding; (3) develop and
43 administer a long-term state-wide transportation plan for the commonwealth, as provided for in
44 subsection (f); (4) develop, based on a public hearing process, procedures to be used for
45 transportation project selection; (5) establish criteria for project selection to be used in the
46 procedures developed pursuant to clause (4); (6) enter into agreements with departments,
47 agencies, commissions, offices, boards, divisions, authorities and other entities within the
48 executive office to improve administrative efficiency and program effectiveness and to preserve
49 fiscal resources; (7) pursuant to chapter 30A, make, amend and repeal rules and regulations for
50 the management and administration of the executive office and agencies within the executive
51 office; (8) execute all instruments necessary for carrying out the business of the executive office
52 and its agencies; (9) acquire, own, hold, dispose of, lease and encumber property in the name of
53 the executive office and its agencies; (10) enter into agreements and transactions with federal,
54 state and municipal agencies and other public institutions and private individuals, partnerships,

55 firms, corporations, associations and other entities on behalf of the executive office or its
56 agencies; (11) apply for and accept funds, including grants, on behalf of the commonwealth in
57 accordance with applicable law; (12) conduct research, surveys, experimentation, evaluation,
58 design and development, in cooperation with the Massachusetts Surface Transportation
59 Authority, and other governmental agencies and private organizations when appropriate, with
60 regard to mass transportation facilities, equipment and services. The secretary may delegate any
61 of the foregoing powers to an officer having charge of a department, office, division or other
62 administrative unit within the executive office. (e) In exercising its powers under this
63 section, the executive office shall have, as a primary goal, the reduction of greenhouse gas
64 emissions, particulates and other pollutants. The secretary shall collaborate with the executive
65 office of environmental affairs, the bureau for environmental health within the department of
66 public health and other state or federal agencies to reduce greenhouse gas emissions to the limits
67 established in chapter 21N.

68 (f) (1) Every 5 calendar years, beginning not later than April 30, 2010, the secretary of
69 transportation shall, after conducting public hearings, prepare and publish in the Massachusetts
70 Register a comprehensive state transportation plan for the 5 succeeding fiscal years, beginning
71 with the period of fiscal year 2011 to 2015, inclusive. The plan shall be consistent with such
72 priorities as may be established by legislation. Said plan shall be designed to ensure construction
73 and maintenance of a safe, sound and efficient public highway, road and bridge system, to
74 relieve congestion, to reduce greenhouse gas emissions, particulates and other pollutants, and to
75 improve the quality of life in the commonwealth by promoting economic development and
76 employment in the commonwealth by meeting, cost effectively, the diverse transportation needs
77 of all residents of the commonwealth, including urban, suburban and rural populations. Said plan

78 shall also include an engineering assessment to anticipate highway, road and bridge needs
79 throughout the commonwealth as determined by objective engineering measurements of
80 condition, safety and service. The secretary shall consult with the executive offices of
81 environmental affairs and of economic affairs in the development of said plan. Said plan shall
82 provide for meeting not less than 5 per cent annually of the estimated construction,
83 reconstruction and repair needs of the public highways and bridges of the commonwealth, its
84 counties, cities and towns, estimated as follows. Before the secretary publishes or updates said
85 plan, the Massachusetts Surface Transportation Authority shall determine and certify to the
86 secretary its estimate of the total value of all construction, reconstruction and repair needs of the
87 commonwealth's highway and bridge infrastructure. The total value estimate shall be based on
88 satisfying current safety and maintenance standards of the Federal Highway Administration and
89 the American Association of State Highway and Transportation Officials. The estimate shall be
90 substantiated by documented objective engineering estimates which shall be made available for
91 public review.

92 The executive office and the Massachusetts Surface Transportation Authority shall report
93 annually, not later than February 1, to the house and senate committees on ways and means and
94 the joint committee on transportation on their compliance with the plan and their efforts to
95 satisfy the 5 per cent requirement of the preceding paragraph.

96 (g). There is hereby established within the executive office of transportation a healthy
97 transportation compact. The secretary of transportation and the secretary of health and human
98 services shall cooperate and adopt best practices in order to increase efficiency to achieve
99 positive health outcomes through the coordination of land use, transportation and public health
100 policy. The healthy transportation compact shall consist of the secretary of transportation, the

101 secretary of health and human services, the secretary of energy and environmental affairs, the
102 administrator of the Massachusetts Surface Transportation Authority's division of roads and
103 bridges, the administrator of the Massachusetts Surface Transportation Authority's division of
104 public transit, and the commissioner of public health, or their designees.

105 The secretary of transportation and the secretary of health and human services or their
106 designees, shall serve as co-chairpersons of the compact. The chairpersons shall convene and
107 preside at meetings of the compact, determine the agenda of the compact, direct its work and as
108 appropriate to particular subject matters, establish and direct subgroups of the compact, which
109 shall consist exclusively of the compact's members. The compact on healthy transportation shall:

110 (i) promote inter-secretariat cooperation and the establishment of a healthy
111 transportation policy for the commonwealth including appropriate mechanisms to
112 minimize duplication and overlap of state and federal programs and services;

113 (ii) develop a healthy transportation framework that increases access to healthy
114 transportation alternatives that reduce greenhouse gas emissions, improves access to
115 services for persons with mobility limitations and increases opportunities for physical
116 activities;

117 (iii) develop methods to increase bicycle and pedestrian travel, incorporate the
118 principles, findings and recommendations of the Massachusetts bicycle transportation
119 plan and establish a framework for implementation of the Bay State Greenway Network;

120 (iv) develop and implement, in consultation with the bicycle and pedestrian
121 advisory board established in section 11A of chapter 21A, administrative and procedural
122 mechanisms, including the promulgation of rules and regulations, consistent with the

123 most current edition of the MassHighway Project Development and Design Guide, or its
124 successor, to encourage the construction of complete streets, so-called, designed and
125 operated to enable safe access for pedestrians, bicyclists, motorists and bus riders of all
126 ages to safely move along and across roadways in urban and suburban areas;

127 (v) establish methods to implement the use of health impact assessments to
128 determine the effect of transit projects on public health and vulnerable populations;

129 (vi) facilitate access to the most appropriate, cost-effective transportation services
130 within existing resources for persons with mobility challenges;

131 (vii) expand service offerings for the Safe Routes to Schools program;

132 (viii) in the implementation of this section, explore opportunities and encourage
133 the use of public-private partnerships with private and non-profit institutions;

134 (ix) seek to establish an advisory council with private and non-profit advocacy
135 groups as the compact sees fit;

136 (x) institute a health impact assessment for use by planners, transportation
137 administrators, public health administrators and developers; and

138 (xi) develop and implement a method for monitoring progress on achieving the
139 goals of this section and provide any other recommendations that would, in the judgment
140 of the compact, advance the principles set forth in this section.

141

142 (2) The executive office shall establish a program for mass transportation consistent with
143 this chapter. The program for mass transportation and any revisions thereto shall be submitted
144 for comment and recommendation to the mass transit advisory board not less than 60 days prior
145 to the adoption thereof. The executive office shall prepare a written response to reports
146 submitted to it by the advisory board which response shall state the basis for any substantial
147 divergence between the actions of the executive office and the recommendations contained in
148 such reports of the advisory board. Said program shall be reviewed not less than every 5 years to
149 evaluate the achievement of its aims and to re-evaluate its conformity with the provisions of this
150 chapter.

151 Said program for mass transportation and any plans specified therein shall be
152 implemented by the mass transportation capital investment program, including a rolling 5-year
153 plan. The capital investment program and plans of the executive office shall be based on an
154 evaluation of the impact of each proposed capital investment on the effectiveness of the
155 commonwealth's transportation system, service quality standards, the environment, health and
156 safety, operating costs, the prevention or avoidance of deferred maintenance and debt service
157 costs. Capital investments that result in the greatest benefits with the least cost, transit
158 commitments made in connection with the central artery project, capital improvements required
159 under the Americans with Disabilities Act, and capital expenditures for an ongoing schedule of
160 maintaining the equipment and mass transportation facilities of the Massachusetts Bay
161 Transportation Authority, or any successor agency, shall receive the highest priority under the
162 capital investment program and plans.

163 The ongoing schedule of maintenance shall be designed to prevent the deferral of routine
164 and scheduled maintenance, and shall be undertaken prior to investing in new facilities or service

165 expansion, unless such investment is required by law or can be demonstrated to be cost-effective,
166 environmentally beneficial or produce quantifiable savings.

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

172 The program for mass transportation, the capital investment program and the plans for
173 each such project funded therein shall be developed in conjunction with other transportation
174 programs and plans proposed by the executive office, including any plans of regional transit
175 authorities established pursuant to chapter 161B. These programs shall be further developed in
176 consultation and cooperation with the division of public transit, and in consultation with the
177 department of housing and community development, the metropolitan area planning council, the
178 executive office of environmental affairs and such other agencies of the commonwealth or of the
179 federal government as may be concerned with said program and plans.

180 The plans for each project included in the capital investment program shall identify the
181 purpose and intended benefits of each project, the total budget and timeline necessary to
182 complete each project, the amount of the total which is budgeted for each project in the next
183 fiscal year, the operating costs and savings, if any, anticipated to be incorporated into the
184 operating budget of the authority upon completion of each project, the proposed operating costs
185 and costs of routine and scheduled maintenance associated with each project upon its
186 completion, and the expected useful life of each project.

187 The capital investment program shall be based on a rolling 5-year plan, updated annually,
188 that establishes the priorities and cashflow needs of the capital borrowing program of the
189 authority. The 5 year plan shall be accompanied by a timeline for the implementation of the
190 projects and priorities established therein and comprehensive financial estimates of the capital
191 and operating costs and revenues associated with each project established by the plan.

192 The executive office shall conduct a series of public meetings within 30 days of issuance
193 of an initial draft of the capital investment program and shall submit a final capital investment
194 program to the mass transit advisory board, for its review, not later than January 15 of each year.

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

197 (3) The secretary, in consultation with the authority, shall adopt such rules, regulations
198 and procedures, including public hearings, as are necessary and appropriate to provide the
199 following parties the timely opportunity to participate in the development of major transportation
200 projects, as defined by the secretary, and to review and comment thereon: (i) state, regional and
201 local agencies and authorities affected by said projects; (ii) elected officials and riders or
202 potential riders from cities and towns affected by said projects; (iii) other public and private
203 organizations, groups and persons who are affected by said projects, and who have provided the
204 secretary with reasonable notice of their desire to participate in the development of the design of
205 said projects. In this paragraph, the words “timely opportunity” shall mean sufficiently early in
206 the design process so as to permit comments to be considered prior to the final development, of
207 or commitment to, any specific design for such project. Each project shall include plans for
208 utility relocation or construction as a component of the initial design phase.

209 (4) Prior to the final approval of any transportation infrastructure project, including mass
210 transit expansion or the construction of new roadways with a projected capital cost of more than
211 \$25,000,000, and prior to expending any funds for the planning, design and construction of such
212 a project, the secretary of transportation shall request that the administrator of the appropriate
213 division of the Massachusetts Surface Transportation Authority, in consultation with the chief
214 executive officer of the authority, prepare a fiscal analysis, including life cycle costs,
215 demonstrating that sufficient revenues exist or will be generated to operate and maintain in a
216 state of good repair such a new transportation asset. This analysis shall be also be submitted to
217 the advisory boards of the respective divisions of the Massachusetts Surface Transportation
218 Authority.

219 If any such project for the expansion of mass transit has a projected total cost in excess of
220 \$200,000,000, the secretary of transportation shall submit the analysis to the secretary of
221 administration and finance for a determination as to which costs, if any, will become part of the
222 commonwealth's plan of capital expenditures.

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

226 Section 19A. (a) The executive office shall take such steps as may be necessary to
227 provide for the development, promotion, preservation and improvement of an adequate, safe,
228 efficient and convenient rail system for the movement of passengers and freight in the
229 commonwealth. In carrying out the purposes of this chapter, the executive office shall seek to
230 encourage and develop rail services which promote and maintain the economic well-being of
231 citizens and which preserve the environment and the commonwealth's natural resources.

232 (b) The executive office, or the Massachusetts Surface Transportation Authority acting
233 pursuant to paragraph (6) of subsection (d), shall expend such funds as may be appropriated or
234 otherwise made available for the acquisition, construction, preservation, rehabilitation,
235 reconstruction or other improvement, whether directly, jointly or under contract with other public
236 or private parties, of land and rail rights-of-way and related facilities or equipment, including but
237 not limited to spurs, sidings and bridges, and for such other purposes including, without
238 limitation, planning, engineering and administrative purposes, as are incidental thereto; provided,
239 however, that any preservation, rehabilitation, reconstruction or other improvement of land or of
240 a rail right-of-way and related facilities or equipment shall not be authorized prior to the
241 acquisition of such land, right-of-way or related facilities or equipment.

242 Subject to any other applicable laws regarding the disposition and use of state property,
243 the executive office may, in the course of exercising its responsibilities of property management
244 of state-owned railroad rights-of-way pursuant to this chapter: (a) set fees for the processing of
245 applications to lease, license or otherwise use such property; and (b) charge rent for same. Such
246 fees shall be based on the administrative costs necessary to process such applications. Rent shall
247 be calculated as required under other applicable laws. Receipts from applications and rents shall
248 be paid into the treasury of the commonwealth and may be expended, subject to appropriation,
249 for the purpose of property management and maintenance on railroad properties owned by the
250 executive office on behalf of the commonwealth.

251 (c) The executive office or the Massachusetts Surface Transportation Authority, acting
252 pursuant to paragraph (6) of subsection (d), may enter into contracts or agreements to provide
253 financial assistance, from such funds as may be provided for such purpose, for all or part of the

254 costs of maintaining rail rights-of-way or related facilities or equipment, or operating rail
255 services in the commonwealth.

256 Such contracts or agreements shall be subject to the following limitations: (i) in
257 determining whether such assistance is necessary or appropriate under this chapter with respect
258 to an operating agreement with a private transportation company, and in determining the terms
259 and conditions under which such assistance shall be given, the secretary shall review the
260 transportation operations of such company and its affiliates and shall make a finding that such
261 assistance will not permit the applicant company to make more than a reasonable return overall;
262 and

263 (ii) any such assistance shall cover only those services which the secretary determines to
264 be in the public interest.

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

268 (i) to serve as the principal source of rail transportation planning for the commonwealth,
269 and may conduct research, surveys, demonstration projects or studies in cooperation with
270 federal, state, regional or local agencies or appropriate private parties for such purpose and shall
271 be responsible for the preparation of continuing, comprehensive and coordinated rail
272 transportation proposals, plans, programs and projects; provided, however, that the secretary
273 shall submit the proposals, plans, programs and projects for such review or consideration by
274 other governmental agencies as may be required by law or deemed appropriate by the secretary
275 and shall prepare such plans and programs in coordination with related land use and other
276 development plans, so far as practicable;

277 (ii) to apply for, accept and expend on behalf of the commonwealth, any gift, loan or
278 grant-in-aid from the federal government, any agency or instrumentality thereof, or from any
279 foundation, private corporation, group or person, in furtherance of the purposes of this chapter;
280 provided, however, that the secretary shall take all necessary action to secure any federal
281 assistance which is or may become available to the executive office, any administrative unit
282 thereof or authority within the executive office including, without limitation, filing applications
283 for assistance, supervising the expenditure of federal grants or loans and making any
284 determinations and certifications necessary or appropriate to the foregoing; provided further that
285 if any federal law, administrative regulation or practice requires any action relating to such
286 federal assistance to be taken by any department, agency or other instrumentality of the
287 commonwealth other than the executive office, such other department, agency or instrumentality
288 shall take all such action;

289 (iii) to make and enter into any contracts or agreements necessary or incidental to the
290 performance and execution of the powers and duties of the executive office under this chapter or
291 any general or special law provided, however that any party, public or private, including, without
292 limitation, federal, state and local agencies, authorities or political subdivisions of the
293 commonwealth, or private corporations or companies, may enter into any such contract or
294 agreement, subject to applicable laws; provided further, that any such contract or agreement, if
295 made with the Massachusetts Surface Transportation Authority, may include provision for the
296 transfer to said authority of appropriations or other funds made available to the executive office
297 under subsections (b) and (c) for the purpose of carrying out such contract or agreement; and
298 provided further, that; any contract or agreement made under this chapter, including, without
299 limitation, contracts or agreements entered into by the executive office of administration and

300 finance pursuant to subsection (c), shall include such provisions, terms or conditions as the
301 secretary of transportation may deem necessary or appropriate;

302 (iv) to acquire by eminent domain under chapter 79, or by purchase, gift, devise, transfer,
303 lease or otherwise, or to hold, lease, pledge, otherwise deal with, transfer, sell or dispose of real
304 and personal property;

305 (v) To exercise all powers and do all acts or things necessary or convenient to carry out
306 the purposes of this section; and

307 (vi) Without limitation of the foregoing, to delegate to the Massachusetts Surface
308 Transportation Authority, on such terms and conditions as the secretary may prescribe, any
309 power or duty conferred or imposed upon him by this section; provided, however; that any such
310 delegation shall be in writing.

311 (e) (1) To the extent not inconsistent with federal law, no railroad company which
312 conducts or has conducted operations within the commonwealth shall sell, transfer or otherwise
313 dispose of railroad rights-of-way or related facilities without first offering such rights-of-way or
314 facilities for sale, transfer or disposition to either the executive office, acting on behalf of the
315 commonwealth, or such other department, authority, agency or political subdivision of the
316 commonwealth as may be designated by the executive office for the purpose of any such sale,
317 transfer or disposition; provided, however, that such sale, transfer or disposition may be made by
318 the railroad company to a party other than the executive office or its designee, but only if:

319 (i) the executive office or its designee has notified the railroad company in writing of its
320 rejection of such offer; or

321 (ii) 90 calendar days have elapsed from the date on which such offer or a copy of such
322 offer, as provided in paragraph (2), is made to the executive office.

323 (2) A railroad company shall make the offer required in paragraph (1) in writing and shall
324 send such offer by certified mail to the secretary or his authorized designee. In the event that
325 such offer is made to a designee, a notarized copy of such offer shall be sent by certified mail to
326 the secretary. Any such offer shall include the price at which the company proposes to offer such
327 rights-of-way or facilities to the commonwealth, and such other terms or conditions which the
328 company proposes to include as part of such sale, transfer or disposition. The secretary or
329 designee thereof shall notify such railroad company in writing and by certified mail of its
330 acceptance or rejection of the offer within 90 calendar days of receipt of such offer and, in the
331 event that the secretary's designee sends such notice, the designee shall also send a notarized
332 copy of such notice to the secretary. The executive office may notify any person that the
333 conditions provided in clauses (i) and (ii) of paragraph (1) have been satisfied and that the
334 commonwealth has declined to exercise its option to acquire the rights-of-way or facilities as
335 provided in said paragraph (1). Any such notice shall be binding on the commonwealth.

336 (3) A railroad company shall not offer to sell, transfer or otherwise dispose of railroad
337 rights-of-way or facilities to any person on terms or conditions more favorable to said person
338 than those offered to the commonwealth.

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

344 **SECTION 2A.** Section 53 of chapter 7 of the General Laws, as appearing in the 2006
345 Official Edition, is hereby amended by inserting in line 6, after the words, “Turnpike Authority,”
346 the following words:- “the Massachusetts Surface Transportation Authority”.

347 **SECTION 3.** Said section 19 of said chapter 6A, inserted by section 2, is hereby further
348 amended by striking out subsection (b) and inserting in place thereof the following:-

349 (b) The following state agencies shall be within the executive office of transportation: the
350 Massachusetts aeronautics commission; the government center commission established by
351 section 1 of chapter 635 of the acts of 1960; and the registry of motor vehicles. . The
352 Massachusetts Surface Transportation Authority, Massachusetts Bay Transportation Authority,
353 the Massachusetts Port Authority and any duly established regional transportation authority shall
354 also be within the executive office of transportation.

355 **SECTION 4.** Said section 19 of said chapter 6A, inserted by section 2 is hereby further
356 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

357 (b) The following state agencies shall be within the executive office of transportation: the
358 Massachusetts aeronautics commission; the government center commission established by
359 section 1 of chapter 635 of the acts of 1960; and the registry of motor vehicles. The
360 Massachusetts Surface Transportation Authority, the Massachusetts Port Authority and any duly
361 established regional transportation authority shall also be within the executive office of
362 transportation.

363 **SECTION 4A** Section 104 of said chapter 6A, inserted by section 3 of chapter 303 of the
364 acts of 2008, is hereby repealed.

365 **SECTION 5.** Chapter 7 of the General Laws is hereby amended by adding the following
366 14 sections:-

367 Section 57. As used in sections 57 to 70, inclusive, the following words shall have the
368 following meanings, unless the context clearly requires otherwise:- (a) “Affected jurisdiction”,
369 any city or town, or other unit of government within the commonwealth in which all or part of a
370 transportation facility is located or any other public entity directly affected by the transportation
371 facility.

372 “Architectural and engineering services”,: (1) professional services of an architectural or
373 engineering nature, as defined by applicable state law, which are required to be performed or
374 approved by a person licensed, registered or certified to provide such services as described in this
375 definition; (2) professional services of an architectural or engineering nature performed by
376 contract that are associated with research, planning, development, design, construction, alteration
377 or repair of real property; and (3) such other professional services of an architectural or
378 engineering nature, or incidental services, which members of the architectural and engineering
379 professions and employees thereof may logically or justifiably perform, including: studies,
380 investigations, surveying, mapping, tests, evaluations, consultations, comprehensive planning,
381 program management, conceptual designs, plans and specifications, value engineering,
382 construction phase services, soils engineering, drawing reviews, preparation of operating and
383 maintenance manuals and other related services.

384 “Authority”, the Massachusetts Surface Transportation Authority.

385 “Construction”, the process of building, altering, repairing, improving or demolishing
386 any transportation facility, including any structure, building or other improvements of any kind
387 to real property. “Construction” shall not include the routine operation, routine repair or routine
388 maintenance of any existing transportation facility, including structures, buildings or real
389 property.

390 “Force majeure”, an uncontrollable force or natural disaster not within the power of the
391 operator or the commonwealth.

392 “Contract”, any agreement, including a public-private agreement for the procurement,
393 operation or disposal under sections 57 to 70, inclusive, of a transportation facility by the
394 authority.

395 “Contract modification”, any written alteration in specifications, delivery point, rate of
396 delivery, period of performance, price, quantity or other provisions of any contract accomplished
397 by mutual action of the parties to the contract.

398 “Contractor”, any person having a contract with the authority under sections 57 to 70,
399 inclusive.

400 “Cooperative purchasing”, procurement conducted by, or on behalf of, an affected
401 jurisdiction.

402 “Design-build-finance-operate-maintain”, a project delivery method in which the
403 authority enters into a single contract for design, construction, finance, maintenance and
404 operation of a transportation facility over a contractually defined period. No public funds shall
405 be appropriated to pay for any part of the services provided by the contractor during the contract
406 period.

407 “Design-build-operate-maintain”, a project delivery method in which the authority enters
408 into a single contract for design, construction, maintenance and operation of a transportation
409 facility over a contractually defined period. All or a portion of the funds required to pay for the
410 services provided by the contractor during the contract period shall either be appropriated by the
411 commonwealth or by the authority prior to award of the contract or secured by the
412 commonwealth or by the authority through fare, toll or user charges.

413 “Design requirements”, the written description of the transportation facility or service to
414 be procured under sections 57 to 70, inclusive, including:

415 (1) required features, functions, characteristics, qualities and properties required by the
416 authority;

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

418 (3) estimated budgets as applicable to the specific procurement for design, construction,
419 operation and maintenance; provided, however, that design requirements may, include drawings
420 and other documents illustrating the scale and relationship of the features, functions and
421 characteristics of the project.

422 “Independent peer reviewer services”, additional architectural and engineering services
423 provided to the authority in design-build-operate-maintain or design-build-finance-operate-
424 maintain procurements to confirm that the key elements of the professional engineering and
425 architectural design provided by the contractor are in conformance with the applicable standard
426 of care.

427 “Maintenance”, includes routine operation, routine maintenance, routine repair,
428 rehabilitation, capital maintenance, maintenance replacement and any other categories of
429 maintenance that may be designated by the authority.

430 “Material default”, failure of a contractor to perform any duties under a public-private
431 agreement which jeopardizes delivery of adequate service to the public and remains unsatisfied
432 after a reasonable period of time and after the operator has received written notice from the
433 authority of the failure.

434 “Operate”, any action to operate, maintain, repair, rehabilitate, improve, equip or modify
435 a transportation facility, including the design and construction of repairs, improvements or
436 modifications to a transportation facility.

437 “Operator”, a private entity that has entered into a public-private agreement to provide
438 design-build-finance-operate-maintain or design-build-operate-maintain services under sections
439 57 to 70, inclusive.

440 “Private entity”, a natural person, corporation, general partnership, limited liability
441 company, limited partnership, joint venture, business trust, public benefit corporation, non-profit
442 entity or other business entity.

443 “Proposal development documents”, drawings and other design-related documents that
444 are sufficient to fix and describe the size and character of a transportation facility as to
445 architectural, structural, mechanical and electrical systems, materials, and such other elements as
446 may be appropriate to the applicable project delivery method.

447 “Public-private agreement”, the contract between a private entity and the authority that
448 relates to the development, financing, maintenance or operation of a transportation facility
449 subject to sections 57 to 70, inclusive.

450 “Request for proposals”, all documents, whether attached to or incorporated by
451 reference, utilized for soliciting proposals for a transportation facility under sections 57 to 70,
452 inclusive.

453 “Responsible bidder or offeror”, a person who has the capability in all respects to fully
454 perform the contract requirements, and the integrity and reliability to assure good faith
455 performance.

456 “Responsive bidder”, a person who has submitted a bid which conforms in all material
457 respects to the invitation for bids.

458 “Transportation facility”, new or existing highway, road, bridge, tunnel, overpass, ferry,
459 airport, public transportation facility, terminal facility, vehicle parking facility, seaport facility,
460 rail facility, intermodal facility or similar facility open to the public and used for the
461 transportation of persons or goods, and any building, structure or networks of buildings,
462 structures, pipes, controls and equipment that provide transportation services, including rolling
463 stock and equipment, and any building, structure, parking area, appurtenances or other property
464 needed to operate such facility that is subject to a public-private agreement.

465 “User fees”, the rate, toll, fee or other charges imposed by an operator or by the authority
466 for use of all or part of a transportation facility.

467 “Utility”, a privately, publicly or cooperatively owned line, facility or system for
468 producing, transmitting or distributing communications, cable television, power, electricity,
469 light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway
470 drainage, or any other similar commodity, including any fire or police signal system or street
471 lighting system, which directly or indirectly serves the public.

472 Section 58. (a) Notwithstanding any general or special law to the contrary, the board of
473 directors of the authority, in conjunction with the special public-private partnership infrastructure
474 oversight commission established in section 70, may solicit proposals enter into contracts for
475 design-build-finance-operate-maintain or design-build-operate-maintain services with that
476 responsible and responsive offeror submitting the proposal that is most advantageous to the
477 authority through the sale, lease, operation and maintenance of a transportation facility within the
478 commonwealth; provided, however, that such operation shall be in full compliance with all

479 applicable requirements of federal, state and local law, including section 26 to 27H, inclusive, of
480 chapter 149; provided further, that any such contract shall not be subject to the competitive bid
481 requirements set forth in sections 38A½ to 38O, inclusive, section 39M of chapter 30, or sections
482 44A to 44M, inclusive, of chapter 149; and provided further, that each such contract shall be
483 awarded pursuant to chapter 30B except for clause (3) of paragraph (b) and paragraphs (e) and
484 (g) of section 6, clause (4) of section 13 and section 16 of said chapter 30B.

485 (b) (1) In soliciting and selecting a private entity with which to enter into a public-private
486 agreement for design-build-finance-operate-maintain or design-build-operate-maintain services,
487 the authority shall utilize the following competitive sealed proposals procurement approach:

488 (2) each request for proposals for design-build-operate-maintain and design-build-
489 finance-operate-maintain services:

490 (A) shall include design requirements;

491 (B) shall solicit proposal development documents; and

492 (C) may, if the authority determines that the cost of preparing proposals is high,
493 considering the size, estimated price and complexity of the procurement:

494 (i) prequalify offerors by issuing a request for qualifications in advance of the request for
495 proposals; and

496 (ii) select a short list of responsible offerors prior to discussions and evaluations,
497 provided that the number of proposals that will be short-listed is stated in the request for
498 proposals and prompt public notice is provided to all offerors as to which proposals have been
499 short-listed; or

500 (iii) pay stipends to unsuccessful offerors; provided, however, that the amount of such
501 stipends and the terms under which such stipends shall be paid shall be included in the request
502 for proposals;

503 (3) adequate public notice of the request for proposals shall be provided;

504 (4) proposals shall be opened so as to avoid disclosure of contents to competing offerors
505 during the process of negotiation and a register of proposals shall be prepared by the authority
506 and shall be open for public inspection after contract award; and

507 (5) (A) The request for proposals shall state the relative importance of price and other
508 factors and subfactors, if any.

509 (B) Each request for proposals for design-build-operate-maintain and design-build-
510 finance-operate-maintain:

511 (i) shall state the relative importance of: (1) demonstrated compliance with the design
512 requirements; (2) offeror qualifications; (3) financial capacity; (4) project schedule; (5)
513 elimination of existing public debt with respect to the transportation facility; (6) lowest user
514 charges or price over the term of the design-build-operate-maintain and design-build-finance-
515 operate-maintain contract; and (7) other factors, if any;

516 (ii) shall, if the contract price is estimated to exceed \$10,000,000, if the contract period of
517 operations and maintenance is 5 years or longer, or if circumstances established by the authority,
518 require each offeror to identify an independent peer reviewer whose competence and
519 qualifications to provide such services shall be an additional evaluation factor in the award of the
520 contract; and

521 (iii) shall not include, as an evaluation factor in the award of the contract, the amount, if
522 any, paid by a contractor to the authority for procurement using design-build-operate-maintain
523 and design-build-finance-operate-maintain .

524 (6) As provided in the request for proposals, and under regulations issued by the
525 authority, discussions may be conducted with responsible offerors who submit proposals
526 determined to be reasonably susceptible of being selected for award for the purpose of
527 clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
528 Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion
529 and revision of proposals, and such revisions may be permitted after submissions and prior to
530 award for the purpose of obtaining best and final offers. In conducting discussions, there shall be
531 no disclosure of any information derived from proposals submitted by competing offerors.

532 (7) Award shall be made to the responsible offeror whose proposal conforms to the
533 solicitation and is determined in writing to be the most advantageous to the acquiring agency,
534 taking into consideration the price and the evaluation factors set forth in the request for
535 proposals. No other factors or criteria shall be used in the evaluation. The contract file shall
536 contain the basis upon which the award is made. Written notice of the award of a contract to the
537 successful offeror shall be promptly provided to all offerors.

538 (8) The authority may provide debriefings that furnish the basis for the source selection
539 decision and contract award.

540 (c) (1) A private entity may request a review, prior to submission of a solicited proposal,
541 by the authority of information that the private entity has identified as confidential or proprietary
542 to determine whether such information is subject to disclosure under section 10 of chapter 66 or
543 clause twenty-sixth of section 7 of chapter 4.

544 (2) The authority shall take appropriate action to protect confidential or proprietary
545 information that a private entity provides as part of a solicited proposal and that is exempt from
546 disclosure under said section 10 of chapter 66 and said clause twenty-sixth of said section 7 of aid
547 chapter 4.

548 Section 59. (a) The request for proposals shall contain the proposed form of contract or
549 public-private agreement to be executed between the successful offeror and the authority upon
550 award, and shall have been approved as to content and form by the special public-private
551 infrastructure oversight commission and by the authority before the request for proposals is
552 issued, pursuant to section 58. The inspector general and the attorney general shall have 30 days
553 from the receipt of a draft of the proposed form of contract to notify the special public-private
554 infrastructure oversight commission in writing of any material objections to the draft form of
555 contract. Before issuing any request for proposal, the authority shall prepare a written response to
556 reports submitted to it by the special public-private infrastructure oversight commission which
557 response shall state the basis for any substantial divergence between the actions of the authority
558 and the recommendations contained in such reports of said commission. The authority and the
559 successful offeror shall only make non-material changes in the content and form of the public-
560 private agreement contained in the request for proposals.

561 (b) (1) After selecting a solicited or unsolicited proposal for a public-private initiative, the
562 authority shall enter into the public-private agreement for the subject transportation facility with
563 the selected private entity.

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

566 (c) A public-private agreement under sections 57 to 70, inclusive, shall provide for the
567 following:

568 (1) the planning, acquisition, engineering, financing, development, design, construction,
569 reconstruction, replacement, improvement, maintenance, management, repair, leasing or
570 operation of a transportation facility including provisions for the replacement and relocation of
571 utility facilities;

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

574 (3) the type of property interest, if any, the private entity shall have in the transportation
575 facility;

576 (4) a description of the actions the authority may take to ensure proper maintenance of
577 the transportation facility;

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

580 (6) compliance with applicable Federal, state and local laws;

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

582 (8) procedures for amendment of the agreement by mutual agreement and for changes in
583 the agreement by written order from the authority.

584 (9) review and approval by the authority of the operator's plans for the development and
585 operation of the transportation facility;

586 (10) inspection by the authority and the independent peer reviewer of the design and
587 construction of, or improvements to, the transportation facility;

- 588 (11) maintenance by the operator of a policy of liability insurance or self-insurance
589 reasonably acceptable to the authority;
- 590 (12) filing by the operator, on a periodic basis, of appropriate financial statements in a
591 form acceptable to the authority;
- 592 (13) filing by the operator, on a periodic basis, of traffic reports, service quality standards
593 as defined in section 3 of chapter 81D, ridership reports, on time performance reports, or other
594 reports identified by the authority, in a form acceptable to the authority;
- 595 (14) financing obligations of the operator and the authority;
- 596 (15) apportionment of expenses between the operator and the authority;
- 597 (16) the rights and duties of the operator, the authority, and other state and local
598 governmental entities with respect to use of the transportation facility;
- 599 (17) the rights and remedies available in the event of default or delay;
- 600 (18) the terms and conditions of indemnification of the operator by the authority, as
601 required by applicable law;
- 602 (19) assignment, subcontracting or other delegation of responsibilities of the operator or
603 the authority under the agreement to third parties, including other private entities and other state
604 agencies;
- 605 (20) sale or lease to the operator of private property related to the transportation facility;
- 606 (21) if, and how, the parties shall share costs of development of the project;
- 607 (22) if, and how, the parties shall allocate financial responsibility for cost overruns;
- 608 (23) liability for nonperformance;
- 609 (24) any incentives for performance;
- 610 (25) any accounting and auditing standards to be used to evaluate progress on the project;

611 (26) any plans to obtain a labor and material payment bond, in accordance with section
612 29 of chapter 149 of the General Laws, covering all construction, reconstruction, or maintenance,
613 including capital maintenance, work of the project and require the payment of prevailing wages
614 for labor performed on the project in accordance with sections 26 to 27H, inclusive, of said
615 chapter 149;

616 (27) any plans for labor harmony for the entire term of the agreement, including
617 construction, reconstruction and capital and routine maintenance and adequate remedies to
618 address the operator's failure to maintain labor harmony which shall include, but not be limited
619 to, assessment of liquidated damages and contract termination.

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

622 (29) other terms and conditions.

623 Section 60. Upon the end of the term of the public-private agreement or in the event of
624 termination of the public-private agreement, the authority and duties of the operator shall cease,
625 except for any duties and obligations that extend beyond the termination as provided in the
626 public-private agreement, and all the rights, title and interest in such transportation facility shall
627 revert to the authority and shall be dedicated to the authority for public use.

628 Section 61. (a) Upon the occurrence and during the continuation of a material default by
629 an operator, not caused by an event of force majeure, and upon the failure by the contractor or its
630 financing institution on the contractor's behalf, to cure such material default within 30 days of
631 written notice of such default by the authority, the authority may:

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

634 (2) terminate the public-private agreement and exercise any other rights and remedies
635 available.

636 (b) In the event that the authority elects to take over a transportation facility under
637 subsection (a), the authority:

638 (1) shall make interim payments, on behalf of the contractor and for the contractor's
639 account, of any amounts subject to a mechanics lien laws of the commonwealth ;

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

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

644 Section 62. (a) (1) The authority may issue and sell bonds or notes of the authority for the
645 purpose of providing funds to carry out sections 57 to 70, inclusive, with respect to the
646 development, financing or operation of a transportation facility or the refunding of any bonds or
647 notes, together with any costs associated with the transaction.

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

649 (A) constitutes the corporate obligation of the authority;

650 (B) shall not constitute a debt of the commonwealth within the meaning or application of
651 the constitution of the commonwealth; and

652 (C) shall be payable solely as to both principal and interest from:

653 (i) the revenues from a lease to the authority, if any;

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

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

656 (iv) other funds available to the authority for such purpose.

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

660 (2) Any bonds, debt, other securities or other financing issued for the purposes of sections
661 57 to 70, inclusive, shall not be considered a debt of the commonwealth or any political
662 subdivision thereof state or a pledge of the faith and credit of the state or any political
663 subdivision of the commonwealth.

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

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

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

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

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

678 (d) The authority may combine Federal, state, local and private funds to finance a
679 transportation facility under sections 57 to 70, inclusive.

680 Section 64. (a) Section 9 of chapter 81B shall apply to:

681 (1) a transportation facility; and

682 (2) tangible personal property used exclusively with a transportation facility that is:

683 (A) owned by the authority and leased, licensed, financed or otherwise conveyed to an
684 operator; or

685 (B) acquired, constructed or otherwise provided by an operator on behalf of the authority.

686 Section 65. The authority may exercise the power of eminent domain to acquire
687 property, rights of way or other rights in property for transportation projects that are part of a
688 public-private agreement for design-build-finance-operate-maintain or design-build-operate-
689 maintain services.

690 Section 66. (a) Law enforcement officers of the commonwealth and of an affected local
691 jurisdiction shall have the same powers and jurisdiction within the limits of a transportation
692 facility as they have in their respective areas of jurisdiction and access to the transportation
693 facility at any time for the purpose of exercising such powers and jurisdiction.

694 (b) The traffic and motor vehicle laws of the commonwealth and, if applicable, any local
695 by-laws or ordinances shall apply to a transportation facility.

696 Section 67. An operator under sections 57 to 70, inclusive, and any utility whose facility
697 is to be crossed or relocated shall cooperate fully in planning and arranging the manner of the
698 crossing or relocation of the utility facility. This section shall not limit or otherwise affect the
699 right of such utility to compensation for such relocation to the extent provided by law.

700 Section 68. Nothing in sections 57 to 70, inclusive, shall limit any waiver of the
701 sovereign immunity of the commonwealth or any officer or employee of the commonwealth with

702 respect to the participation in or approval of all or any part of the transportation facility or its
703 operation.

704 Section 69. The authority may adopt rules and regulations to carry out sections 57 to 70,
705 inclusive.

706 Section 70. There shall be established a special public-private partnership infrastructure
707 oversight commission to comment on and approve all requests for proposals for design-build-
708 finance-operate-maintain or design-build-operate-maintain services, pursuant to section 59.

709 The commission shall have 7 members, none of whom shall be employees of the
710 executive branch, members of the general court or employees of the legislature. The members
711 shall include : 3 members who shall reside in different geographic regions of the
712 commonwealth, to be appointed by the governor to terms of 2 years; 1 member, to be appointed
713 by the president of the senate to serve a term of 2 years; 1 member, to be appointed by the
714 speaker of the house of representatives to serve a term of 2 years; 1 member, to be appointed by
715 the treasurer who shall not be an employee of the department of the state treasurer to serve a term
716 of 2 years; and 1 representative from the Massachusetts Organization of State Engineers and
717 Scientists, to serve a term of 2 years. Each of the members of the commission shall be an expert
718 with experience in the fields of transportation law, public policy, public finance, management
719 consulting, transportation or organizational change. One of the members appointed by the
720 governor shall be an expert in the field of public finance. One of the members appointed by the
721 governor shall be an expert in the field of transportation. One of the members appointed by the
722 governor shall be the president of the Massachusetts AFL-CIO, or his designee. One of the
723 members shall be appointed by the governor to serve as chairperson of the commission. The

724 members appointed by the governor may be eligible for reappointment; provided, however, that
725 no member appointed by the governor may serve more than 3 terms.

726 Whenever the authority notifies the commission of its intent to issue a request for
727 proposal for design-build-finance-operate-maintain or design-build-operate-maintain services,
728 the authority shall submit a draft of the request for proposal to the commission for its review and
729 approval. As provided in section 58, no request for proposal shall be issued by the authority for
730 a public-private agreement for design-build-finance-operate-maintain or design-build-operate-
731 maintain services without the commission's written approval. The commission shall provide an
732 initial written response to the request for proposal within 15 days.

733 For each request for proposal for design-build-finance-operate-maintain or design-build-
734 operate-maintain services, the commission shall report on issues surrounding the request for
735 proposal, including, but not limited to: (1) the status of current employees; (2) the policy and
736 regulatory structure for overseeing a privately operated transportation facility and on-going
737 legislative oversight; (3) issues of taxation, profit-sharing and resolution of new revenue
738 producing ideas; (4) advertising and marketing; (5) use of new technologies; (6) lease terms and
739 termination clauses; (7) additional responsibilities by both the private infrastructure operator and
740 the commonwealth during the lease period; (8) the financial valuation of the commonwealth
741 transportation facility; and (9) the anticipated advantages of entering into the anticipated public-
742 private agreement for design-build-finance-operate-maintain or design-build-operate-maintain
743 services.

744 The commission's written approval of a request for proposal for design-build-finance-
745 operate-maintain or design-build-operate-maintain services shall be deemed to satisfy the
746 requirements of sections 52 to 55, inclusive, of chapter 7.

747 The report shall be delivered within 30 days of the commission's approval of a request
748 for proposal for design-build-finance-operate-maintain or design-build-operate-maintain services
749 to the secretary for administration and finance, the house committee on ways and means, the
750 senate committee on ways and means, the chairmen of the joint committee on transportation, and
751 the state auditor.

752 Whenever the comments and recommendations of the state auditor are required for any
753 action by the authority, under sections 52 to 55, inclusive, of chapter 7, that approval shall be
754 deemed to have been granted within 30 days of submission thereof, unless the state auditor has
755 communicated his disapproval to the authority, in writing. The state auditor's report shall
756 include reasons why such proposed request for proposal is financially detrimental to the
757 commonwealth and how the commission erred in its findings.

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

760

761 **SECTION 6.** Chapter 10 of the General Laws is hereby amended by striking out section
762 35T, as appearing in the 2006 Official Edition, and inserting in place thereof the following
763 section:-

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

766 "Base revenue amount", for fiscal year 2001 the amount of \$645,000,000, and for each
767 fiscal year thereafter the base revenue amount for the prior fiscal year multiplied by the inflation
768 index for the preceding 12 months, as certified by the secretary of administration and finance, in
769 consultation with the department of revenue, on March 1 of each year, beginning on March 1,

2001 as set forth in subsection (b); provided, however, that in no year shall the base revenue amount exceed 103 per cent of the base revenue amount applicable for the prior fiscal year; provided further, that if in any year the inflation index is less than 3 per cent but greater than the per cent increase in gross sales tax revenues received pursuant to chapters 64H and 64I in the preceding 12 months, excluding any portion of such taxes imposed on meals as defined in paragraph (h) of section 6 of said chapter 64H, the base revenue amount shall be adjusted by the same percentage increase in such gross sales tax revenues; provided further, that if in any year the per cent increase in such gross sales tax revenues is zero or less, the base revenue amount shall not be adjusted for the subsequent fiscal year.

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

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

(a) There shall be credited to the Surface Transportation Trust Fund established in section 35LL: the dedicated sales tax revenue amount: provided, however, that in any fiscal year the amount shall be not less than the base revenue amount as certified pursuant to subsection (b)

792 there shall also be credited all assessments received by the commonwealth pursuant to section 22
793 of chapter 81D.

794 Before the state treasurer disburses funds to the Massachusetts Surface Transportation
795 Authority, the authority shall first certify that it has made provision in its annual budget pursuant
796 to section 21 of chapter 81B for sufficient amounts to be available to meet debt service payments
797 or other payments due under financing obligations including, without limitation, leases,
798 reimbursement obligations, or interest exchange agreements, for which the commonwealth has
799 pledged its credit or contract assistance or is otherwise liable or as to which the authority has
800 covenanted to maintain net cost of service or contract assistance support. Upon such
801 certification, all amounts in the fund shall be available for expenditure by the authority for any
802 lawful purpose including, without limitation, payment of debt service on debt obligations issued
803 by the authority, and may be pledged to secure debt of the authority in such manner and
804 according to such priority as the authority may determine.

805 In order to increase the marketability of any bonds or notes of the authority which may be
806 secured by or payable from amounts held in the fund, the sums credited to the fund in accordance
807 with this subsection shall be impressed with a trust for the benefit of the authority and the
808 holders, from time to time, of any such bonds or notes and, in consideration of the acceptance of
809 payment for any such bonds or notes, the commonwealth covenants with the purchasers and all
810 subsequent holders and transferees of any such bonds or notes that while any such bond or note
811 shall remain outstanding, and so long as the principal of or interest on any such bond or note
812 shall remain unpaid, the sums to be credited to the fund shall not be diverted from the purposes
813 identified herein and, so long as such sums are necessary, as determined by the authority in
814 accordance with any applicable trust agreement, bond resolution or credit enhancement

815 agreement, for the purposes for which they have been pledged, the rates of the excises imposed
816 by said chapters 64H and 64I shall not be reduced below the dedicated sales tax revenue amount
817 or the base revenue amount and the amount to be assessed on cities and towns pursuant to said
818 section 9 of said chapter 161A shall not be reduced below \$136,026,868 per fiscal year.

819 (b) For purposes of determining the amount to be credited to the fund, the secretary shall,
820 on March 1 of each year beginning on March 1, 2001, certify the base revenue amount for the
821 following fiscal year. On March 15 of each year, beginning on March 15, 2001, the secretary
822 shall, after consultation with and based upon projections of the department of revenue, certify
823 whether the dedicated sales tax revenue amount is projected to exceed the base revenue amount
824 for the upcoming fiscal year. If the secretary certifies that the projected dedicated sales tax
825 revenue amount will be less than the base revenue amount, the comptroller shall for the
826 following fiscal year credit to the fund amounts sufficient to meet the base revenue amount. If
827 the secretary certifies that the projected dedicated sales tax revenue amount will exceed the base
828 revenue amount, then the comptroller shall for the following fiscal year credit to the fund the
829 sales tax revenue amount. On November 15 of each year, beginning on November 15, 2001, the
830 secretary shall certify whether the dedicated sales tax revenue amount, as of that date, is
831 projected to exceed the base revenue amount for the current fiscal year. If the secretary certifies
832 that the dedicated sales tax revenue amount is projected to be less than the base revenue amount,
833 then the comptroller shall credit to the fund amounts sufficient to meet the base revenue amount
834 for that fiscal year. If the secretary certifies that the dedicated sales tax revenue amount is greater
835 than the base revenue amount, then the comptroller shall credit to the fund the dedicated sales tax
836 revenue amount. On April 1 of each year, beginning on April 1, 2002, the secretary shall repeat

837 the certification process required on November 15, and the comptroller shall credit the
838 appropriate amount to the fund.

839 **SECTION 7.** Section 35U of said chapter 10 is hereby repealed.

840 **SECTION 8.** Chapter 10 of the General Laws is hereby amended by inserting after
841 section 35KK , inserted by section 2 of chapter 442 of the acts of 2008, the following section:-

842 Section 35LL. There is hereby set up on the books of the commonwealth a separate fund
843 to be known as the Surface Transportation Trust Fund,. There shall be credited to the fund all
844 fees received by the registrar of motor vehicles pursuant to chapter 90, all tolls collected pursuant
845 to subsection (j) of section 4 of chapter 81B, all contributions and assessments paid into the
846 treasury of the commonwealth by cities, towns or counties for maintaining, repairing, improving
847 and constructing ways, whether before or after the work is completed, all refunds and rebates
848 made on account of expenditures on ways by the department, all receipts paid into the treasury of
849 the commonwealth and directed to be credited to the Surface Transportation Trust Fund under
850 section 35T, chapter 64A, 64E, 64F or any other applicable general or special law, all monies
851 received by the commonwealth in satisfaction of claims by the commonwealth for damage to
852 highway safety signs, signals, guardrails, curbing and other highway related facilities, and all
853 receipts received by the state treasurer under the provisions of section 8 of chapter 10 on behalf
854 of the registrar or for other surface transportation, as defined herein.

855 Before amounts are credited to the fund, all fees received from the issuance of veterans
856 plates, pursuant to section 2 of chapter 90, in excess of the fees set for the registration of the
857 motor vehicle shall be paid by the registrar into the General Fund. Remaining revenues shall
858 then be used, subject to appropriation;

859 (1) to carry out the laws relative to the use and operation of motor vehicles and trailers
860 and for expenses authorized to administer the law relative to the taxation of the sales of gasoline
861 and certain other motor vehicle fuel; and

862 (2) \$2 from each motorcycle registration fee shall be paid by the registrar or by the
863 person collecting the registration fee into the General Fund and shall be appropriated solely for
864 the purpose of promoting and advancing motorcycle safety.

865 The balance then remaining in the General Fund from the collection of such fees shall be
866 transferred to the fund. Annual receipts into the fund on account of any fiscal year shall be
867 deemed to meet the full obligation of the commonwealth to the Massachusetts Surface
868 Transportation Authority for such fiscal year. Amounts in the fund shall be held by the state
869 treasurer or his designee as trustee and not on account of the commonwealth, and the state
870 treasurer shall disburse amounts in the fund to the authority, without further appropriation, upon
871 the request, from time to time, of the executive director of the authority.

872 The authority shall use the fund:

873 (a) For expenditure, under the direction of the authority, for maintaining, repairing,
874 improving and constructing municipal and county ways and bridges, sidewalks
875 adjacent to such ways and bridges, bikeways and other projects eligible for funding as
876 a transportation enhancement project as described in the Intermodal Surface
877 Transportation Efficiency Act of 1991, P.L. 102-240, salt storage sheds, bikeways
878 and public use off-street parking facilities related to mass transportation, for
879 engineering services and expenses related to highway transportation enhancement and
880 mass transportation purposes, for care, repair, storage, replacement, purchase and
881 long-term leasing of road building machinery, equipment and tools, for the erection

882 and maintenance of direction signs and warning signs and for necessary or beneficial
883 improvements to unpaved municipal and county ways together with any money
884 which any municipality or county may appropriate for such purposes to be used on
885 the same ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities.
886 Such engineering services, including surveying services, shall be performed by only
887 architectural, engineering or surveying firms prequalified by the authority; provided,
888 however, that a municipality may seek a waiver of this requirement from the authority
889 if the municipality demonstrates to the satisfaction of the authority that it is cost
890 prohibitive to use a prequalified firm. Such ways, sheds, bikeways, bridges,
891 machinery, equipment, tools and facilities shall remain town or county ways, sheds,
892 bikeways, bridges, machinery, equipment, tools and facilities. No revenue credited to
893 the fund shall be transferred from the fund to any other fund of the commonwealth for
894 any other purpose. The authority shall withhold or withdraw the unexpended balance
895 of any funds assigned by it under this subdivision if the municipality fails to comply
896 with the official standards for traffic control established by the authority or with any
897 provision of a traffic control agreement negotiated between the authority and a
898 municipality, as required by the United States Secretary of Commerce under section
899 109 of Title 23 of the United States Code.

900 (b) for expenditure, under the direction of the authority, for maintaining, repairing and
901 improving state highways and bridges, including highways and bridges managed until July 1,
902 2009 by the department of conservation and recreation, the turnpike and the metropolitan
903 highway system, all as defined in chapter 81B;

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

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

911 (e) to meet interest, sinking fund and serial payments on all debts paid from highway
912 fund receipts before July 1, 2009, including those paid in accordance with section 20 of chapter
913 29.

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

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

916 (i) for expenditure, under the direction of the authority, for infrastructure improvements
917 in mass transportation facilities throughout the commonwealth; and

918 (j) for expenditures to meet any remaining assistance requirements from the
919 commonwealth to the Route 3 North Transportation Improvements Association outstanding as of
920 July 1, 2009; provided that no new pledges of additional assistance to said Association shall be
921 incurred after July 1, 2009.

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

924 **SECTION 9.** Section 63 of said chapter 10 of the General Laws is hereby repealed.

925 **SECTION 9A.** Subsection (a) of section 63A of chapter 10 of the General Laws is
926 hereby amended by striking out the second sentence and inserting in place thereof the following
927 sentence:-

928 The executive office of transportation and public works shall disburse monies from the
929 fund solely for the purpose of paying the costs of, or reimbursing the commonwealth or the
930 Massachusetts Turnpike Authority or any successor agency or authority for costs incurred in
931 connection with, repairs and maintenance of the central artery and the Ted Williams tunnel, as
932 those terms are defined in section 3 of chapter 81B, if such repairs and maintenance relate to
933 conditions not caused by ordinary or routine wear and tear.

934 **SECTION 10.** Sections 1 to 4B, inclusive, and sections 13 and 14 of chapter 16 of the
935 General Laws are hereby repealed.

936 **SECTION 10A.** Sections, 4C, 4D, 4E, 4F, and 4G of said chapter 16, inserted by section
937 6 of chapter 303 of the acts of 2008 are hereby repealed.

938 **SECTION 11.** Section 1 of chapter 21 of the General Laws, as appearing in the 2006
939 Official Edition, is hereby amended by striking out in lines 33 and 36 the word “parkways” each
940 time it appears.

941 **SECTION 12.** Section 11A of chapter 21A of the General Laws, as so appearing, is
942 hereby amended by striking out in line 6 the words “commissioner of highways” and inserting in
943 place thereof the following words:- administrator of roads and bridges.

944 **SECTION 13.** Section 3I of chapter 23A of the General Laws is hereby amended by
945 inserting after the words “Authority”, each time it appears, the following words:- or any
946 successor agency,

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

948 **SECTION 15.** Chapter 64A of the General Laws is hereby amended by striking out
949 section 13, as appearing in section 4 of chapter 233 of the acts of 2008, and inserting in place
950 thereof the following section:-

951 Section 13. All sums received from the excise imposed on aviation fuel, and related
952 penalties, forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under
953 sections 7 and 7A, shall be credited to the Surface Transportation Trust Fund, established in
954 section 35LL of chapter 10, and may be used for airport development projects approved and
955 carried out at airports and landing facilities under 49 U.S.C. App. s 2210; and all other sums
956 received under the excise imposed in section 4, and relative penalties, forfeitures, interest, costs
957 of suits and fines, less all amounts for reimbursement under said sections 7 and 7A, shall be
958 credited to the Surface Transportation Trust Fund to be used for transportation-related purposes.

959 **SECTION 16.** Chapter 64E of the General Laws is hereby amended by striking out
960 Section 13, as appearing in the 2006 Official Edition, and inserting in place thereof the
961 following section:-

962 Section 13. All sums received under this chapter as excises, penalties, forfeitures,
963 interest, costs of suits and fines shall be credited to the Surface Transportation Trust Fund,
964 established in section 35KK of chapter 10, to be used for transportation-related purposes.

965 **SECTION 17.** Chapter 64F is hereby amended by striking out section 14, as appearing
966 in the 2006 Official Edition, and inserting in place thereof the following section:-

967 Section 14. All sums received under this chapter as excises, penalties, forfeitures,
968 interest, costs of suits and fines shall be credited to the Surface Transportation Trust Fund,
969 established in section 35KK of chapter 10, to be used for transportation-related purposes.

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

994 selected by the governor from a list of 3 candidates proposed by the Massachusetts Association
995 of Regional Planning Agencies, who shall represent a metropolitan planning organization; 2 shall
996 be representatives of the service area of the Massachusetts Bay Transportation Authority, or any
997 successor agency thereof, but only 1 of whom shall be from the city of Boston; 1 shall be an
998 expert in the field of construction of transportation projects; 2 shall be experts in the field of
999 public or private finance or accounting; 1 shall be a representative of an environmental
1000 organization or environmental public interest group; and 1 shall be an expert in the field of
1001 transportation law or organizational change. No more than 6 of the 11 directors shall be
1002 members of the same political party. Directors shall reside in different geographic regions of the
1003 commonwealth such that at least 1 director shall reside in Berkshire, Franklin, Hampshire or
1004 Hampden county, at least 1 director shall reside in Worcester county, one director shall reside in
1005 Middlesex or Essex county; provided, however, that the director does not reside in a municipality
1006 that is a member of the Metropolitan Area Planning Council, 1 director shall reside in Plymouth,
1007 Barnstable, Dukes or Nantucket county, and 1 shall reside in either Bristol or Norfolk county

1008 No director shall have been a registered legislative agent, as defined in section 39 of
1009 chapter 3 for a period of at least 5 years prior to his appointment and no director shall have been
1010 employed by an organization that has business before the authority, or any predecessor agency or
1011 authority, for a period of at least 2 years prior to his appointment.

1012 Before entering upon the duties of his office, each member of the authority shall take an
1013 oath before the governor to administer the duties of his office faithfully and impartially and a
1014 record of such oath shall be filed in the office of the state secretary.

1015 Except for the chairperson, directors appointed after January 31, 2009 shall serve until
1016 June 30, 2011. After June 30, 2011, 6 directors shall serve a term of 2 years and 5 directors shall

1017 serve a term of 3 years. Any director, except the chairman, may be removed for cause by the
1018 governor. In the event of a vacancy, a successor shall be named in the same manner as the
1019 vacated director and such successor shall serve for the remained of the unexpired term. A
1020 majority of the directors shall constitute a quorum but a majority vote of the entire membership
1021 shall be required to take any particular action. The directors shall meet monthly. The directors
1022 shall serve without pay but each director shall be reimbursed for his actual expenses necessarily
1023 incurred in the performance of his duties.

1024 Section 3 of chapter 12 shall not apply to the board of directors. The authority may
1025 indemnify any member, officer or employee from personal expenses or damages incurred,
1026 arising out of any claim, suit, demand or judgment which arose out of any act or omission of
1027 such member, officer or employee, including the violation of the civil rights of any person under
1028 any federal law if, at the time of such act or omission such member, officer or employee was
1029 acting within the scope of his official duties or employment.

1030 Notwithstanding any other provision of this act, as soon as a quorum of the board of
1031 directors is appointed, the authority shall undertake the following: (i) appointment of a chief
1032 executive officer whose term of employment shall not extend beyond 5 years at a time; (ii), in
1033 coordination with the secretary of transportation, development of rules and regulations for the
1034 implementation of this act; (iii) implement any powers or enact any rule and regulations to affect
1035 the implementation of this act. Until the appointment and qualification of the board of directors
1036 of the authority constituting a quorum of the board is achieved, the secretary of transportation, ,
1037 may assume such rights and powers authorized by this section, with approval of the Governor. ,
1038 for a period not to exceed 90 days

1039 Section 3. As used in this chapter, chapter 81C and 81D, the following words shall,
1040 unless the context clearly requires otherwise, have the following meanings:-

1041 “Authority”, the Massachusetts Surface Transportation Authority established by section
1042 1.

1043 “Boston extension”, all roadways and tunnels for vehicular traffic that constitute that
1044 portion of interstate highway route 90 beginning at, and including, the interchange of interstate
1045 highway route 90 and state highway route 128 in the town of Weston and ending in the city of
1046 Boston at the interchange of interstate highway route 90 and interstate highway route 93 and
1047 such additional highway and bridge components as the general court may, from time to time,
1048 determine and including such real property and any improvements thereon, personal property,
1049 equipment, licenses, appurtenances and interests in land acquired or leased in connection with or
1050 incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement,
1051 repair, maintenance or administration of such roadways and tunnels as are necessary for the safe
1052 and efficient operation and maintenance thereof or which are otherwise convenient or desirable
1053 to carry out the purposes of this chapter.

1054 “Callahan tunnel”, the tunnel for vehicular traffic constructed under the provisions of
1055 chapter 598 of the acts of 1958 between the North End section of the city of Boston and the East
1056 Boston section of said city and including such real property and any improvements thereon,
1057 personal property, equipment, licenses, appurtenances and interests in land acquired or leased in
1058 connection with or incident to the construction, ownership, operation, rehabilitation,
1059 reconstruction, improvement, repair, maintenance or administration of such tunnel as are
1060 necessary for the safe and efficient operation and maintenance thereof or which are otherwise
1061 convenient or desirable to carry out the purposes of this chapter.

1062 “Central artery”, all roadways and tunnels for vehicular traffic constructed by the
1063 highway department that constitute that portion of interstate highway route 93 beginning at a
1064 point immediately south of the Southampton street interchange, and continuing to and including
1065 the interchange of interstate highway route 93 and Massachusetts avenue in the South End
1066 section of the city of Boston and continuing to and including the interchange of interstate
1067 highway route 90 and interstate highway route 93 in the South Bay section of the city of Boston,
1068 and continuing to and including the interchange of state highway route 1 and interstate highway
1069 route 93 in the Charlestown section of the city of Boston including, but not limited to the Charles
1070 river crossing portion of interstate highway route 93 and such additional highway and bridge
1071 components as the general court may, from time to time, determine, but excluding the central
1072 artery north area. “Central artery” shall also include such real property and any improvements
1073 thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or
1074 leased in connection with or incident to the construction, ownership, operation, rehabilitation,
1075 reconstruction, improvement, repair, maintenance or administration of such roadways and
1076 tunnels as are necessary for their safe and efficient operation and maintenance thereof or which
1077 are otherwise convenient or desirable to carry out the purposes of this chapter.

1078 “Central artery north area”, all roadways and tunnels for vehicular traffic constructed by
1079 the highway department consisting of a portion of state highway route 1 beginning at, but not
1080 including, the southern boundary of the Tobin memorial bridge and continuing to the interchange
1081 of interstate highway route 93 and state highway route 1, including such real property and any
1082 improvements thereon, personal property, equipment, licenses, appurtenances and interests in
1083 land acquired or leased in connection with or incident to the construction, ownership, operation,
1084 rehabilitation, reconstruction, improvement, repair, maintenance or administration of such

1085 roadways and tunnels as are necessary for their safe and efficient operation and maintenance
1086 thereof or which are otherwise convenient or desirable to carry out the purposes of this chapter.

1087 "Chief executive officer", the chief executive officer of the authority, appointed by the
1088 board pursuant to section 4.

1089 "Cost", as applied to any project of the authority any or all costs, whenever incurred, of
1090 carrying out and placing such projects in operation including, without limiting the generality of
1091 the foregoing, amounts for the following: acquisition, construction expansion improvement and
1092 rehabilitation of facilities; acquisition of real or personal property; demolitions and relocations;
1093 labor, materials, machinery and equipment; services of architects, engineers and environmental
1094 and financial experts and other consultants; feasibility studies, plans, specifications and surveys;
1095 interest prior to and during the carrying out of any project and for a reasonable period thereafter;
1096 reserves for debt service or other capital or current expenses; costs of issuance; and working
1097 capital, administrative expenses; legal expenses and other expenses necessary or incidental to the
1098 aforesaid, to the financing thereof and to the issuance therefor of bonds under this act.

1099 "Costs of issuance", any amounts payable or reimbursable directly or indirectly by the
1100 authority and related to the sale and issuance of bonds and the investment of the proceeds thereof
1101 and of revenues securing the same including, without limiting the generality of the foregoing,
1102 printing costs, filing and recording fees, fees and charges of trustees, depositories, authenticating
1103 agents and paying agents, legal and auditing fees and charges, financial consultant fees, costs of
1104 credit ratings, premiums for insurance of the payment of bonds and fees payable for letters or
1105 lines of credit or other credit facilities securing bonds, underwriting or placement costs, fees and
1106 charges for execution, transportation and safekeeping of bonds, costs and expenses of refunding
1107 and other costs, fees and charges in connection with the foregoing.

1108 "Current expenses", the authority's current expenses, whether or not annually recurring,
1109 of maintaining, repairing and operating the assets under the possession, custody and control of
1110 the authority and engaging in other activities authorized by this chapter including, without
1111 limiting the generality of the foregoing, amounts for administrative expenses of the authority
1112 including costs of salaries and benefits, as provided in this chapter, cost of insurance, payments
1113 for engineering, financial, accounting, legal and other services rendered to the authority, taxes
1114 upon the authority or its income, operations or property and payments in lieu of such taxes, costs
1115 incurred or payable by the authority with respect to the assets under the possession, custody and
1116 control of the authority, costs of issuance not financed in the cost of a project, and other current
1117 expenses required or permitted by law to be paid by the authority including the funding of
1118 reasonable reserves for upgrading, maintenance, repair, replacements, insurance, emergency
1119 contingencies or operations.

1120 "Division of roads and bridges", the division of roads and bridges within the authority
1121 established pursuant to chapter 81C.

1122 "Division of public transit", the division of public transit within the authority established
1123 pursuant to chapter 81D.

1124 "Metropolitan highway system", the integrated system of roadways, bridges, tunnels,
1125 overpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways,
1126 service stations, restaurants, tourist information centers and administration, storage, maintenance
1127 and other buildings that the authority owns, constructs or operates and maintains pursuant to this
1128 chapter which consists of the Boston extension, the Callahan tunnel, the central artery, the
1129 central artery north area, the Tobin memorial bridge, the Sumner tunnel and the Ted Williams

1130 tunnel and any additional highway, tunnel and bridge components as the general court may, from
1131 time to time, determine.

1132 “Metropolitan highway system revenues”, (i) all rates, fees, tolls, rentals or other charges
1133 and other earned income and receipts as derived from or with respect to the ownership,
1134 operation, lease, rent or other use or disposition of the metropolitan highway system or any part
1135 thereof; and (ii) all other funds received by the authority, from whatever source, relating to the
1136 metropolitan highway system.

1137 “Notes or bonds”, the notes, bonds or other evidences of indebtedness of the authority
1138 issued pursuant to this chapter.

1139 “Massachusetts Port Authority”, the Massachusetts Port Authority established pursuant to
1140 chapter 465 of the acts of 1956..

1141 "Revenues", all charges and other receipts derived by the authority from operation of the
1142 assets under the possession, custody and control of the authority and all other activities or
1143 properties of the authority including, without limiting the generality of the foregoing, proceeds of
1144 grants, gifts or appropriations to the authority, investment earnings and proceeds of insurance or
1145 condemnation, and the sale or other disposition of real or personal property.

1146 “State highway system”, all roadways, bridges, tunnels, overpasses, interchanges, parking
1147 facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
1148 information centers and administration, storage, maintenance and other buildings that the
1149 authority owns, constructs or operates and maintains pursuant to this chapter and any additional
1150 highway, tunnel and bridge components as the general court may from time to time determine.

1151 The term “state highway system” shall include the turnpike.

1152 “State public transit system”, all publicly funded modes of transportation, but not
1153 including roads and bridges.

1154 “Sumner tunnel”, the vehicular tunnel under Boston harbor, heretofore constructed and
1155 financed by the city of Boston under chapter 297 of the acts of 1929, including such real property
1156 and any improvements thereon, personal property, equipment, licenses, appurtenances and
1157 interests in land acquired or leased in connection with or incident to the construction, ownership,
1158 operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of
1159 such tunnel as are necessary for the safe and efficient operation and maintenance thereof or
1160 which are otherwise convenient or desirable to carry out the purposes of this chapter.

1161 “Ted Williams tunnel”, all or any segments of the roadways, bridges, viaducts and
1162 tunnels for vehicular traffic constructed by the highway department that constitute the interstate
1163 highway route 90 extension and its connecting roadways and tunnels, including: (i) the harbor
1164 tunnel crossing beneath Boston harbor, beginning at and including the interchanges of state
1165 highway route 1A and the Logan airport access and egress roadways with interstate highway
1166 route 90 and continuing beneath Boston harbor to and including the interchange of interstate
1167 highway route 90 and South Boston Bypass road, but excluding the Logan airport access and
1168 egress roadways owned by the Massachusetts Port Authority on March 1, 1997 and any
1169 additional access and egress roadways acquired by the Massachusetts Port Authority after March
1170 1, 1997; (ii) the seaport access highway beginning at the interchange of interstate highway routes
1171 90 and 93 and continuing to the interchange of interstate highway route 90 and South Boston
1172 Bypass road; and (iii) South Boston Bypass road, a portion of which is also known as South
1173 Boston Haul road, beginning at the interchange of interstate highway route 93 and South Boston
1174 Bypass road and continuing to the interchange of the seaport access highway in the South Boston

1175 section of the city of Boston, including such real property and any improvements thereon,
1176 personal property, equipment, licenses, appurtenances and interests in land acquired or leased by
1177 the highway department in connection with or incident to the construction, ownership, operation,
1178 rehabilitation, reconstruction, improvement, repair, maintenance or administration of such
1179 roadways and tunnels as are necessary for the safe and efficient operation and maintenance
1180 thereof or which are otherwise convenient or desirable to carry out the purposes of this chapter.

1181 “Tobin memorial bridge”, the bridge formerly known as the Mystic river bridge in the
1182 city of Chelsea.

1183 “Turnpike”, the limited access express toll highway, designated as interstate highway
1184 route 90, and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities,
1185 entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
1186 information centers and administration, storage, maintenance and other buildings that the
1187 authority may own, construct or operate and maintain pursuant to this chapter and any additional
1188 highway, tunnel or bridge components as the general court may, from time to time, determine,
1189 shall be included within the turnpike, extending from the town of West Stockbridge on the
1190 commonwealth’s border with New York state to, but not including, the interchange of interstate
1191 highway route 90 and state highway route 128 in the town of Weston.

1192 “Turnpike corridor”, the cities and towns of the commonwealth from the New York state
1193 border to state highway route 128 through which the turnpike runs and municipalities contiguous
1194 to such cities and towns.

1195 “Turnpike revenues”, (i) all rates, fees, tolls, rentals or other charges and other earned
1196 income and receipts derived from or with respect to the ownership, operation, lease, rent or other

1197 use or disposition of the turnpike or any part thereof; and (ii) all other funds received by the
1198 authority, from whatever source, relating to the turnpike.

1199 Section 4. The authority may:

1200 (a) make, and from time to time, revise and repeal by-laws, rules, regulations and
1201 resolutions for the regulation of its affairs and the conduct of its business;

1202 (b) adopt an official seal and alter the same at its pleasure;

1203 (c) maintain offices at such places within the commonwealth as it may determine and to
1204 conduct meetings of the authority in accordance with the by-laws of the authority and the
1205 provisions of the second paragraph of section 59 of chapter 156B;

1206 (d) sue and be sued in its own name, plead and be impleaded;

1207 (e) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,
1208 administer, control and operate the state highway system or any part thereof and, consistent with
1209 agreements entered into with the authority to the extent applicable, as it may determine;
1210 provided, however, that chapter 91 shall not apply to the authority, except for any parts or areas
1211 thereof subject to said chapter 91 on March 1, 1997;

1212 (f) acquire sites abutting the state highway system and construct or contract for the
1213 construction of buildings and appurtenances for gasoline stations, restaurants, parking facilities,
1214 tourist information centers and other services and lease such facilities in such manner and under
1215 such terms as it may determine;

1216 (g) issue notes or bonds for any of its corporate purposes related to the turnpike payable
1217 solely from turnpike revenues or portions thereof pledged for the payment thereof and to refund
1218 its notes or bonds pertaining to the turnpike or any part thereof or payable from such revenues, as
1219 provided in this chapter;

1220 (h) issue notes or bonds for any of its corporate purposes related to the metropolitan
1221 highway system payable solely from the metropolitan highway system revenues or portions
1222 thereof pledged for the payment thereof and refund notes or bonds thereof pertaining to the
1223 metropolitan highway system or any part thereof or payable from such revenues, as provided in
1224 this chapter;

1225 (i) issue bonds, notes and other evidences of indebtedness as provided in this chapter;

1226 (j) fix and revise, from time to time, and charge and collect tolls for transit over the
1227 turnpike; provided, however, that it shall furnish upon request to a user of the turnpike a toll
1228 receipt showing the amount of toll paid, the classification of the vehicle, the date of payment and
1229 place of exit from the turnpike; provided further, that the authority shall convene at least 2 public
1230 hearings, each to be held in a community within the turnpike corridor, at least 30 days prior to
1231 the effective date of any proposed change in toll structure on the turnpike and shall allow for a 1
1232 week comment period after each such hearing, during which written testimony and comments
1233 shall be accepted;

1234 (k) [no section k.]

1235 (l) adopt such rules and regulations pursuant to chapter 30A and not repugnant to the
1236 provisions of the General Laws made applicable to the authority, as the authority determines
1237 necessary or appropriate to provide for or govern the construction or reconstruction, including
1238 contractor qualification, operation, maintenance, repair, rehabilitation, improvement, use,
1239 policing, control or administration of the state highway system or the authority's business or
1240 property; provided, however, such regulations may include the authority to grant easements,
1241 permits or other forms of authorization for the installation, construction, maintenance, repair,
1242 renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits, cables, wires,

1243 towers, poles and other equipment and appliances of any public utility, private entity or
1244 corporation or person owning or operating such facilities in, on, along, over or under the state
1245 highway system; provided, further, that such regulations may impose penalties for violations
1246 thereof which, in the case of civil penalties, may be recovered only after notice and hearing
1247 conducted by the authority or its designee and subject to judicial review and enforcement
1248 pursuant to said chapter 30A or such other civil proceedings under the laws of the
1249 commonwealth or the United States as the law may provide and, in the case of criminal penalties,
1250 may be recovered in a proceeding in a trial court of the commonwealth by indictment or
1251 complaint; provided, further, that the amount of any such civil or criminal penalty shall not
1252 exceed \$500 for each offense, unless the law otherwise provides; provided, further, that the full
1253 amount of a civil penalty shall be paid to the authority and 80 per cent of any penalty recovered
1254 in a criminal proceeding shall be accounted for and paid to the authority; provided, further, that
1255 the authority may provide in such regulations for adjudicatory proceedings that it or its designee
1256 conducts which are subject to judicial review and enforcement according to said chapter 30A;

1257 (m) acquire, lease, hold and dispose of real and personal property or any interest therein
1258 in the exercise of its powers and the performance of its duties pursuant to this chapter; provided,
1259 however, that the authority shall issue semi-annual reports to the secretary of administration and
1260 finance, the house and senate committees on ways and means, the joint committee on
1261 transportation and the house and senate committees on bonding, capital expenditures and state
1262 assets, detailing the financial transactions and revenues associated with the sale, concession or
1263 lease of real property held in the name of or under the control of the authority, whether by
1264 purchase or otherwise, and any transactions relating to real property currently pending; and

1265 provided further, that the semi-annual report shall include the current market values of the real
1266 properties related to the transactions;

1267 (n) place and maintain or grant permission by easement or otherwise to any public utility,
1268 corporation or person to place and maintain on or under or within the turnpike or the
1269 metropolitan highway system or any part thereof, ducts, pipes, pipelines, mains, conduits, cables,
1270 wires, towers, poles or other structures to be so located as not to interfere with the safe and
1271 convenient operation and maintenance of the state highway system and to contract with any such
1272 public utility, corporation or person for such permission on such terms and conditions as may be
1273 fixed by the authority; provided, however, that the construction, maintenance and repair of any
1274 such ducts, pipes, pipelines, mains, conduits, cable, wires, towers, poles or other structures shall
1275 be subject to such directions and regulations as the authority may impose.

1276 Whenever the authority shall determine that it is necessary that any such ducts, pipes,
1277 pipelines, mains, conduits, cable, wires, towers, poles or other structures which are now or
1278 hereafter may be located in, on, along, over or under the state highway system be relocated or
1279 removed, the public utility, corporation or person owning or operating such facilities shall
1280 relocate or remove the same in accordance with the order of the authority; provided, however,
1281 that in case of any such relocation or removal of facilities, the public utility, corporation or
1282 person owning or operating the same, its successors or assigns may maintain and operate such
1283 facilities, with the necessary appurtenances, in the new location for as long a period and upon the
1284 same terms and conditions as it had the right to maintain and operate such facilities in their
1285 former location; and provided further, that otherwise, the authority shall have the power to grant
1286 such easements over any real property held by the authority as will not in the judgment of the
1287 authority unduly interfere with the operation of any of its mass transportation facilities;

1288 (o) acquire in the name of the authority by purchase or otherwise, on such terms and
1289 conditions and in such manner as it may deem proper or by the exercise of the power of eminent
1290 domain in accordance with chapter 79 or any alternative method now or hereafter provided by
1291 law, such public lands and any fee simple absolute or lesser interest in private property, or part
1292 thereof or rights therein as it may deem necessary for carrying out this chapter;

1293 (p) designate the locations and establish, limit and control such points of ingress to and
1294 egress from the state highway system as may be necessary, convenient or desirable in the
1295 judgment of the authority to insure the proper operation and maintenance of the state highway
1296 system and to prohibit entrance to the state highway system from any point or points not so
1297 designated;

1298 (q) (i) construct grade separations at locations where the state highway system intersects
1299 with or abuts public highways or rail lines and to change and adjust the lines and grades of such
1300 highways or rail lines so as to accommodate the same to the design of such grade separation; and
1301 (ii) change the location of any portion of any public highway or rail line which intersects or abuts
1302 the state highway system in order to improve the safety or efficiency of the state highway
1303 system; provided, however, that if the authority shall find it necessary to change the location of a
1304 public highway, it shall reconstruct such highway in as good a condition as the original highway
1305 and at such location as the authority deems most favorable and, provided further, that all costs
1306 incident to construction, realignment or reconstruction conducted pursuant to this clause shall be
1307 borne by the authority;

1308 (r) enter upon any lands, waters and premises in the commonwealth, after 30 days notice
1309 by registered or certified mail and without the necessity of any judicial orders or other legal
1310 proceedings, for the purpose of making surveys, soundings, drillings and examinations as the

1311 authority may deem necessary, convenient or desirable for carrying out the purposes of this
1312 chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be
1313 deemed an entry under any condemnation proceedings which may be then pending; provided,
1314 however, that the authority shall provide reimbursement for any actual damage resulting to such
1315 lands, waters and premises as a result of such activities; and provided further, that the
1316 commonwealth hereby consents to the use of all lands owned by it, including lands lying
1317 underwater, which are deemed by the authority to be necessary, convenient or desirable for the
1318 construction, operation or maintenance of the state highway system;

1319 (s) make and enter into all contracts and agreements necessary, convenient or desirable in
1320 the performance of its duties and the execution of its powers under this chapter; provided,
1321 however, that sections 26 to 29, inclusive, and sections 44A to 44 J, inclusive, of chapter 149 and
1322 sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of the authority to the same
1323 extent and in the same manner as they are applicable to the commonwealth; provided further,
1324 that notwithstanding this clause, the authority may, with the approval of the secretary of the
1325 executive office of transportation, without competitive bids and notwithstanding any general or
1326 special law to the contrary, award a contract, otherwise subject to this section, limited to the
1327 performance of emergency repairs necessary to preserve the safety of persons or property;

1328 (t) appoint and employ officers and employees to serve at the pleasure of the directors,
1329 except as may otherwise be provided in collective bargaining agreements, and to fix the
1330 compensation and conditions of employment thereof, employ personnel as hereinafter provided
1331 and to engage architectural, engineering, accounting, management, legal, financial and
1332 environmental consulting and other professional services; provided, however, that the authority
1333 shall engage consultants to perform only those services for the authority which regular

1334 employees of the Authority are unable to perform owing to lack of special expertise or other
1335 inability to perform such services on the schedule or in the manner required by the authority;

1336 (u) accept gifts, grants and loans from agencies of local, state and federal governments, or
1337 from private agencies or persons, and to accede to such conditions and obligations as may be
1338 imposed as a prerequisite to any such gift, grant or loan;

1339 (v) adopt a fiscal year to conform with the fiscal year of the commonwealth;

1340 (w) receive and apply its revenues to the purposes of the authority without appropriation
1341 or allotment by the commonwealth or any political subdivision thereof;

1342 (x) enter into agreements with other parties including, without limiting the generality of
1343 the foregoing, government agencies, municipalities, authorities, private transportation
1344 companies, railroads and other concerns, providing: (i) for construction, operation and use of any
1345 mass transportation facility and equipment held or later acquired by the authority; provided,
1346 however, that any agreement entered into by the authority for the construction or acquisition of
1347 mass transportation facilities or equipment of more than \$1,000,000, which is financed in whole
1348 or in part from the proceeds of bonds, the debt service payments on which are assisted by the
1349 commonwealth or made from the dedicated revenue source, shall not become effective until
1350 approved by the secretary of transportation; and provided further, that said secretary shall notify
1351 the secretary of administration and finance of any such approval; (ii) for joint or cooperative
1352 operation of any mass transportation facility and equipment with another party; (iii) for operation
1353 and use of any mass transportation facility and equipment for the account of the authority, for the
1354 account of another party or for their joint account; or (iv) for the acquisition of any mass
1355 transportation facility and equipment of another party if the whole or any part of the operations
1356 of such other party takes place within the area constituting the authority; provided, however, that

1357 any such other party is hereby given power and authority to enter into any such agreements,
1358 subject to applicable laws ; provided further, that any agreement with a private company under
1359 this chapter which is to be financed from the proceeds of bonds or bond anticipation notes and
1360 which provides for the rendering of transportation service by such company and for financial
1361 assistance to such company by subsidy, lease or otherwise shall include such service quality
1362 standards for such service as the authority may deem appropriate and shall not bind the authority
1363 for a period of longer than 1 year from its effective date, but this shall not prohibit agreements
1364 for longer than 1 year if the authority's obligations thereunder are subject to annual renewal or
1365 annual cancellation by the board's authority; and provided further, that such agreements may
1366 provide for cash payments for services rendered, but not more than permits any private company
1367 a reasonable return;

1368 (y) establish transit facilities and related infrastructure, including terminals, stations,
1369 access roads, parking, pedestrian access facilities, bicycle parking and access facilities as may be
1370 deemed necessary and desirable; provided, however, that the authority may charge reasonable
1371 fees for the use of such facilities as it may deem desirable, or it may allow the use of such
1372 facilities free of charge;

1373 (z) to employ a private project ombudsman who shall, in consultation with the secretary
1374 of transportation, assist municipalities and private entities to develop and advance projects
1375 critical to the economic development of a community and connecting to the state transportation
1376 system, and to ensure regional equity in the transportation system. The administrator is
1377 authorized to establish guidelines outlining the responsibilities and obligations of the private
1378 project ombudsman, who shall be experienced in the field of real estate development and
1379 economic development. Those responsibilities and obligations shall include, but not be limited

1380 to, sufficient authority to supervise, assist, and provide necessary guidance for municipal or
1381 private entity projects and the authority, subject to the administrator's approval, to review project
1382 proposals and expedite project development where possible.

1383 The division shall establish and charge a reasonable fee to cover the costs of processing,
1384 reviewing, and approving a project proposal submitted to the private project ombudsman by a
1385 municipality or private entity.

1386 (aa) do all acts and things necessary, convenient or desirable to carry out the powers
1387 expressly granted in this chapter.

1388 Section 5. The authority shall develop and implement a single integrated asset
1389 management system to oversee and coordinate the maintenance, preservation, reconstruction and
1390 investment of all of the assets in its possession, custody and control. The authority may use
1391 programs and services offered by the division of capital asset management and maintenance and
1392 the information technology division to aid in its development of an integrated asset management
1393 system as long as, in the judgment of the authority, such programs and services compare
1394 favorably with those available from private vendors and are offered at competitive prices.

1395 Section 6. (a) The chief executive officer shall operate and administer an office of performance
1396 management and innovation within the authority that shall, among other things, administer this section.
1397 The authority and its divisions shall report to the office of performance management and innovation with
1398 regard to setting goals and establishing performance measures to improve the authority and divisions'
1399 operations and the delivery of transportation services and projects in the commonwealth.

1400 The office of performance management and innovation shall be charged with evaluating the goals
1401 and measures established by the authority and its divisions and monitoring the results reported. The
1402 office shall recommend changes to proposed goals and measures as are appropriate to align goals and
1403 measures with the strategic priorities of the chief executive officer and the secretary of transportation. The

1404 office shall report regularly to the public on the progress the authority and its divisions are making at
1405 achieving stated goals. The office shall be responsible for the establishment and, in cooperation with each
1406 of the divisions, operation of an asset management system for all departments and shall report regularly
1407 on the condition of assets and infrastructure. Reports on performance shall include measures of: (i)
1408 maintenance activity and results; (ii) usage on all modes of transportation; (iii) operational performance;
1409 and (iv) planning, design and construction, including on-time and on-budget project delivery.

1410 The office shall annually publish a “Scorecard” identifying the number of projects actively under
1411 construction and those completed in the previous year by type, value and location, and those planned for
1412 the following year. Notwithstanding any other provision of law, the office shall determine the appropriate
1413 measures and standards of performance in all categories and reporting on performance trends.

1414 The office will be responsible to report publicly and transparently and to make all reports
1415 available through an on-line system.

1416 (b) The chief executive officer shall establish a performance measurement system for the
1417 divisions of the authority, which shall establish program goals, measure program performance
1418 against those goals and report publicly on progress to improve the effectiveness of transportation
1419 design and construction, service delivery and policy decision-making. Performance
1420 measurements shall include, for at least the then current fiscal year and the previous 5 fiscal
1421 years, all modes of transportation. Performance measurements shall include the number of
1422 projects completed, the percentage of projects completed early or on time, the percentage of
1423 projects completed under budget or on-budget, the number of projects in construction phase and
1424 the percentage of projects advertised early or on time. Performance measurements shall include
1425 usage information for all modes of transportation, including measures of throughput, utilization
1426 and ridership. This information shall be presented with measurements of congestion, on-time

1427 performance, if appropriate, and incidents that have caused delays or closures. Performance
1428 measurements shall include assessments of maintenance performance by asset class, mode and
1429 region, including a breakdown of highway pavement, bridge and track, for subway, commuter
1430 and commonwealth-owned freight rail, by condition level, with an explanation of current year
1431 and future year planned maintenance expenditures and their expected result. Reporting on
1432 planned maintenance programming shall include an assessment of the categories of maintenance-
1433 related activity as described in the American Association of Highway and Transportation
1434 Officials' Maintenance Manual for Roadways and Bridges. The division of roads and bridges
1435 shall expand and enhance its project information system and shall develop additional means to
1436 establish a centralized system, available on the internet, to document performance measurements
1437 and the progress and status of all planning, design, construction and maintenance projects
1438 undertaken by the authority, and all road and bridge projects of any city or town that are funded,
1439 in whole or in part, by the commonwealth. A municipality shall have access to the system at no
1440 cost, shall enter such information into the system as may be required by the division of roads and
1441 bridges and shall otherwise fully participate in the system as a condition of receiving financial
1442 assistance from the commonwealth. All information in the project information system shall be a
1443 public record unless otherwise exempted by law. A report of the project information system and
1444 performance measurements shall be published annually and made available to the public not later
1445 than December 31. The report shall also be filed annually with the clerks of the senate and house
1446 of representatives, the chairs of the house and senate committees on ways and means and the
1447 senate and house chairs of the joint committee on transportation. The performance measurement
1448 system shall require each division to develop a strategic plan for program activities and
1449 performance goals. The system shall require annual program performance reports which shall be

1450 submitted to the house and senate committees on ways and means and the joint committee on
1451 transportation.

1452 Section 7. Unless otherwise required under section 6A of chapter 31 or any other general
1453 or special law the chief executive officer shall design and implement a program for performance
1454 evaluation of employees. The sole purpose of the program shall be the improvement of the
1455 performance of individual employees and the authority and, notwithstanding any general or
1456 special law to the contrary, all information compiled by said program shall be confidential shall
1457 not be public records under section 10 of chapter 66 or clause Twenty-sixth of section 7 of
1458 chapter 4. The authority may consult with individuals and organizations and may contract for
1459 technical assistance for the purpose of the program to the extent it deems necessary.

1460 Section 8. (a) The chief executive officer of the authority shall, notwithstanding any
1461 general or special law to the contrary, identify administrative activities and functions common to
1462 the separate offices, divisions and commissions within the authority and may designate such
1463 functions as "core administrative functions" to improve administrative efficiency and preserve
1464 fiscal resources. Common functions that may be designated core administrative functions
1465 include, but shall not be limited to, human resources, financial management, information
1466 technology, legal, procurement, workers' compensation insurance pursuant to chapter 152 and
1467 asset management. All employees performing functions so designated shall be employed
1468 directly by the chief executive officer. The authority may make such services available to the
1469 agencies, offices, divisions and commissions within the executive office of transportation
1470 through a written interagency service agreement; provided, however, that a copy of such
1471 agreement shall be provided to the house and senate committees on ways and means and the joint
1472 committee on transportation before such services are provided. The authority shall charge the

1473 agencies, departments, offices, divisions and commissions of the executive office of
1474 transportation for such services, subject to appropriation.

1475 (b) The authority may enter into agreements under section 22A and 22B of chapter 7 and,
1476 in all respects not governed by general or special laws expressly made applicable to the
1477 authority, shall adhere to good business practices to be determined by the authority in its
1478 procurement of equipment, materials, property, supplies and services.

1479 (c) The authority shall use the state accounting system, the state payroll system and the
1480 state-supported internet application for procurement. The authority shall, to the maximum extent
1481 feasible, prioritize the elimination of redundant systems for asset management and information
1482 technology.

1483 (d) On December 15 and at 6-month intervals thereafter, the chief executive officer of the
1484 authority shall report to the joint committee on transportation, the joint committee on bonding,
1485 capital expenditures and state assets and the house and senate committees on ways and means on
1486 the authority's progress in implementing the requirements of this section, the capital
1487 expenditures made by the authority in implementing the requirements of this section and on the
1488 administrative savings that have been achieved through the implementation of the requirements
1489 of this section.

1490 (e) The chief executive officer of the authority shall appoint a manager to serve as
1491 director of system integration, whose primary responsibility shall be to develop a plan and
1492 oversee the implementation of the merger and integration of the organizations and assets
1493 comprising the highway division.

1494 Section 9. The exercise of the powers granted by this chapter shall be in all respects for
1495 the benefit of the people of the commonwealth, for the increase of their commerce and prosperity
1496 and for the improvement of their health and living conditions and, as the operation and
1497 maintenance of the state highway system or state public transit system by the authority shall
1498 constitute the performance of essential governmental functions, the authority shall not be
1499 required to pay any taxes or assessments upon the state highway system or state public transit
1500 system or any property acquired or used by the authority this chapter or upon the income
1501 therefrom, except as may be otherwise provided by this chapter, and the notes or bonds issued
1502 under this chapter, the transfer and the income therefrom, including any profit made on the sale
1503 thereof, shall at all times be free from taxation by and within the commonwealth.

1504 Section 10. (a) The authority may charge and collect and, from time to time, fix and
1505 revise tolls for transit over the turnpike and the different parts or sections thereof, subject to such
1506 classifications of vehicles and manners of collection as the authority determines desirable and
1507 subject to provisions of clause (j) of section 4. Such tolls shall be so fixed and adjusted as to
1508 provide, at a minimum, a fund sufficient with other revenues, if any, to pay: (a) costs incurred in
1509 furtherance of this chapter related to the turnpike including, but not limited to, the cost of
1510 owning, maintaining, repairing, reconstructing, improving, rehabilitating, policing, using,
1511 administering, controlling and operating the turnpike; provided, however, that the Authority may
1512 not charge or collect a toll for transit through the Callahan tunnel, the Sumner tunnel or the Third
1513 Harbor tunnel by official emergency vehicles of the commonwealth or any municipality, political
1514 subdivision or instrumentality thereof; provided further, that the authoirty may not charge and
1515 collect tolls for transit through the Callahan tunnel, the Sumner tunnel or the Third Harbor tunnel
1516 by private passenger vehicles registered in the East Boston section of the city of Boston or the

1517 South Boston section of the city of Boston, as the Boston transportation department has
1518 determined the geographical boundaries of said sections of Boston, that are greater than the tolls
1519 in effect for vehicles registered in said East Boston section at existing tunnel toll facilities on the
1520 effective date of section 14 of chapter 102 of the acts of 1995; and provided further, that the
1521 agency may not charge and collect tolls for transit through the Callahan or Sumner tunnels to
1522 private passenger vehicles registered in the North End section of the city of Boston, as the
1523 Boston transportation department has determined the geographical boundaries of such section,
1524 that are greater than the tolls in effect for such transit through either the Sumner tunnel or
1525 Callahan tunnel for vehicles on the effective date of section 14 of chapter 102 of the acts of
1526 1995; and (b) the principal of, redemption premium, if any, and the interest on notes or bonds
1527 relating to the turnpike as the same shall become due and payable and to create and maintain
1528 reserves established for any of the authority's corporate purposes. Such tolls shall not be subject
1529 to supervision, regulation, approval or disapproval by any department, division, commission,
1530 board, bureau or agency of the commonwealth or any political subdivision thereof. The authority
1531 shall maintain the confidentiality of all information including, but not limited to, photographs or
1532 other recorded images and credit and account data, relative to account holders who participate in
1533 its electronic toll collection system. Such information shall not be a public record and shall be
1534 used for enforcement purposes only with respect to toll collection regulations. An account holder
1535 may, upon written request to the authority, have access to all information pertaining solely to the
1536 account holder. For each violation of applicable authority regulations related to electronic toll
1537 collection, a violation notice shall be sent to the registered owner of the vehicle in violation. The
1538 notice shall include the registration number of the vehicle, the state of issuance of such
1539 registration and the date, time and place of the violation. The notice may be based in whole or in

1540 part upon inspection of any photographic or other recorded image of a vehicle and the written
1541 certification by a state police officer or other person employed by or under contract with the
1542 authority or its electronic toll collection system contractor that it is so based shall be prima facie
1543 evidence of the facts contained therein and shall be admissible in any administrative or judicial
1544 proceeding to adjudicate the liability for such violation.

1545 Section 11. The authority may take by eminent domain in accordance with chapter 79 or
1546 any alternative method now or hereafter provided by general law, any public land and any fee
1547 simple absolute or lesser interest in private property or part thereof or rights therein as it may
1548 deem necessary for carrying out this chapter.

1549 Whenever a parcel of private property so taken is used in whole or in part for residential
1550 purposes, the owner of such parcel may, within 30 days of the date of the authority's notice to
1551 vacate such parcel, appeal to the authority for a postponement of the date set for such vacating,
1552 whereupon the authority shall grant to the owner a postponement of 3 months from the date of
1553 such appeal; provided, however, that the appeal for such postponement shall be in the form of a
1554 written request to the authority sent by registered mail, return receipt requested; and provided
1555 further, that the provisions of section 40 of said chapter 79 shall govern the rights of the authority
1556 and of any person whose property shall be so taken.

1557 The authority shall have the power, in the process of constructing, reconstructing,
1558 repairing, rehabilitating, improving, policing, using or administering all or any part of the
1559 turnpike or metropolitan highway system to take by eminent domain pursuant to chapter 79, such
1560 land abutting the turnpike or metropolitan highway system as it deems necessary or desirable for
1561 the purposes of removing or relocating all or any part of the facilities of any public utility,
1562 including rail lines, and may thereafter lease the same or convey an easement or any other

1563 interest therein to such utility company upon such terms as it, in its sole discretion, may
1564 determine. Notwithstanding any general or special law to the contrary, the relocation of the
1565 facilities of any public utility, including rail lines, in accordance with this section shall be valid
1566 upon the filing of the plans thereof with the department of telecommunications and energy, if
1567 applicable.

1568 Except as otherwise provided by law, any sale of real property shall be awarded, after
1569 advertisement for bids, to the bidder who is the highest responsible bidder. The authority shall
1570 have the right to reject all bids and to readvertise for bids. Before any real property shall be so
1571 sold or conveyed, notice that such real property is for sale shall be publicly advertised in 2 daily
1572 newspapers of general circulation published in the city of Boston, and, if such real property is
1573 located in any other city or town, in a newspaper of general circulation published in such other
1574 city or town, once a week for 3 successive weeks. Such advertisements shall state the time and
1575 place where all pertinent information relative to the real property to be sold or conveyed may be
1576 obtained and the time and place of opening the bids in answer to such advertisements and that
1577 the authority reserves the right to reject any or all such bids. All bids in response to
1578 advertisements shall be sealed and shall be publicly opened by the authority. The authority may
1579 require, as evidence of good faith, that a deposit of a reasonable sum, to be fixed by the
1580 authority, accompany the proposals. This paragraph shall not be applicable to any sale of real
1581 property by the authority to the commonwealth or any city, town or public instrumentality nor to
1582 a sale of real property which is determined by the authority to have a fair market value of \$5,000
1583 or less.

1584 The authority may sell the buildings or other structures upon any lands taken by it or may
1585 remove the same and shall sell, if a sale is practicable or, if not, shall lease, if a lease is

1586 practicable, any lands or rights or interest in lands or other property taken or purchased for the
1587 purposes of this chapter, whenever the same shall, in the opinion of the authority, cease to be
1588 needed for such purpose.

1589 Notwithstanding any general or special law to the contrary, all counties, cities, towns and
1590 other political subdivisions and all public agencies, authorities and commissions of the
1591 commonwealth may lease, lend, grant or convey to the authority, at its request, upon such terms
1592 and conditions as the proper authorities of such counties, cities, towns, political subdivisions,
1593 agencies, authorities and commissions may deem reasonable and fair and without the necessity
1594 for any advertisement, order of court or other action or formality, other than the regular and
1595 formal action of the authorities concerned, any real property, improvements or personal property
1596 which may be necessary or convenient to the effectuation of the authorized purposes of the
1597 authority, including public roads, bridges and other real property, improvements or personal
1598 property already devoted to public use.

1599 Section 12. Notwithstanding chapters 134 and 147, if money, goods or other property
1600 which has been abandoned, mislaid or lost on the premises of the authority comes into the
1601 possession of the authority and remains unclaimed for a period of 120 days, the authority may
1602 sell the same, excepting money so unclaimed, at public auction after notice of such sale has been
1603 published for 3 successive weeks in a newspaper published in the city or town wherein such sale
1604 shall occur. The net proceeds of such sale, after deducting the cost of storage and the expenses of
1605 the sale, and all money so unclaimed, shall be paid into and become the property of the authority
1606 and may be applied by the authority to any of its corporate purposes. If such property is in the
1607 possession of the authority and remains unclaimed for a period of 120 and is of the value of \$3 or
1608 less, the authority may donate the same to a charitable organization.

1609 Section 13. The Authority and its employees shall be subject to the provisions of chapter
1610 one hundred and fifty E of the General Laws, and for purposes of said chapter, the Authority
1611 shall be deemed to be an employer or public employer and a legislative body. The Authority
1612 may designate a representative to act in its interest in labor relations matters with its employees.
1613 Rights and obligations under the most recent existing or expired collective bargaining
1614 agreements with respect to employees transferred to the Authority and with respect to all
1615 employee organizations representing such employees at the time of transfer, except to the extent
1616 expressly inconsistent with this act, shall be assumed by and imposed upon the Authority, and
1617 employees transferred to the Authority who are subject to such agreements shall continue to be
1618 represented by the employee organizations that are parties to such agreements until such time as
1619 they elect to be otherwise represented in accordance with the provisions of chapter one hundred
1620 and fifty E. Existing bargaining units shall remain in full force and effect for those employees
1621 transferred to the Authority until otherwise changed by law. Collective bargaining agreements in
1622 effect at the time of transfer shall continue in effect until their stated expiration date and
1623 successor negotiations shall be conducted and resolved between the Authority and the employee
1624 organizations representing employees covered by such collective bargaining agreements in
1625 accordance with the provisions of Chapter 150E and this Act. The terms and conditions of
1626 expired collective bargaining agreements under renegotiation at the time of transfer shall be
1627 observed by the Authority and the Authority shall conclude and resolve negotiations for
1628 successor agreements with the employee organizations representing employees covered by such
1629 collective bargaining agreements in accordance with the provisions of Chapter 150E and this
1630 Act. Any expired collective bargaining agreement covering employees transferred to the
1631 Massachusetts Surface Transportation Authority for which successor contract negotiations are

1632 on-going as of March 1, 2009 will be extended for 6 months after the effective date of the act,
1633 unless mutually agreed otherwise by the employees' exclusive bargaining representative and the
1634 Massachusetts Surface Transportation Authority, to permit the successful completion of
1635 successor negotiations.

1636 Nothing in this section shall be construed as conferring upon the employees of the
1637 authority the right to strike, nor as detracting from the obligations of the authority and the
1638 employees to submit all grievances and other disputes to arbitration.

1639 Section 14. Whenever any employee or former employee of the authority dies, and the
1640 authority owes his estate any sum or sums by reason of services rendered by him for wages
1641 vacation allowances, and neither a duly appointed executor or administrator nor an administrator
1642 has made written demand for payment upon the treasurer of the authority and treasurer shall not
1643 otherwise have actual notice that proceedings relative to the formal probate or settlement of such
1644 estate have been commenced in any probate court, such sum or sums may, in the discretion of
1645 the authority, be paid after the expiration of 30 days from the death of such employee to such
1646 person as may have been nominated as beneficiary, on a form approved by the directors and filed
1647 with the treasurer by such employee during his lifetime or, if there is no such beneficiary, to the
1648 surviving spouse or next of kin of such employee. Payments made as provided in this section
1649 shall discharge all liability of the authority to all persons with respect to such sum or sums.

1650 Section 15. Notwithstanding section 13, the authority or any organizations representing
1651 employees of the authority shall not be permitted to submit any dispute over the terms of a
1652 collective bargaining agreement to arbitration except in accordance with sections 15 through 19,
1653 inclusive; provided, however, that this section shall not limit the rights of organizations

1654 representing employees of the authority to submit grievances to arbitration in accordance with
1655 the collective bargaining agreement between the parties.

1656 Section 16. In the event the directors and any organizations representing employees of
1657 the authority have not reached an agreement within 90 days from the date of the expiration of the
1658 agreement, either party may notify the other that it desires mediation. The parties may agree
1659 upon a person to serve as a mediator or, if unable to agree on said mediator, either party or the
1660 parties acting jointly may petition the board of conciliation and arbitration to appoint a mediator
1661 from a list of qualified persons maintained by the board.

1662 After a reasonable period of mediation, not to exceed 45 days from the date of
1663 appointment, said mediator shall issue a report indicating the results of his services in resolving
1664 the impasse. If at the conclusion of mediation the impasse still exists, the mediator shall so
1665 certify. In the event, the mediator shall certify in his report the last best offer of each party on
1666 each unresolved issue which has been submitted to mediation and shall also certify the
1667 agreement of the parties on each issue on which agreement has been reached and shall submit
1668 such certifications to the arbitrator selected by the parties. In such event, so long as the mediator
1669 shall also certify that the parties have bargained in good faith, either party may notify the other
1670 that it desires arbitration of the dispute. Within 10 days of said notice, the parties shall meet to
1671 select a single neutral arbitrator. If, within 15 days, the parties fail to select such single arbitrator,
1672 either party may forthwith petition the board of conciliation and arbitration to request a list of 5
1673 arbitrators from the American Arbitration Association and said Association shall certify to the
1674 board that such arbitrators on the list it provides possess the qualifications as provided in section
1675 30. The parties shall thereupon meet to select such arbitrator by striking 1 name each until 1
1676 name remains and that person shall serve as the neutral arbitrator. If, after 10 days, one of the

1677 parties declines to strike their names, the other party shall strike 2 names and the board shall
1678 forthwith select the arbitrator from the remaining 3 names.

1679 Section 17. The single arbitrator, whether agreed upon by the parties or selected by the
1680 board of conciliation and arbitration, shall be a legal resident of the commonwealth and shall be
1681 experienced in state and local finance.

1682 Section 18. The arbitrator shall rely primarily on the following factors in determining the
1683 basis for an award:

1684 (a) the financial ability of the authority to meet additional costs, which shall include, but
1685 not be limited to: (i) the statutory requirement that the authority produce revenues in excess of
1686 expenses; (ii) the financial ability of the individual communities and the commonwealth to meet
1687 additional costs; (iii) the average per capita tax burden, average annual income and sources of
1688 revenue within the commonwealth, and the effect of any arbitration award on the respective
1689 property tax rates of the cities and towns within the authority's district;

1690 (b) the overall compensation presently received by the employees, having regard not only
1691 for wages for time actually worked but also for wages for time not worked, including vacations,
1692 holidays and other excused time;

1693 (c) all benefits received by the employees, including insurance, pension, as well as the
1694 continuity and stability of employment;

1695 (d) the hazards of employment, physical, educational and mental qualifications, job
1696 training and skills involved;

1697 (e) a comparison of wages, hours, and conditions of employment of the employees
1698 involved in the arbitration proceedings with the wages, hours and conditions of employment of

1699 other employees performing similar services within the commonwealth and with other
1700 employees generally in public and private employment within the commonwealth;

1701 (f) the average consumer price for goods and services, commonly known as the cost of
1702 living;

1703 (g) changes in any of the foregoing circumstances during the pendency of the arbitration
1704 proceedings;

1705 (h) such other factors, not confined to the foregoing, which are normally or traditionally
1706 taken into consideration in the determination of wages, hours and conditions of employment
1707 through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise
1708 between parties, in the public service of the commonwealth, and which are not precluded from
1709 bargaining under section 13; and

1710 (i) The stipulation of the parties.

1711 Section 19. The arbitrator shall be limited in making his award to choosing between the
1712 last best offers of the parties on each issue as certified in the mediator's report or any award in
1713 the range between the last best offers of the parties. The arbitrator shall make no award on any
1714 issue found by him to be not authorized by law to be submitted to arbitration, but shall state such
1715 finding in his written opinion. Within 30 calendar days of an award, the arbitrator shall issue a
1716 written opinion inclusive of an analysis of all statutory factors applicable to the proceedings. Any
1717 determination by the arbitrator, if supported by material and substantial evidence on the record,
1718 shall be binding upon the parties and upon the appropriate legislative or appropriating body and
1719 may be enforced at the insistence of either party or by the arbitrator in the superior court. The
1720 scope of arbitration shall be limited to wages, hours and conditions of employment and shall not
1721 include any provisions for any cost of living adjustment which are based on changes in the

1722 consumer price index after the expiration of the contract period covered by the award. In
1723 addition, any wage or salary adjustments shall be expressed in per cent or dollar amounts, and in
1724 no case shall there be any provision for salary adjustments to occur after the expiration of the
1725 contract period covered by the award.

1726 The cost, if any, of the mediation and of arbitration proceedings exclusive of the expenses
1727 of the individual parties provided for under sections 15 to 19, inclusive, shall be divided equally
1728 by the parties and shall be in accordance with a schedule of payments established by the
1729 American Arbitration Association.

1730 Section 20. All sums of money payable under sections 31, 34, 34A, 35 and 35A of
1731 chapter 152 directly to a retired member of the Massachusetts Bay Transportation Authority
1732 retirement system or to the legal representative or dependents of a deceased member on account
1733 of his death, including so much of the amount of any lump sum settlement payable under such
1734 sections directly to any such persons as is allocable to the period following the retirement or
1735 death of such member, but excluding any payments for or amounts allocable to any period to the
1736 date his retirement allowance became effective, shall be offset against and payable in lieu of any
1737 pension payable on his account by reason of the same injury, but not against his accumulated
1738 total deductions or any annuity derived therefrom. If any such pension exceeds the compensation
1739 payable on account of such member under said chapter 152 when both are reduced to the same
1740 periodical basis, the excess only shall be paid as a pension so long as such compensation
1741 continues. If any such pension is less than or equal to such compensation, no pension shall be
1742 paid so long as such compensation continues to be equal to or greater than such pension.

1743 In all cases in which a member or a beneficiary receives delayed compensation payments
1744 or an amount of any lump sum settlement payable directly to him under sections 31, 34, 34A, 35

1745 or 35A of chapter 152 subsequent to his receipt of payments under any pension granted under the
1746 Massachusetts Bay Transportation Authority retirement system by reason of the same injury, no
1747 further pension payments shall be made unless and until such time as the total amounts which by
1748 then would have been payable as compensation and pension together, if there had been no delay
1749 in making such compensation payments, shall exceed the total amounts of compensation and
1750 pension actually paid by them after due allowance in either case for the allocation of any such
1751 lump sum settlement.

1752 If a member or a beneficiary entitled to a pension under the Massachusetts Bay
1753 Transportation Authority retirement system, and also having a right to compensation under said
1754 chapter 152 by reason of the same injury or death of such member, as the case may be, neglects
1755 or fails to prosecute fully such right or to cooperate with the Massachusetts Bay Transportation
1756 Authority retirement system in its prosecution thereof, as provided for by section 73 of said
1757 chapter 152, the Massachusetts Bay Transportation Authority retirement board may, during the
1758 period of such neglect or failure, suspend such member's or beneficiary's right to further
1759 payment. Under the circumstances set forth in the said section 73, the duty of said board to
1760 prosecute shall be mandatory.

1761 Section 21. The authority shall adopt an annual budget for its current expenses which
1762 budget the authority shall have submitted for comment and recommendation to the road and
1763 bridge advisory board established under section 58 of chapter 81C and the Massachusetts transit
1764 advisory board established under section 5 of chapter 81D not less than 60 days prior to the
1765 adoption thereof. Except in case of an emergency, no current expenses may be incurred in
1766 excess of those shown in the annual current expense budget. The authority may from time to
1767 time adopt amendments to current expense budgets which the authority shall have submitted for

1768 comment and recommendation to the advisory board for each division not less than 30 days prior
1769 to the adoption thereof. The authority periodically shall also adopt and revise capital expenditure
1770 budgets for the capital facility programs developed by the executive office of transportation. The
1771 current expense and capital expenditure budgets of the authority shall be deemed not to be
1772 regulations or adjudications for purposes of chapter 30A. Proposed capital expenditure budgets
1773 shall be submitted to the advisory board for each division for such consultation not less than 60
1774 days prior to adoption or revision by the authority. The authority shall prepare a written response
1775 to reports relative to its finances submitted to it by the advisory board for each division which
1776 response shall state the basis for any substantial divergence between the actions of the authority
1777 and the recommendations contained in such reports of the advisory board. The authority shall be
1778 deemed to be a public agency subject to the recordkeeping and reporting requirements of
1779 paragraph (4) of section 40A of chapter 7.

1780 The authority shall establish a Stabilization Fund into which it shall deposit revenues in
1781 excess of expenses pursuant to section 30 until the fund balance is equal to or greater than 5 per
1782 cent of total revenues of the fiscal year most recently ended. The authority may draw funds from
1783 the Stabilization Fund only in the event that, after implementing all efficiencies and savings
1784 possible, annual revenues are projected to be less than annual expenses, or if it has insufficient
1785 funds on-hand to pay current expenses. The authority may not assume draws from the
1786 Stabilization Fund in preparing its budget pursuant to this section. In the event the authority
1787 draws funds from the Stabilization Fund, it shall file with the secretary of administration and
1788 finance, the secretary of transportation and construction, the joint committee on transportation
1789 and the house and senate committees on ways and means a financial plan that projects to produce
1790 in the following fiscal year an excess of revenues over expenses.

1791 The authority shall also establish a Toll and Fare Stability Fund, into which it shall
1792 deposit revenues in excess of expenses pursuant to section 30. The authority may assume draws
1793 from the Fare Stability Fund in preparing its budget pursuant to this section. Funds in said Fare
1794 Stability Fund shall be utilized within 5 fiscal years after being deposited.

1795 Section 22. (a) The authority may provide, by resolution of the board of directors, for the
1796 issuance, from time to time, of bonds of the authority for any of its corporate purposes or for the
1797 borrowing of money in anticipation of the issuance of such bonds. Bonds issued by the authority
1798 may be issued as general obligations of the authority or as special obligations payable solely for
1799 particular revenues or funds as may be provided for in any bond resolution, trust agreement or
1800 other agreement securing bonds. The authority may also provide, by resolution of the board of
1801 directors, for the issuance, from time to time, of temporary notes in anticipation of the revenues
1802 to be collected or received by the authority, or in anticipation of the receipt' of other grants or
1803 aid. The issue of such notes shall be governed by this chapter relating to the issue of bonds of the
1804 authority other than such temporary notes as the same may be applicable; provided, however,
1805 that notes issued in anticipation of revenues shall mature not later than 1 year from the respective
1806 dates thereof and notes issued in anticipation of grants, or other aid and renewals thereof, shall
1807 mature not later than 6 months after the expected date of receipt of such grant or aid. The
1808 aggregate principal amount of all bonds issued under this chapter shall not exceed
1809 \$10,000,000,000 outstanding at any one time; provided, however, that bonds for the payment or
1810 redemption, of which, either at or prior to maturity, refunding bonds shall have been issued, shall
1811 be excluded in the computation of outstanding bonds.

1812 (b) Bonds of each issue shall be dated, may bear interest at such rate or rates, including
1813 rates variable from time to time as determined by an index, banker's loan rate or other method

1814 determined by the authority, and shall mature or otherwise be payable at such time or times, as
1815 may be determined by the authority, and may be made redeemable before maturity at the option
1816 of the authority or the holder thereof at such price or prices and under such terms and conditions
1817 as may be fixed by the authority. Prior to the initial issuance of each series of bonds, the
1818 authority shall advise the advisory boards established by chapter 81C and 81D, the finance
1819 advisory board established in section 97 of chapter 6 and the executive office for administration
1820 and finance of the timing and terms thereof. The authority shall determine the form of bonds,
1821 including interest coupons, if any, to be attached thereto, and the manner of execution of such
1822 bonds, and shall fix the denomination or denominations of such bonds and the place or places of
1823 payment of principal, redemption premium, if any, and interest, which may be at any bank or
1824 trust company within or without the commonwealth. In case any officer whose signature or a
1825 facsimile of whose signature shall appear on any bonds or coupons shall cease to hold such
1826 office before the delivery thereof, such signature or facsimile shall nevertheless be valid and
1827 sufficient for all purposes as if such officer had remained in office until delivery. The authority
1828 may provide for authentication of bonds by a trustee, fiscal agent, registrar or transfer agent.
1829 Bonds may be issued in bearer or in registered form, or both, and, if notes, may be made payable
1830 to bearer or to order, as the authority may determine, and provision may be made for the
1831 registration of any coupon bonds as to principal alone and also as to both principal and interest,
1832 for the reconversion into coupon bonds of bonds registered as to both principal and interest and
1833 for the interchange of bonds registered as to both principal and interest and for the interchange of
1834 registered and coupon bonds. The authority may also establish and maintain a system of
1835 registration for any bonds whereby the name of the registered owner, the rights evidenced by the
1836 bonds, the transfer of the bonds and such rights and other similar matters are recorded in books

1837 or other records maintained by or on behalf of the authority, and no instrument evidencing such
1838 bond or rights need be delivered to the registered owner by the Authority. A copy of the books or
1839 other records of the authority pertaining to any bond registered under such registration system
1840 certified by an authorized officer of the authority or by the agent of the authority maintaining
1841 such system shall be admissible in any proceeding without further authentication. The authority
1842 may adopt regulations with respect to the operation of such system. The board of directors may
1843 by resolution delegate to any director or directors or officer or officers of the authority or any
1844 combination thereof the power to determine any of the matters set forth in this section. In the
1845 discretion of the authority, bonds of the authority may be issued with such terms as will cause the
1846 interest thereon to be subject to federal income taxation. The authority may sell its bonds in the
1847 manner, either at public or private sale, for the price, at the rate or rates of interest, or at discount
1848 in lieu of interest, as it may determine will best effect the purposes of this chapter.

1849 (c) Said authority may issue interim receipts or temporary bonds, with or without
1850 coupons, exchangeable for definitive bonds when the bonds shall have been executed and are
1851 available for delivery. The authority may also provide for replacement of any bonds which shall
1852 have become mutilated or shall have been destroyed or lost. The authority, by itself or through
1853 such agent as it may select, may purchase and invite offers to tender for the purchase of any
1854 bonds of the authority at any time outstanding; provided, however, that no such purchase by the
1855 Authority shall be made at a price, exclusive of accrued interest, if any, exceeding the principal
1856 amount thereof or, if greater, the redemption price of such bonds when next redeemable at the
1857 option of the authority, and may resell any bonds it determines will best effect the purposes of
1858 this chapter.

1859 (d) In the discretion of the board of directors, any bonds issued hereunder may be secured
1860 by a bond resolution or trust agreement or other agreement in such form and executed in such
1861 manner as may be determined by the board of directors between the authority and the purchasers
1862 or holders of such bonds or between the authority and a corporate trustee which may be any trust
1863 company or bank having the powers of a trust company within or without the commonwealth. A
1864 trust agreement may pledge or assign, in whole or in part, any receipts, fees, revenues or other
1865 payments received or to be received by the authority, including without limitation amounts
1866 provided to the trust in accordance with section 35LL of chapter 10, grants, appropriations or
1867 other assistance from the commonwealth or the United States or any political subdivision or
1868 instrumentality of either, investment earnings on its funds and accounts and any other fees,
1869 charges or other income received or receivable by the authority and any contract or other rights
1870 to receive the same, whether then existing or thereafter coming into existence, and whether then
1871 held or thereafter acquired by the trust, and the proceeds thereof. A trust agreement may contain,
1872 without limitation, provisions for protecting and enforcing the rights, security and remedies of
1873 the bondholders, provisions defining defaults and establishing remedies, which may include
1874 acceleration and may also contain restrictions on remedies by individual bondholders. A trust
1875 agreement may also contain covenants of the trust concerning the custody, investment and
1876 application of moneys, the issuance of additional or refunding bonds, the use of any surplus bond
1877 proceeds, the establishment of reserves and the regulation of other matters customarily treated in
1878 trust agreements. At the request of the authority, the state treasurer shall join in any trust
1879 agreement or to otherwise agree with the authority, any lender or any trustee for bondholders to
1880 hold the Surface Transportation Trust Fund, established pursuant to said section 35LL of said
1881 chapter 10, in compliance with any covenants and provisions relating thereto in any trust

1882 agreement. In no circumstances shall the authority mortgage its real property or fixed assets to
1883 secure its bonds.

1884 (e) (1) Bonds may be issued by the authority in the form of lines of credit or other
1885 banking arrangements under terms and conditions determined by the authority. In addition to
1886 other lawful security, bonds may be secured, in whole or in part, by financial guaranties, by
1887 insurance, by letters or lines of credit or by other credit enhancement issued to the authority or to
1888 a trustee or other person, by any bank, trust company, insurance or surety company or other
1889 financial institution, within or without the commonwealth. The authority may pledge or assign,
1890 in whole or in part, revenues, funds or other assets or property held or to be received by the
1891 authority, and any contract or other rights to receive the same, whether then existing or thereafter
1892 coming into existence and whether then held or thereafter acquired by the authority, and the
1893 proceeds thereof, as security for any such guaranties or insurance or for the reimbursement to
1894 any issuer of a line or letter of credit.

1895 (2) The authority shall comply with all regulations and guidelines promulgated by the
1896 finance advisory board established in section 97 of chapter 6. At least 10 business days before
1897 entering into any security transaction involving a derivative financial product, the authority shall
1898 notify the finance advisory board of its intent to enter into such a transaction. For purposes of the
1899 preceding sentence, “derivative financial product” shall mean financial instruments with values
1900 derived from or based upon the value of other assets or on the level of an interest rate index
1901 including, but not limited to, a call option on a bond, an interest rate swaptions, caps, floors,
1902 collars, inverse floaters, auction rate securities or any other financial transaction other than fixed-
1903 rate, long-term borrowing.

1904 (f) It shall be lawful for any bank or trust company to act as a depository or trustee of the
1905 proceeds of bonds, revenues or other moneys under a bond resolution, trust agreement or other
1906 agreement of the authority and to furnish indemnification and to provide security as may be
1907 required by the authority. Any pledge of revenues and other funds made by the authority under
1908 this chapter shall be valid and binding and shall be deemed continuously perfected for the
1909 purposes of the uniform commercial code and other laws when such pledge is made. The
1910 revenues and funds, rights therein and thereto and proceeds so pledged and then held or
1911 thereafter acquired or received by the authority shall immediately be subject to the lien of such
1912 pledge without any physical delivery or segregation thereof or further act, and the lien of any
1913 such pledge shall be valid and binding against all parties having claims of any kind in tort,
1914 contract or otherwise against the authority, whether or not such parties have notice thereof. The
1915 bond resolution, trust agreement or any other agreement by which a pledge is created need not be
1916 filed or recorded to perfect such pledge except in the records of the authority and no filing need
1917 be made under the uniform commercial code. Any pledge or assignment made under the
1918 authority of this chapter is an exercise of the political and governmental powers of the Authority,
1919 and revenues or funds, contract or other rights to receive the same and the proceeds thereof
1920 which are subject to the lien of a pledge or assignment created under this chapter shall not be
1921 applied to any purposes not permitted by such pledge or assignment.

1922 (g) Any holder of a bond issued by the authority under this chapter or of any of the
1923 coupons appertaining thereto and any trustee or other representative under a bond resolution,
1924 trust agreement or other agreement securing the same, except to the extent the rights herein given
1925 may be restricted by the resolution, trust agreement or other agreement, may bring suit upon the
1926 bonds or coupons and may, either at law or in equity, by suit, action, mandamus, or other

1927 proceeding for legal or equitable relief, including proceedings for the appointment of a receiver
1928 to take possession and control of the business and properties of the authority, to operate and
1929 maintain the same, to make any necessary repairs, renewals and replacements in respect thereof
1930 and to fix, revise and collect charges, protect and enforce any and all rights under the laws of the
1931 commonwealth or granted hereunder or under such bond resolution, trust agreement or other
1932 agreement, and may enforce and compel performance of all duties required by this chapter or by
1933 such bond resolution, trust agreement or other agreement, to be performed by the authority or by
1934 any officer thereof.

1935 (h) Before the issuance of any bonds of the authority, each member of the board of
1936 directors and each officer of the authority charged with responsibility for the issuance thereof
1937 shall execute a surety bond conditioned on the faithful performance of the duties of the office of
1938 each such director and officer, in the sum of \$100,000 payable to the authority, or, in lieu
1939 thereof, the authority shall obtain a blanket bond in the same amount covering all such persons,
1940 and such bonds or bonds shall be filed in the office of the state secretary.

1941 Section 23. The authority may issue refunding bonds for the purpose of paying any of its
1942 bonds issued pursuant to this chapter at or prior to maturity or upon acceleration or redemption
1943 or purchase and retirement. Refunding bonds may be issued at such times at or prior to the
1944 maturity, redemption or purchase and retirement of the refunded bonds as the board of directors
1945 deems to be in the interest of the authority. Refunding bonds may be issued in sufficient amounts
1946 to pay or provide for payment of the principal of the bonds being refunded, together with any
1947 redemption premium thereon, any interest or discount accrued or to accrue to the date of
1948 payment of such bonds, the costs of issuance of the refunding bonds, the expenses of paying,
1949 redeeming or purchasing the bonds being refunded, the costs of holding and investing proceeds

1950 of refunding bonds pending such payment, redemption or purchase and such reserves for debt
1951 service or other capital or current expenses from the proceeds of such refunding bonds as may be
1952 required by a bond resolution, trust agreement or other agreement securing bonds. The issue and
1953 sale of refunding bonds, the maturities and other details thereof, the security therefor, the rights
1954 of the holders thereof, and the rights, duties and obligations of the authority in respect of the
1955 same shall be governed by this chapter relating to the issue of bonds other than refunding bonds
1956 insofar as the same may be applicable.

1957 Section 24. Bonds issued by the authority are hereby made securities in which all public
1958 officers and agencies of the commonwealth and its political subdivisions, all insurance
1959 companies, trust companies in their commercial departments, savings banks, cooperative banks,
1960 banking associations, investment companies, executors, administrators, trustees and other
1961 fiduciaries may properly invest funds, including capital in their control or belonging to them.
1962 Such bonds are hereby made securities which may properly be deposited with and received by
1963 any state or municipal officer of any agency or political subdivision of the commonwealth for
1964 any purpose for which the deposit of bonds or obligations of the commonwealth or any political
1965 subdivision is now or may hereafter be authorized by law.

1966 Section 25. Bonds may be issued under this chapter without obtaining the consent of any
1967 executive office, department, division, commission, board, bureau or agency of the
1968 commonwealth or any political subdivision thereof, and without any other proceedings or the
1969 happening of any condition or acts other than those proceedings, conditions or acts which are
1970 specifically required therefor, and the validity of and security for any bonds issued by the
1971 authority pursuant to this chapter shall not be affected by the existence or nonexistence of any
1972 such consent or other proceedings, conditions or acts. Provisions of this chapter relating to the

1973 preparation, adoption or approval of programs and budgets shall not affect the issue of bonds and
1974 bonds may be issued either before or after such preparation, adoption or approval.

1975 Section 26. Bonds issued under the provisions of this chapter shall not be deemed to be a
1976 debt or a pledge of the faith and credit of the commonwealth or of any of its political
1977 subdivisions, but shall be payable solely from the funds of the authority from which they are
1978 made payable pursuant to this chapter. Bonds issued under this chapter shall recite that neither
1979 the commonwealth nor any political subdivisions thereof shall be obligated to pay the same and
1980 that neither the faith and credit nor the taxing power of the commonwealth or of any political
1981 subdivision thereof is pledged to the payment of the principal of or interest on such bonds.
1982 Further, every bond shall recite whether it is a general obligation of the authority or a special
1983 obligation thereof payable solely from particular revenues or funds pledged to its payment. The
1984 aggregate principal amount of all bonds issued under this chapter shall not exceed
1985 \$10,000,000,000 outstanding at any one time; provided, however, that bonds for the payment of
1986 redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall
1987 be excluded in the computation of outstanding bonds.

1988 Section 27. Notwithstanding any of the provisions of this chapter or any recitals in any
1989 bonds issued hereunder, all such bonds shall be deemed to be investment securities under the
1990 uniform commercial code.

1991 Section 28. All moneys received pursuant this chapter, whether as proceeds from the
1992 issue of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and
1993 applied solely as provided in this chapter. The resolution authorizing the notes or bonds or the
1994 trust agreement securing such notes or bonds shall provide that any officer with whom, or any
1995 bank or trust company with which, such moneys shall be deposited shall act as trustee of such

1996 moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as
1997 this chapter and such resolution or trust agreement may provide.

1998 Section 29. (a) The authority shall, at all times, keep full and accurate accounts of its
1999 receipts, expenditures, disbursements, assets and liabilities which shall be open to inspection by
2000 any officer or duly appointed agent of the commonwealth. The authority shall submit an annual
2001 report, in writing, to the governor, the president of the senate, the speaker of the house of
2002 representatives, the chairman of the senate committee on ways and means, the chairman of the
2003 house committee on ways and means and the chairmen of the joint committee on transportation.
2004 The report shall include audited financial statements by an independent accounting firm relating
2005 to the operations, properties, and capital facility expenditures, including costs of land
2006 acquisitions, of the authority maintained in accordance with generally accepted accounting
2007 principles so far as applicable, and audited by an independent certified public accountant firm.

2008 (b) Not later than December 31, 2011 and every 5 years thereafter, the authority shall
2009 submit to the governor, the president of the senate, the speaker of the house of representatives,
2010 the chairman of the senate committee on ways and means, the chairman of the house committee
2011 on ways and means and the chairmen of the joint committee on transportation a progress report
2012 on the authority's attainment of its statutory purposes. Each such 5-year progress report shall be
2013 prepared by the authority with the assistance of an independent citizen panel which shall include
2014 persons selected by the authority and approved by the regional transit advisory board established
2015 by section 27 of chapter 161B, the parkways advisory board established by section 60 of chapter
2016 81C, the road and bridge advisory board established in section 58 of chapter 81C and the mass
2017 transit advisory board established by section 5 who are experienced in environmental protection,
2018 civil engineering and public management and finance. The report shall include recommendations

2019 concerning the future activities of the authority including, but not limited to, changes in this
2020 chapter, chapter 81C, chapter 81D and chapter 161B or the authority's administrative procedures
2021 necessary or desirable for improving the delivery of services. The costs of preparing the report
2022 shall be provided for in the current expense budgets of the Authority.

2023 Section 30. Annual revenues in excess of expenses shall be allocated in the following
2024 order:

2025 (1) to fully fund all debt service reserves required under the trust agreements of any
2026 bonds of the authority then outstanding, and to fund in advance the debt service reserve
2027 requirements of any bond issuances planned for the upcoming fiscal year, in each case to the
2028 extent required by an applicable bond resolution or trust agreement securing bonds of the
2029 authority;

2030 (2) to fund the Stabilization Fund established pursuant to the second paragraph of section
2031 21;

2032 (3) 50 per cent of any revenues in excess of expenses remaining after all debt service
2033 reserve requirement and the Stabilization Fund are fully funded shall be deposited in the Toll and
2034 Fare Stability Fund established pursuant to the third paragraph of said section 21;

2035 (4) 50 per cent of any revenues in excess of expenses remaining after all debt service
2036 reserve requirement and the Stabilization Fund are fully funded shall pay for capital
2037 improvements in lieu of bond proceeds or be applied to the retirement of outstanding bonds.

2038 Section 32. The authority shall be a public employer as defined in section 1 of chapter
2039 258.

2040 Section 33. The authority shall be deemed to be a public agency for purposes of, and
2041 shall be subject to, sections 44A to 44H, inclusive, of chapter 149, and section 39M of chapter

2042 30, and shall comply with requirements applicable to an independent public authority for
2043 publication of contract information in the central register established under section 20A of
2044 chapter 9 . The authority shall not be subject to supervision under section 22 of chapter 7, but
2045 may enter into agreements under section 22A and 22B of chapter 7 and, in all respects not
2046 governed by general or special laws expressly made applicable to the authority, shall adhere to
2047 good business practices to be determined by the authority in its procurement of equipment,
2048 materials, property, supplies and services.

2049 Section 34. (a) All local bodies and all public agencies, instrumentalities, commissions
2050 and authorities of the commonwealth are hereby authorized and empowered to undertake
2051 activities, programs and projects in conjunction with the authority in furtherance of the purposes
2052 of this chapter including, without limiting the generality of the foregoing, to join in
2053 investigations and studies, and to grant applications and applications for project approvals.

2054 (b) Except with respect to real property acquired or held for purposes described in Article
2055 XCVII of the amendments to the constitution of the commonwealth, all local bodies and all
2056 public agencies, instrumentalities, commissions and authorities of the commonwealth, may lease,
2057 lend, grant or convey to the authority, upon such terms and conditions as the proper authorities of
2058 such public bodies, public agencies, instrumentalities, commissions and authorities of the
2059 commonwealth may deem appropriate and without the necessity of any action or formality other
2060 than the regular and formal action of such public bodies, agencies, instrumentalities,
2061 commissions and authorities of the commonwealth, any interest in any real or personal property
2062 which may be necessary or convenient to effect the purposes of the authority.

2063 Section 35. Under this chapter, chapter 81C and chapter 81D: (i) no lands or easements
2064 taken or acquired for the purposes authorized by article XCVII of the amendments to the

2065 constitution of the commonwealth shall be used for other purposes or disposed of; and (ii) no
2066 lands devoted to the public use shall be diverted to another inconsistent public use, except in all
2067 instances in accordance with the laws and the constitution of the commonwealth.

2068 Section 36. The superior court department of the trial court shall have jurisdiction to
2069 enforce rights and duties created by this chapter, and on complaint of the authority may restrain
2070 violations of the authority's regulations and otherwise enforce by any appropriate remedy,
2071 including without limiting the generality of the foregoing, injunctive relief, the regulations,
2072 licenses, permits, orders, penalties and charges of the authority. Penalties and charges established
2073 by or under authorization of this chapter shall be collected for the account of the authority and
2074 paid over to the authority. Except for rights of action expressly conferred upon the Authority, no
2075 provision of this chapter shall create private rights of action in enforcement proceedings.

2076 Section 37. Notwithstanding any general or special law or this chapter to the contrary, no
2077 officer of the authority shall enter into any consent decree in any court of any jurisdiction
2078 without prior approval of the governor.

2079 Section 38. The authority and its corporate existence shall continue until terminated by
2080 law; provided, however, that no such law shall take effect so long as the authority shall have
2081 bonds outstanding without adequate provision for the complete payment or satisfaction thereof.
2082 Upon termination of the authority, the title to all funds and other properties owned by it which
2083 remain after the payment or satisfaction of all bonds of the authority shall vest in the
2084 commonwealth. The obligations, debts and liabilities of the authority shall be assumed by and
2085 imposed upon the commonwealth.

2086 Section 39. Chapter 12A shall apply to the authority.

2087 Section 40. There shall be an internal special audit unit within the authority which shall
2088 monitor the quality, efficiency and integrity of the authority's operating and capital programs and
2089 seek to prevent, detect and correct fraud, waste and abuse in the expenditure of public or private
2090 transportation funds. The unit shall be headed by a director, who shall be appointed by the
2091 secretary of transportation. Employees of the internal special audit unit shall have experience in
2092 accounting, auditing, financial analysis, applicable law, business management, and public
2093 administration, shall devote their full-time efforts to the unit and shall not be assigned direct
2094 operating responsibilities.

2095 At any time, the director may report and refer his findings to the inspector general so that
2096 the inspector general may conduct an investigation as defined in chapter 12A and the results of
2097 such investigation may be referred to the attorney general for appropriate action.

2098 Section 41. Notwithstanding any general or special law to the contrary, the authority
2099 shall not seek federal approval for, nor undertake the design, installation and construction of,
2100 new toll facilities on the state highway system in the commonwealth without the prior written
2101 approval of the secretary of transportation.

2102 Section 42. The authority shall be subject to section 8 of chapter 268A of the General
2103 Laws and thereby shall be prohibited from implementing competitively procured owner-
2104 controlled insurance programs.

2105 Section 43. The Authority shall adopt and implement a buy green initiative for authority
2106 projects in furtherance of the greenhouse gas emission limits established under chapter 21N, and
2107 a build green initiative for the construction of new transportation facilities over ten thousand
2108 square feet in accordance with applicable law.

2109

2110 CHAPTER 81C

2111 THE DIVISION OF ROADS AND BRIDGES

2112 Section 1. (a) Without limiting the generality of the powers granted to the authority
2113 under the provisions of chapter 81B or other provisions of this chapter, the following provisions
2114 are made for the operation, improvement and construction of the state highway system.

2115 (b) There is hereby established a division of roads and bridges within the authority. The
2116 division shall consist of the following bureaus: administrative services; parkway maintenance;
2117 highway engineering; highway construction; and highway maintenance. Each such bureau shall
2118 be under the direction, control and supervision of the administrator of the division of roads and
2119 bridges, as defined in section 2. The administrator shall assign to all officials, agents and
2120 employees of the bureaus their respective duties.

2121 Section 2. The division shall be under the direction of an administrator, who shall be
2122 appointed by the chief executive officer of the authority and who shall serve at his pleasure. The
2123 administrator shall be responsible for administering and enforcing this chapter relative to the
2124 administration of each bureau or other section thereof under his control and supervision unless
2125 otherwise provided herein, subject to the supervision of the chief executive officer of the
2126 authority.

2127 The administrator shall be exempt from chapter 31 and the position of administrator shall
2128 be classified in accordance with section 45 of chapter 30 and the salary shall be determined in
2129 accordance with section 46C of said chapter 30. The administrator shall be appointed with due
2130 regard to his fitness, by reason of his experience in matters relating to transportation
2131 infrastructure, including roads and bridges, such as the construction, operations or financing
2132 thereof or other relevant experience relative to the efficient exercise of his powers and duties.

2133 The commissioner shall administer this section and the General Laws, rules and regulations that
2134 grant powers to or impose duties upon the division , subject to the supervision of the chief
2135 executive officer.

2136 (a) The administrator shall establish a procedure for recommending to the chief executive
2137 officer approval or disapproval of all contracts, including specifications, made by the division,
2138 and any changes, alterations, amendments or modifications thereof and for contract appeals of all
2139 claims made under any contract with the division with the exception of claims subject to section
2140 39Q of chapter 30. Any person aggrieved by a decision of the chief executive officer acting in
2141 regard to contract appeals may bring suit against the authority for recovery of damages based on
2142 such claim under chapter 258.

2143 To assist the chief executive officer and administrator in performing this function, the
2144 chief executive officer may appoint and remove a person of legal training and experience, who
2145 shall be a member of the bar of the commonwealth, to the position of hearing examiner. The
2146 hearing examiner shall devote full-time during business hours to the duties of his position. The
2147 position shall be classified in accordance with section 45 of chapter 30 and the salary shall be
2148 determined in accordance with section 46C of said chapter 30. The chief executive officer may
2149 refer any dispute concerning contracts, contract specifications or the execution of contracts not
2150 subject to the said section 39Q of said chapter 30 to the hearing examiner for a report on the
2151 matter including a recommendation as to the disposition of the dispute.

2152 The hearing examiner shall hear all claims by contractors from determinations of the
2153 department with the exception of claims subject to said section 39Q of said chapter 30 and shall,
2154 after hearing, render to the chief executive officer a report of the matter including a
2155 recommendation as to the disposition of the claim. The examiner shall, at the request of the

2156 contractor or of the division or on his own motion, summon witnesses and require the production
2157 of books and records and take testimony under oath. Such report shall be maintained as public
2158 records in a place and form fully accessible to the public.

2159 (b) The administrator shall appoint and may remove all employees in the division, subject
2160 to the approval of the chief executive officer of the authority. Except as provided in this chapter
2161 or as otherwise provided by law, all such appointments and removals shall be made in
2162 accordance with chapter 31. From time to time, the administrator may, subject to appropriation
2163 and regulation, employ such consultants as he may consider necessary; provided, however, that
2164 such consultants shall be engaged to perform only those services for the division which regular
2165 employees of the division are unable to perform owing to lack of special expertise or other
2166 inability to perform such services on the schedule or in the manner required by the division.

2167 The administrator may appoint and remove, without regard to chapter 31 but with the
2168 approval of the chief executive officer: a chief engineer; 5 deputy chief engineers; an assistant
2169 chief engineer; a highway and structures engineer; a bridge engineer; highway engineers;
2170 parkway engineers; district highway engineers; a director to serve in the division of
2171 administrative services; 4 executive assistants to the administrator; a director of the right of way
2172 bureau; and a director of public information. The total number of appointments to be made by
2173 the administrator under this paragraph shall not exceed 35. No person holding an appointment
2174 under this paragraph shall be subject to chapter 31 or section 9A of chapter 30. Nothing in this
2175 section shall be deemed to exempt the positions named herein from sections 45 to 50, inclusive,
2176 of said chapter 30. So far as practicable in the judgment of the administrator, appointments to
2177 said positions not classified under said chapter 31 shall be made by promoting employees of the
2178 division serving in positions so classified. Any person appointed to the position of chief

2179 engineer, deputy chief engineer, assistant chief engineer, highway and structures engineer, bridge
2180 engineer, parkway engineer, highway engineer or district highway engineer, shall be a person of
2181 experience and skill as an engineer and shall be: (i) an employee of the bureau holding an office
2182 or position classified under said chapter 31 with permanent status of senior civil engineer or
2183 higher; (ii) a registered professional engineer; or (iii) a person who has received the degree of
2184 bachelor of science in an appropriate engineering discipline from an accredited college or
2185 university. If an employee of the division having permanent status in a position classified under
2186 or having tenure by reason of section 9A of said chapter 30 is so promoted to such unclassified
2187 position, upon termination of service in such unclassified position the employee shall be restored
2188 to the position from which he was promoted; or to a position equivalent thereto in the salary
2189 grade in the same state agency; or if he had been promoted in accordance with said chapter 31
2190 during promotion in the unclassified position, to the position to which he was so promoted or to a
2191 position equivalent thereto in salary grade in the same state agency. In cases of restoration under
2192 said chapter 31, or under said section 9A of said chapter 30, such restoration shall be without
2193 impairment of civil service status or tenure under said section 9A, and without loss of the
2194 seniority, retirement and other rights to which uninterrupted service in the position would have
2195 entitled the employee; provided, however, that if his service in such unclassified position has
2196 been terminated for cause, the employee's right to be restored shall be determined by section 43
2197 of said chapter 31. During the period of such appointment the person so appointed shall be
2198 eligible to take any competitive promotional examination for which he or she would otherwise
2199 have been eligible.

2200 (c) The administrator shall, from time to time, establish such bureaus, section, and district
2201 and other offices as shall be necessary for the efficient and economical administration of the

2202 division and, if necessary for such purpose, may, from time to time, with the approval of the
2203 chief executive officer, consolidate or abolish the same. The administrator shall prepare and keep
2204 current a general statement of the organization of the division, of the assignment of functions to
2205 its various administrative units, officials and employees, and of the established places at which
2206 and the methods whereby the public may secure information or make requests, such statement to
2207 be known as the division's "description of organization". The administrator shall file with the
2208 state secretary an attested copy of such description and of each amendment thereto.

2209 (d) With the approval of the personnel director, the chief executive officer may establish
2210 in the division of roads and bridges a program of engineering internship and, may recruit
2211 qualified persons to serve in the division as highway engineer interns.

2212 The number of persons employed in the division as highway engineer interns shall at no
2213 time exceed 7, nor may such highway engineer interns employed by the division be placed in a
2214 salary grade higher than that of a junior civil engineer in the division.

2215 No person shall be appointed or employed as a highway engineer intern except upon
2216 requisition made by the administrator and upon certification by the personnel director from an
2217 eligible list prepared in accordance with the provisions of chapter 31 and the rules made
2218 thereunder; provided, however, that the personnel director shall establish such eligible list before
2219 June 1 in each calendar year by holding a competitive examination which shall be open only to
2220 persons who, as candidates for the degree of bachelor of science in engineering are enrolled in at
2221 least the junior year as students in any college of the commonwealth, or are Massachusetts
2222 residents attending a college of recognized standing outside the commonwealth, and to persons
2223 who, within the 4 years next preceding, have been awarded the degree of bachelor of science in
2224 engineering from a college of recognized standing. The eligible list established each year shall

2225 expire upon the establishment of the eligible list in the following year. No person shall be
2226 certified for appointment as a highway engineer intern unless he has been awarded the degree of
2227 bachelor of science in engineering.

2228 Upon appointment as a highway engineer intern, made in accordance with chapter 31 and
2229 the rules made thereunder, the appointee shall sign an agreement binding him to serve as
2230 highway engineer intern for a minimum of 2 years unless his employment is sooner terminated
2231 by the administrator. It shall be the duty of the administrator to rotate the assignments of each
2232 intern during his period of employment in order that he may acquire diversified experience in the
2233 engineering programs of the division.

2234 The names of persons appointed as highway engineer interns shall be entered in order of
2235 date of appointment on a list to be known as “highway engineer intern list” in the division of
2236 civil service.

2237 Upon completion of 2 years of employment as interns under agreements provided for in
2238 this section, persons shall be eligible without further examination for appointment as junior civil
2239 engineers providing a vacancy exists in said title in the division and, upon requisition of the
2240 administrator, the names of such persons shall be certified for appointment by the personnel
2241 director from the highway engineer intern list, in accordance with the rules of the civil service
2242 commission, except that the basis of certification shall be the order of appointment to such
2243 highway engineer intern list.

2244 (e) The administrator may establish a co-operative engineer program and may enter into
2245 agreements with colleges of recognized standing within the commonwealth, including colleges
2246 which have summer programs, which have established a curriculum leading to a degree of
2247 bachelor of science in engineering on a co-operative basis, contemplating regularly rotating work

2248 activity in the field of engineering and an equal period of classroom training. He may employ
2249 persons enrolled as candidates for the degree of bachelor of science in engineering in any such
2250 colleges to serve in the division in the position of student engineer; provided, however, that the
2251 position of student engineer shall be in a grade lower than that of junior civil engineer in the
2252 division, and provided that at no time shall the number of persons employed in the division as
2253 student engineers exceed 8. Upon completion of not less than 2 years of employment as student
2254 engineer, a person shall be eligible to apply for the examination for highway engineer intern. No
2255 person shall be employed as a student engineer for more than 6 years.

2256 (f) The administrator may promulgate rules and regulations to effectuate the purposes of
2257 this chapter.

2258 (g) There shall be an office of outdoor advertising within the division, for the purpose of
2259 regulating and controlling, in the public interest, the erection and maintenance of billboards,
2260 signs, or other advertising devices in accordance with state and federal law. The office shall be
2261 under the administration and supervision of an executive officer who shall be an employee of the
2262 division. The executive officer shall arrange for the cooperation of district engineers of the
2263 division of roads and bridges and other field employees of the division in reporting the location
2264 of billboards, signs or other advertising devices along state highways, and in enforcing the rules
2265 and regulations of the office. Whenever any action by the office is required to be in writing,
2266 such writing shall be sufficient when signed by the executive officer. The executive officer shall
2267 make an annual report for the preceding calendar year setting forth the number of permits
2268 granted, the number of permits refused, the number of hearings held, the number of illegal signs
2269 removed, and other relevant matters to the general court and to the administrator of the division
2270 of roads and bridges in January of each year.

2271 Section 2A. Unless otherwise required under section 6A of chapter 31 or any other
2272 general or special law to the contrary, the administrator shall design and implement a program
2273 for performance evaluation of employees. The sole purpose of the program shall be the
2274 improvement of the performance of individual employees and the division and, notwithstanding
2275 any general or special law to the contrary, all information compiled by said program shall be
2276 confidential and exempt from clause Twenty-sixth of section 7 of chapter 4 and section 10 of
2277 chapter 66. The division may consult with individuals and organizations and may contract for
2278 technical assistance for the purpose of the program to the extent it deems necessary.

2279 Section 3. The division may:

2280 (a) administer the design, construction, operation and maintenance of the roads and
2281 bridges of the commonwealth;

2282 (b) enter into any contracts and agreements necessary or desirable to carry out its
2283 purposes;

2284 (c) make and, from time to time revise, regulations for the conduct of the business of the
2285 division, and all regulations otherwise required by law;

2286 (d) collaborate with other agencies and authorities, in consultation with the chief
2287 executive officer, as may be appropriate in fields related to transportation, development, public
2288 safety and security;

2289 (e) prepare and submit to the chief executive officer an annual report containing, in
2290 substance, the description of the organization of the bureau, reviewing the work of the division,
2291 recommending legislation and other action by the chief executive officer, and containing such
2292 information relating to the state highway system as appropriate, including information required
2293 by the chief executive officer;

2294 (f) submit such other reports as the chief executive officer requires;

2295 (g) compile statistics relative to the public ways of counties, cities and towns, and make
2296 such investigations relative thereto as it considers expedient;

2297 (h) be consulted by, and shall without charge advise, officers of counties, cities or towns
2298 having the care of and authority over public ways as to the construction, maintenance, alteration
2299 or repair thereof but such advice shall not impair the legal duties and obligations of any county,
2300 city or town;

2301 (i) prepare maps of the commonwealth on which shall be shown county, city and town
2302 boundaries, the public ways and the state highway system, with the names thereof if practicable,
2303 and may sell such maps or other maps prepared by it, from time to time, in connection with the
2304 work under its charge relative to the state highway system, at such prices and on such conditions
2305 as it may determine;

2306 (j) collect, collate and make available, geoscience data of the commonwealth for the
2307 purpose of aiding in the search for and evaluation of reserve sources of water, gas, materials
2308 suitable for road building and all other minerals within the land and water boundaries of the
2309 commonwealth, the location of which it shall, so far as practicable, designate on maps which
2310 shall be open to inspection by the public;

2311 (k) give public notice of and hold at least 1 public meeting annually in each county for
2312 the open discussion of questions relative to the public ways;

2313 (l) maintain offices at such places within the commonwealth as it may determine and
2314 conduct meetings of the division in accordance with the by-laws of the authority and the
2315 division;

2316 (m) construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer,
2317 control and operate the state highway system or any part thereof as it may determine; provided,
2318 however, that chapter 91 shall not apply to the division, except for any parts or areas thereof
2319 subject to said chapter 91 on March 1, 1997;

2320 (n) acquire sites abutting the state highway system and to construct or contract for the
2321 construction of buildings and appurtenances for gasoline stations, restaurants, parking facilities,
2322 tourist information centers and other services and to lease such facilities in such manner and
2323 under such terms as it may determine;

2324 (o) adopt such rules and regulations pursuant to chapter 30A and not repugnant to the
2325 provisions of the General Laws made applicable to the authority, as the division determines
2326 necessary or appropriate to provide for or govern the construction or reconstruction, including
2327 contractor qualification, operation, maintenance, repair, rehabilitation, improvement, use,
2328 policing, control or administration of the state highway system or the division's business or
2329 property. Such regulations may include the division to grant easements, permits or other forms of
2330 authorization for the installation, construction, maintenance, repair, renewal, relocation and
2331 removal of tracks, pipes, pipelines, mains, conduits, cables, wires, towers, poles and other
2332 equipment and appliances of any public utility, private entity or corporation or person owning or
2333 operating such facilities in, on, along, over or under the state highway system.

2334 Such regulations may impose penalties for violations thereof which, in the case of civil
2335 penalties, may be recovered only after notice and hearing conducted by the division or its
2336 designee and subject to judicial review and enforcement pursuant to said chapter 30A or such
2337 other civil proceedings under the laws of the commonwealth or the United States as the law may
2338 provide and, in the case of criminal penalties, may be recovered in a proceeding in a trial court of

2339 the commonwealth by indictment or complaint. The amount of any such civil or criminal
2340 penalty, with the exception of penalties imposed under section 19, shall not exceed \$500 for each
2341 offense, unless the law otherwise provides. The full amount of a civil penalty shall be paid to the
2342 authority and 80 per cent of a penalty recovered in a criminal proceeding shall be accounted for
2343 and paid to the authority. The division may further provide in such regulations for adjudicatory
2344 proceedings that it or its designee conducts which are subject to judicial review and enforcement
2345 according to said chapter 30A;

2346 (p) place and maintain or grant permission by easement or otherwise to any public utility,
2347 corporation or person to place and maintain on or under or within the state highway system or
2348 any part thereof, ducts, pipes, pipelines, mains, conduits, cables, wires, towers, poles or other
2349 structures to be so located as not to interfere with the safe and convenient operation and
2350 maintenance of the state highway system and to contract with any such public utility, corporation
2351 or person for such permission on such terms and conditions as may be fixed by the division. The
2352 construction, maintenance and repair of any such ducts, pipes, pipelines, mains, conduits, cable,
2353 wires, towers, poles or other structures shall be subject to such directions and regulations as the
2354 division may impose.

2355 Whenever the division shall determine that it is necessary that any such ducts, pipes,
2356 pipelines, mains, conduits, cable, wires, towers, poles or other structures which are now or
2357 hereafter may be located in, on, along, over or under the state highway system be relocated or
2358 removed, the public utility, corporation or person owning or operating such facilities shall
2359 relocate or remove the same in accordance with the order of the division. In case of any such
2360 relocation or removal of facilities, the public utility, corporation or person owning or operating
2361 the same, its successors or assigns may maintain and operate such facilities, with the necessary

2362 appurtenances, in the new location for as long a period and upon the same terms and conditions
2363 as it had the right to maintain and operate such facilities in their former location;

2364 (q) acquire in the name of the authority by purchase or otherwise, on such terms and
2365 conditions and in such manner as it may deem proper or by the exercise of the power of eminent
2366 domain in accordance with the provisions of chapter 79 or any alternative method now or
2367 hereafter provided by law, such public lands and any fee simple absolute or lesser interest in
2368 such private property, or part thereof or rights therein as it may deem necessary for carrying out
2369 this chapter;

2370 (r) designate the locations and establish, limit and control such points of ingress to and
2371 egress from the state highway system as may be necessary, convenient or desirable in the
2372 judgment of the authority to insure the proper operation and maintenance of the state highway
2373 system and to prohibit entrance to the state highway system from any point or points not so
2374 designated;

2375 (s) to: (1) construct grade separations at locations where the state highway system
2376 intersects with or abuts public highways or rail lines and to change and adjust the lines and
2377 grades of such highways or rail lines so as to accommodate the same to the design of such grade
2378 separation; and (2) change the location of any portion of any public highway or rail line which
2379 intersects or abuts the state highway system in order to improve the safety or efficiency of the
2380 state highway system; provided, however, that if the division shall find it necessary to change the
2381 location of a public highway, it shall reconstruct the same in as good a condition as the original
2382 highway and at such location as the division deems most favorable. All costs incident to
2383 construction, realignment or reconstruction conducted pursuant to this clause shall be borne by
2384 the authority;

2385 (t) to enter upon any lands, waters and premises in the commonwealth, after 30 days
2386 notice by registered or certified mail and without the necessity of any judicial orders or other
2387 legal proceedings, for the purpose of making surveys, soundings, drillings and examinations as
2388 the division deems necessary, convenient or desirable for carrying out the purposes of this
2389 chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be
2390 deemed an entry under any condemnation proceedings which may be then pending. The
2391 authority shall provide reimbursement for any actual damage resulting to such lands, waters and
2392 premises as a result of such activities. The commonwealth hereby consents to the use of all lands
2393 owned by it, including lands lying underwater, which are deemed by the authority to be
2394 necessary, convenient or desirable for the construction, operation or maintenance of the state
2395 highway system;

2396 (u) make and enter into all contracts and agreements necessary, convenient or desirable in
2397 the performance of its duties and the execution of its powers under this chapter including, but not
2398 limited to, contracts or agreements with state, local or regional public agencies and authorities
2399 which the division deems necessary, convenient or desirable for the ownership, construction,
2400 operation, maintenance, repair, reconstruction, improvement, rehabilitation, use, control,
2401 administration or policing of the state highway system, or any part thereof, and agreements with
2402 the Federal Highway Administration with respect to compliance with the provisions of Titles 23
2403 and 49 of the United States Code as they may apply to the state highway system; provided,
2404 however, that sections 26 to 29, inclusive, and sections 44A to 44J, inclusive, of chapter 149 and
2405 sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of the division to the same
2406 extent and in the same manner as they are applicable to the commonwealth. Notwithstanding this
2407 clause, the division may, with approval of the authority, without competitive bids and

2408 notwithstanding any general or special law to the contrary, award a contract, otherwise subject to
2409 this section, limited to the performance of emergency repairs necessary to preserve the safety of
2410 persons or property;

2411 (v) accept gifts, grants and loans from agencies of local, state and federal governments, or
2412 from private agencies or persons, and to accede to such conditions and obligations as may be
2413 imposed as a prerequisite to any such gift, grant or loan; and

2414 (w) do all acts and things necessary, convenient or desirable to carry out the powers
2415 expressly granted in this chapter.

2416 Section 4. Real property of the division other than property leased pursuant to sections 5
2417 and 6, if leased, used or occupied in connection with a business conducted for profit shall, at the
2418 discretion of the municipality for the privilege of such lease, use or occupancy be valued,
2419 classified, assessed and taxed annually as of January 1 to the lessee, user or occupant in the same
2420 manner and to the extent as if such lessee, user or occupant were the owner thereof in fee. No tax
2421 assessed under this section shall be a lien upon the real estate to which it is assessed nor shall any
2422 tax be enforced by any sale or taking of such real estate but the interest of any lessee therein may
2423 be sold or taken by the collector of the city or town in which the real estate lies for the
2424 nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for
2425 nonpayment of annual taxes. Such collector shall have for the collection of taxes under this
2426 section all other remedies provided by chapter 60 for the collection of annual taxes upon real
2427 estate.

2428 Section 5. In addition to any other power the division may have to make leases, the
2429 division may lease at 1 time or from time to time for terms not to exceed 99 years, upon such
2430 terms and conditions as the authority in its discretion deems advisable, air rights over land owned

2431 or held by the authority in connection with the state highway system, including rights for
2432 support, access, utilities, light and air, for such purposes as, in the opinion of the authority, shall
2433 not impair the construction, full use, safety, maintenance, repair, operation or revenues of the
2434 state highway system; provided, however, that any such lease for a period of 40 years or more
2435 shall be subject to the approval of the governor. Any lease granted under this section may, with
2436 the consent of the authority, be assigned, pledged or mortgaged and the lien of such pledge or
2437 mortgage may be foreclosed by appropriate action. The proceeds from any such lease shall be
2438 paid into the treasury of the commonwealth for credit to the surface transportation trust fund.

2439 Use of air rights leased under this section respecting land within the territorial limits of
2440 the city of Boston and the construction and occupancy of buildings or other things erected or
2441 affixed pursuant to any such lease shall be made in accordance with the provisions of the state
2442 building code enacted pursuant to chapter 143 and such other requirements as the authority
2443 deems necessary or advisable to promote the public health, convenience and safety of persons
2444 and property but shall not be subject to any other building, fire, garage, health or zoning law or
2445 any building, fire, garage, health or zoning ordinance, rule or regulation applicable in the city of
2446 Boston.

2447 The division shall not lease any air rights in a particular location unless it shall find that
2448 the construction and use of buildings or other things to be erected or affixed pursuant to any such
2449 lease shall be in no way detrimental to the maintenance, use and operation of the state highway
2450 system and, in the city of Boston, unless the division shall also find, after consultation with the
2451 mayor that the construction and use of such buildings or other things shall preserve and increase
2452 the amenities of the community.

2453 The construction or occupancy of any building or other thing erected or affixed under any
2454 lease under this section of air rights respecting land outside the territorial limits of the city of
2455 Boston shall be subject to the building, fire, garage, health and zoning laws and the building, fire,
2456 garage, health and zoning ordinances, by-laws, rules and regulations applicable in the city or
2457 town in which such building or other thing is located.

2458 A copy of all leases granted by the division under this section shall be filed by the
2459 authority with the governor and with the mayor or chairperson of the board of selectmen of the
2460 respective city or town and such leases shall be deemed to be public records within the meaning
2461 of chapter 66.

2462 Neither such air rights nor any buildings or other things erected or affixed pursuant to any
2463 such lease nor the proceeds from any such lease shall be taxed or assessed to the division under
2464 any general or special law; provided, however, that buildings and other things erected or affixed
2465 pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same manner
2466 and to the same extent as if such lessee or his assigns were the owners of the land in fee;
2467 provided, further, that no part of the value of the land shall be included in any such assessment;
2468 and provided further, that payment of any such taxes shall not be enforced by a lien upon or sale
2469 or taking of such land except that the leasehold estate may be sold or taken by the collector of
2470 taxes of the city or town wherein such real estate is situated for the nonpayment of any tax
2471 assessed as aforesaid in the manner provided by law for the sale or taking of real estate for
2472 nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under
2473 this section all other remedies provided by the General Laws for the collection of taxes by
2474 collectors of cities and towns.

2475 The division shall include in any lease of such air rights a provision whereby the lessee
2476 agrees, in the event that the foregoing tax provision is determined by any court of competent
2477 jurisdiction to be inapplicable, to pay annually to the city or town wherein such building or other
2478 thing leased is located, a sum of money in lieu of taxes which would otherwise be assessed for
2479 such year.

2480 Each lease made pursuant to this section shall require that the lessee file with the division
2481 a statement under oath containing the names and addresses of the officers and directors, in the
2482 case of a corporation, and in the case of a partnership or other voluntary association, the name
2483 and address of all persons having a financial or beneficial interest in said lease. The lessee shall,
2484 within 30 days after any change in the said officers or directors, or of persons holding any such
2485 interest, file a corrected statement under oath with the division.

2486 No billboards shall be erected under this section.

2487 Section 6. In addition to any other power the division may have to make leases, the
2488 division may lease at one time or from time to time for terms not to exceed 99 years, upon such
2489 terms and conditions as the authority in its discretion deems advisable, land owned by the
2490 division and no longer required for the maintenance, repair, reconstruction, improvement, use,
2491 administration or operation of the state highway system; provided, however, that any such lease
2492 for a period of 40 years or more shall be subject to the approval of the governor. A lease granted
2493 under this section may, with the consent of the authority, be assigned, pledged or mortgaged and
2494 the lien of such pledge or mortgage may be foreclosed by appropriate action.

2495 The construction or occupancy of any building or other thing erected or affixed under any
2496 lease of land under this section shall be subject to the building, fire and zoning laws, ordinances
2497 or by-laws applicable in the city or town wherein such building or other thing is located.

2498 A copy of all leases granted by the division under this section shall be filed by the authority with
2499 the governor and with the mayor or chairman of the board of selectmen of the respective city or
2500 town and such leases shall be deemed to be public records within the meaning of chapter 66.

2501 Neither such land nor any buildings or other things erected or affixed pursuant to any
2502 such lease nor the proceeds from any such lease shall be taxed or assessed to the authority under
2503 any general or special law; provided, however, that such land and buildings and other things
2504 erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in
2505 the same manner and to the same extent as if such lessee or his assigns were the owners of the
2506 land in fee; provided further, that payment of any such taxes shall not be enforced by a lien upon
2507 or sale or taking of such land except that the leasehold estate may be sold or taken by the
2508 collector of taxes of the city or town wherein such land is situated for the nonpayment of any tax
2509 assessed as aforesaid in the manner provided by law for the sale or taking of real estate for
2510 nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under
2511 this section all other remedies provided by the General Laws for the collection of taxes by
2512 collectors of cities and towns.

2513 The division shall include in any lease of such land a provision whereby the lessee
2514 agrees, in the event that the foregoing tax provision is determined by any court of competent
2515 jurisdiction to be inapplicable, to pay annually to the city or town in which such leased land is
2516 located a sum of money in lieu of taxes which would otherwise be assessed for such year.

2517 Section 7. County commissioners and city and town officers who have the care of and
2518 authority over public ways shall, on request, furnish the division with any information required
2519 by it concerning such ways.

2520 Section 8. Steam road rollers and other road machinery, purchased by the division and
2521 owned by the authority shall be managed and maintained under the direction of the division,
2522 which may engage competent engineers and mechanics to operate and keep said machines in
2523 repair, may purchase all needed materials and supplies, and may incur such other expenses as
2524 may be necessary to operate, maintain and transport said machines. Upon the application of the
2525 selectmen or road commissioners of a town of not more than 12,000 inhabitants, the division
2526 may furnish such road machinery for use by the town in building or repairing ways therein. The
2527 expenses incurred under this section shall be paid by the towns using said machines, as
2528 apportioned and directed by the division. For the purpose of providing suitable quarters for the
2529 storage of supplies, the storage and repair of road rollers and other road machinery and tools and
2530 other equipment owned by the authority and for the construction, operation and maintenance of
2531 inter-departmental communications systems, the division may take by eminent domain or acquire
2532 by purchase or gift land and buildings and construct or alter buildings or other structures on any
2533 land so acquired. Any person whose property has been taken or injured by any action of the
2534 division under authority of this section may recover compensation therefor from the authority
2535 under chapter 79.

2536 Section 9. If county commissioners, aldermen or selectmen adjudge that public necessity
2537 and convenience require that the division lay out and take charge of a new or existing way as part
2538 of the state highway system in whole or in part, in their county, city or town, they may apply, by

2539 a written petition, to the division, requesting that said way be laid out and taken charge of by the
2540 division.

2541 Section 10. If the division determines, after public notice and a hearing of all parties
2542 interested, that public necessity and convenience require that a way should be laid out or be
2543 taken charge of by the authority, it shall file in the office of the county commissioners for the
2544 county where the way is situated a certified copy of a plan thereof and a certified copy of a
2545 certificate that it has laid out and taken charge of said way in accordance with said plan, and
2546 shall file in the office of the clerk of each town where the way is situated a copy of the plan
2547 showing the location of the portion lying therein and a copy of the certificate that it has laid out
2548 and taken charge of said highway in accordance with said plan, and thereafter said way shall be a
2549 state highway, and shall be constructed by the division at the expense of the authority; but any
2550 state highway so laid out and constructed may be abandoned or discontinued as provided in
2551 section 18. The width of a state highway shall be such as the division deems necessary. If the
2552 width of a state highway be less than that of the way previously existing, that portion of the way
2553 which lies between the boundary or location lines of the state highway and the boundary lines of
2554 the way previously existing shall remain a public way unless the division determines that it
2555 should be abandoned, or the county commissioners of the county, or the city or town in which
2556 the way is situated, having jurisdiction of the way, abandon at any time said portion in the
2557 manner provided by law for the alteration, relocation or discontinuance of public ways.

2558 Section 11. The division may alter the location of a state highway in a city or town by
2559 filing a plan thereof and a certificate that the division has laid out and taken charge of said state
2560 highway, as altered in accordance with said plan, in the office of the county commissioners for

2561 the county where said highway is situated, and by filing a copy of the plan or location as altered
2562 in the office of the clerk of such city or town.

2563 Section 12. If it is necessary to acquire land for the purposes of a state highway outside
2564 the limits of an existing public way, the division may take the same by eminent domain on behalf
2565 of the authority under chapter 79. When injury has been caused to the real estate of any person
2566 by the laying out or alteration of a state highway, he may recover compensation therefor from the
2567 authority under said chapter 79. The mayor, if so authorized by the aldermen, or the selectmen, if
2568 so authorized by the town, may stipulate in writing in behalf of the city or town to indemnify and
2569 save harmless the authority against all claims and demands for damages which may be sustained
2570 by any persons whose property has been taken for, or has been injured by the laying out or
2571 alteration of, any highway which the division proposes to lay out and construct or alter as a state
2572 highway, and thereupon such city or town shall be liable ultimately for the amount of any verdict
2573 against the authority for such damages, and for costs, and the amount thereof may be recovered
2574 by the authority in contract.

2575 Section 13. In connection with the laying out, alteration or reconstruction of a state
2576 highway, the division may alter or relocate connecting ways as may be necessary. Land or rights
2577 in land may be acquired for this purpose by eminent domain under chapter 79 by the division on
2578 behalf of the city or town in which the land lies, or on behalf of the authority, at the option of the
2579 division. The division may take or acquire by eminent domain under said chapter 79, easements
2580 in land outside the location of limited access state highways, said easements to be taken on
2581 behalf of those owners of land abutting said highways, whose rights of access to and egress from
2582 their land, and any other rights necessary to make the same available for use, shall become
2583 inoperative due to the construction of said highway. Control of the land or rights in the land

2584 acquired under this section shall not vest in the city or town until such time as the work for
2585 which the land or rights in land have been acquired has been completed by said division, except
2586 that the city or town shall be responsible for snow and ice control on such portions of the
2587 highway as may be opened to traffic prior to final completion or acceptance of the project. Any
2588 person whose property has been taken or injured by any action of said division under authority of
2589 this section may recover from the authority under said chapter 79 such damages therefor as he
2590 may be entitled to.

2591 Section 14. Wherever in this chapter the division is authorized to take land by eminent
2592 domain under chapter 79, in connection with the laying out, widening or relocating of a public
2593 way, the division may take, or institute proceedings for the taking of, an easement in land
2594 adjoining the location of the public way consisting of the right to have the land of the location
2595 protected by having the surface of the adjoining land slope from the boundary of the location.

2596 Section 15. If the division determines that public necessity and convenience require that
2597 a limited access way shall be laid out, it shall lay out such way in the same manner as state
2598 highways. A limited access way is hereby defined to be a highway over which the easement of
2599 access in favor of abutting land exists only at such points and in such manner as is designated in
2600 the order of laying out. All laws in regard to the laying out, relocation, alteration or
2601 discontinuance of state highways and to damages therefor shall apply to limited access ways. If a
2602 limited access way is laid out in whole or in part in the location of an existing public way, the
2603 owners of land abutting upon such existing public way shall be entitled to recover damages
2604 under chapter 79 for the taking of or injury to their easements of access to such public way. No
2605 highway, town way or private way shall be laid out by county commissioners, by the selectmen
2606 of a town or by the appropriate officer or board of a city which crosses, enters upon or unites

2607 with a limited access way, without the consent in writing of the division. In connection with the
2608 laying out or alteration of a limited access highway, the division may take in fee or otherwise, by
2609 purchase, gift, devise, or by eminent domain under said chapter 79, land or rights in land
2610 adjoining the highway location whose right of access has been acquired and may provide for
2611 abutting motorist information service facilities and comfort stations.

2612 The division may provide information services which may include indoor commercial
2613 and non-commercial advertising displays, directories, bulletin boards, wall maps, and the
2614 building wherein such services are provided shall be staffed with attendants for the convenience,
2615 necessity and safety of the traveling public on limited access highways. The building within
2616 which such information services are provided shall be operated, and maintained internally, by a
2617 person, firm, corporation, county, municipality or other state department or agency. In the event
2618 that an information center is to be operated and maintained by a person, firm, corporation,
2619 county, municipality or other state department or agency, the division, subject to rules,
2620 regulations and standards determined by the division and the department of economic
2621 development and with the approval of the Federal Highway Administration, may enter into a
2622 lease or memorandum of understanding for a term of years or on terms which the division deems
2623 appropriate regarding the operation and maintenance of such information centers and the
2624 operation and maintenance of adjacent sanitary facilities.

2625 All income due the division from leases authorized by this section shall be paid to the
2626 state treasurer and credited to the surface transportation trust fund.

2627 The office of travel and tourism shall be designated by the division as the agent to
2628 participate with the division in the selection of lessees and to oversee the operation of

2629 information centers and control advertising in accordance with lease agreements, subject to
2630 approval by the Federal Highway Administration.

2631 Section 16. The division may grant easements within state highway locations for wires,
2632 pipes, poles, conduits and cattle passes.

2633 Section 17. The division may sell at public or private sale any land, or rights in land, the
2634 title to which has been acquired by the division, upon determination by the board of directors of
2635 the authority established by section 2 of chapter 81B that such land or rights in land are no longer
2636 necessary for the division's purposes. In the event of such public or private sale, the division
2637 shall execute a deed thereof, with or without covenants of title and warranty, in the name and on
2638 behalf of the authority, to the purchaser, his heirs and assigns, and deposit the deed with the state
2639 treasurer, together with a certificate of the terms of the sale and the price paid or agreed to be
2640 paid at such sale. Upon receipt of the payment, and upon the terms agreed to in the deed, the
2641 treasurer shall deliver the deed to the purchaser. The state treasurer may, through the attorney
2642 general, file suit and collect the payment and otherwise enforce the terms of any such sale.

2643 The division may, with the approval of the authority, transfer to another division, or to a
2644 city, town, or public authority or agency, any land the title to which has been acquired by it and
2645 which the board of commissioners determines is no longer necessary for the division's purposes.

2646 The division may also, with the approval of the authority, lease or rent any land, or rights
2647 in land, the title to which has been acquired by it, and which land, or rights therein, said board of
2648 directors determines are not presently needed for the division's purposes.

2649 The provisions of this section with reference to the sale, leasing or renting of land
2650 acquired by the division, shall also apply to land, or rights in land, acquired by the division for
2651 maintenance sites.

2652 The division may also transfer to another state agency, land acquired from such state
2653 agency, which is no longer needed for the purposes for which it was acquired. Such land shall be
2654 subject to such restrictions as may be imposed by the division for the use thereof.

2655 Section 18. Whenever the division deems it necessary to make surveys, soundings,
2656 drillings or examinations to obtain information for or to expedite the construction of state
2657 highways or other projects under its jurisdiction, the division, its authorized agents or employees
2658 may, after due notice by registered or certified mail, enter upon any lands, waters and premises,
2659 not including buildings, in the commonwealth for the purpose of making surveys, soundings,
2660 drillings and examinations as they may deem necessary or convenient for the purposes of this
2661 chapter, and such entry shall not be deemed a trespass nor shall an entry for such purposes be
2662 deemed an entry under any condemnation proceedings which may be then pending. The division
2663 shall make reimbursement for any injury or actual damage resulting to such lands, waters and
2664 premises caused by any act of its authorized agents or employees and shall so far as possible
2665 restore such lands to the same condition as prior to the making of such surveys, soundings,
2666 drillings or examinations.

2667 Section 19. Whenever, in connection with the laying out, widening, relocating,
2668 constructing or altering of a public way by the division, land or an easement therein owned by a
2669 public utility company is taken by the division by eminent domain under chapter 79, thereby
2670 necessitating the relocation of the facilities of such company, the division shall acquire by
2671 purchase or otherwise or take by eminent domain under said chapter 79 such land or easements
2672 therein as such company may designate for the relocation of such facilities, and convey the same
2673 to such company. Such conveyance shall be in lieu of any damages for the value of the land or

2674 easements therein of such company so taken by the division, not including, however, any
2675 damages for the cost of such relocation for which the authority shall be liable.

2676 Section 20. Notwithstanding any general or special law to the contrary, the division
2677 may, with the approval of the chief executive officer of the authority, lease land adjacent to, over
2678 or under a state highway for use as a public parking facility; provided, however, that: (1) the
2679 term of any such lease shall not exceed 5 years (2) section 8A of chapter 29 relative to notice of
2680 and proposals for any contract in excess of \$5,000 for work under the supervision or control of
2681 the division shall apply to such leases; (3) the lessee has filed with the division a statement under
2682 oath containing the names and addresses of the officers and directors in the case of a corporation,
2683 or of the person or persons in the case of a partnership or other voluntary association, or of any
2684 other person or persons, having any financial or beneficial interest in such lease; (4) the lessee
2685 shall within 30 days after any change in the stockholders or persons holding any such interest file
2686 a statement thereof under oath with the division; and (5) no such lease shall be renewed or
2687 extended except in accordance with this section applicable to a new lease.

2688 Whoever wilfully violates any provision of this section shall be punished by a fine of not
2689 more than \$1,000.

2690 Section 21. The division may enter into agreements with railroad corporations, transit
2691 authorities or other public authorities or municipalities for the purpose of performing any work
2692 which may be necessary in connection with the construction of highways, roads, bridges and
2693 other public works undertaken by said division whenever such construction or work entails
2694 relocation, alteration or other work on the tracks, bridges, roads, pipes, sewers, conduits, wires,
2695 or other property of such railroad corporation, transit authority or other public authority or
2696 municipality and which may disrupt the free flow of public transportation. Whenever any such

2697 agreement provides that a railroad corporation, transit authority or other public authority, and
2698 municipality perform such construction or work for which the authority is obligated to assume a
2699 part of the cost, the agreement may provide for the monthly advancement by the division to such
2700 railroad corporation transit authority or other public authority or municipality of funds covering
2701 the estimated cost of such construction or work then in progress.

2702 Section 22. In any federally aided program, the division of roads and bridges, in this
2703 section referred to as the division, shall do all things necessary to comply with the Uniform
2704 Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646),
2705 as amended and supplemented, or with any other federal act relating to relocation assistance or
2706 acquisition, insofar as the federal government requires compliance with said Public Law 91-646
2707 or such other federal acts in order to receive such federal aid. Under a federally aided program,
2708 in relation to any person whose real property is acquired, in whole or in part, by the division for a
2709 highway purpose, or any person lawfully occupying real property acquired by the division for
2710 highway purposes, or any person who vacated real property at the written request of the division
2711 because of a proposed acquisition for highway purposes, the division is hereby authorized and
2712 directed to make such payments, provide such assistance and do such other things as are
2713 necessary for the division to comply with the Federal Uniform Relocation Assistance and Real
2714 Property Acquisition Policies Act of 1970. If a highway project is not federally aided, then in
2715 relation to any person whose real property is acquired, in whole or in part, by the division for
2716 highway purposes, or any person lawfully occupying real property acquired by the division for
2717 highway purposes, or any person who vacates real property at the written request of the division
2718 because of a proposed acquisition for highway purposes, the division shall make the same
2719 payments, provide the same assistance and do the same things as the division would be required

2720 to pay to, provide or do for such persons under a federally aided program. This section shall not
2721 affect the obligations of the division under chapter 79A.

2722 Section 23. Whenever land or an easement therein is taken by the division by eminent
2723 domain for the purpose of relocating certain facilities of a public utility company, as authorized
2724 by section 19, the said public utility company, its authorized agents or employees, after due
2725 notice by registered mail to the persons in possession of land so taken, may enter upon any such
2726 lands, waters and premises, not including buildings, as said company may deem necessary or
2727 convenient for the purpose of relocating its facilities, and such entry shall not be deemed a
2728 trespass, nor an entry under any condemnation proceedings which may then be pending.

2729 Section 24. Whenever a federal-aid highway program or project requires the use of any
2730 land which is part of a public park, recreation area or wildlife and waterfowl refuge of national,
2731 state or local significance as determined by the federal, state or local officials having jurisdiction
2732 thereof, or any land which is part of an historic site of national, state or local significance, as so
2733 determined by such officials, and there is no feasible and prudent alternative to the use of such
2734 land, the division, in order to minimize harm to such park, recreational area, wildlife and
2735 waterfowl refuge or historic site, may acquire by eminent domain under chapter 79, purchase or
2736 otherwise on behalf of the authority or on behalf of any division, department, public body,
2737 agency or instrumentality of the commonwealth or on behalf of any political subdivision thereof,
2738 land to replace that which was required for use in the highway program. The division shall
2739 convey such replacement land or transfer the custody, care and control of such replacement land
2740 to the owner of the public park, recreational area, wildlife and waterfowl refuge or historic site
2741 required for highway use, including private owners or any department, public body, agency of

2742 the commonwealth or to any political subdivision thereof and such conveyance or transfer may
2743 be partially or entirely in lieu of damages for the land acquired from such owners; provided,
2744 however, that in the case of private owners such conveyance may be made only with the consent
2745 of such owner. The words "historic site" as used in this section shall include archeological sites
2746 as defined and regulated by sections 26A to 27C of chapter nine.

2747 Section 25. The division, when about to construct a state highway, shall advertise in 2 or
2748 more newspapers published in each county in which the highway lies, and in 3 or more daily
2749 newspapers published in Boston, for sealed proposals for the construction of such highway,
2750 stating the time and place for opening such proposals, and reserving the right to reject any and all
2751 proposals. If a proposal is satisfactory, the division, with the approval of the authority, shall
2752 make a contract in writing on behalf of the authority for such construction. After the proposals
2753 have been accepted or rejected they shall be kept by the division, and shall be open to public
2754 inspection for 3 years, and may then be destroyed by the division. The division may, in the same
2755 manner and under the same conditions, contract for the grading of a state highway or for
2756 furnishing labor, materials or any other element in its construction. The construction of all state
2757 highways shall be under the supervision and subject to the approval of the division and in
2758 accordance with plans and specifications furnished by it, and shall be fairly apportioned by the
2759 division among the different counties.

2760 Section 26. Every contract for engineering survey services awarded by the division shall
2761 be awarded to the lowest responsible and eligible bidder on the basis of competitive sealed bids
2762 publicly opened and read forthwith upon expiration of the time for filing thereof; provided,
2763 however, that the division may reject any and all bids if it is in the public interest to do so.

2764 For purposes of this section, the term “lowest responsible and eligible bidder” shall have
2765 the same meaning as is set forth in paragraph (c) of section 39M of chapter 30.

2766 Section 27. The mayor, selectmen or road commissioners or the board or officer having
2767 charge of the maintenance and care of highways, if so authorized by the city council or by the
2768 town, may agree in writing, in behalf of such city or town, to contribute money, labor or
2769 materials toward the cost of any state highway which the division proposes to lay out and
2770 construct within such city or town.

2771 Section 28. The division shall have the same power as aldermen, selectmen or road
2772 commissioners in relation to the purchase or taking of land to furnish materials for the
2773 construction, repair or improvement of public ways in the manner provided in section 38 of
2774 chapter 82; provided, however, that all contracts for such purchase and all takings by the division
2775 shall first be approved by the authority. Such purchases or taking shall not operate in any way to
2776 interfere with the control of the police departments of the various municipalities within the land
2777 so taken. Land taken under this section shall be held and used for no other purpose than as
2778 specified herein; provided, however, that the division may allow county, city or town officers to
2779 use materials from such land for the above specified purposes upon such terms as may be agreed
2780 upon. For this purpose the division may expend not more than \$5,000 in any year. Any person
2781 sustaining injury or damage by any taking of land or rights in land under this section may
2782 recover compensation therefor from the authority under chapter 79.

2783 Section 29. The division, with the concurrence of the county commissioners, may
2784 discontinue as a state highway any way or section of way laid out and constructed under section
2785 5 by filing in the office of the county commissioners for the county and in the office of the clerk
2786 of the town in which such way is situated a certified copy of a plan showing the way so

2787 discontinued and a certificate that it has discontinued such way and thereafter the way or section
2788 of way so discontinued shall be a town way. The division may also abandon any land or rights in
2789 land which may have been taken or acquired by it by filing in the office of the county
2790 commissioners for the county and in the office of the clerk of the town in which such land is
2791 situated a certified copy of a plan showing the land so abandoned and a certificate that it has
2792 abandoned such land, and by filing for record in the registry of deeds for the county or district in
2793 which the land lies a description and plan of the land so abandoned. Such abandonment shall
2794 revert the title to the land or rights abandoned in the persons in whom it was vested at the time of
2795 the taking, or their heirs and assigns.

2796 Section 30. State highways shall be maintained and kept in good repair and condition by
2797 the division at the expense of the authority. The division shall keep all state highways reasonably
2798 clear of brush and shall cause suitable shade trees to be planted thereon if practicable. As used in
2799 this chapter, the term “state highways” shall include such public roads in state forests, parks and
2800 reservations outside of the metropolitan parks district, and such public roads within the limits of
2801 any property under the control of any department, board or commission of the commonwealth, as
2802 may, from time to time, be designated by the division as roads for general public use and
2803 approved for such use by the executive head of the department, board or commission controlling
2804 such property. The division shall, subject to appropriation, construct, improve and maintain all
2805 roads on such property.

2806 Section 31. The division may accept, on behalf of the authority, from owners of lands
2807 included in a strip 100 feet deep bordering on a state highway voluntary gifts by deed or will of
2808 easements in such lands, giving the authority the right to enter thereon at any time and in any
2809 manner for the purpose of landscaping such land by removing therefrom or rearranging thereon

2810 vegetable growths and surface minerals, by setting out and planting thereon vegetable growths,
2811 by depositing thereon minerals, by rearranging the contour of the land when deemed advisable,
2812 or by any or all of the foregoing methods. The division may improve lands in which such
2813 easements are granted, so as to carry out a comprehensive plan of highway beautification, artistic
2814 landscaping and scenic development, to the extent that appropriations are available therefor.

2815 Such easements shall be accepted only on the condition that such lands shall remain fully
2816 subject to local taxation to the owners of the fee.

2817 Section 32. The division may acquire by eminent domain under chapter 79 by purchase
2818 or otherwise, land and rights in land within or adjacent to federal-aid highways of the
2819 commonwealth for the purpose of restoring, preserving and enhancing scenic beauty or, with the
2820 approval of the Massachusetts historical commission and subject to the availability of federal
2821 reimbursement, historic or archeological sites, and of providing publicly owned and controlled
2822 rest and recreation areas and sanitary and other facilities to accommodate the traveling public.
2823 The division may improve such lands, and may expend for the purposes of this section such
2824 sums as may be appropriated therefor.

2825 Section 33. The division, if it obtains the consent of the owner, shall remove the trees,
2826 limbs of trees, shrubbery or any structure or other obstacle from lands bordering upon state
2827 highways, which in its opinion obstruct the view of persons traveling upon the highway or make
2828 traveling thereon dangerous. If the owner does not desire the material which has been so
2829 removed, the division may sell or otherwise dispose of it. The division shall cause all debris
2830 resulting from any cutting or trimming done along the state highway, under authority of this or of
2831 any other chapter, to be disposed of in such manner that it will not constitute a fire menace to
2832 adjoining property.

2833 Section 34. The division may contract with the town in which a state highway lies or
2834 with a private person or may make other provision for the maintenance and repair thereof in
2835 accordance with the regulations of the division and subject to its supervision and approval. Such
2836 contracts may be made without previous advertisement.

2837 Section 35. The authority shall be liable for injuries sustained by persons while traveling
2838 on state highways, if the same are caused by defects within the limits of the constructed traveled
2839 roadway, in the manner and subject to the limitations, conditions and restrictions specified in
2840 sections 15, 18 and 19 of chapter 84, except that the authority shall not be liable for injury
2841 sustained because of the want of a railing in or upon any state highway, or for injury sustained
2842 upon the sidewalk of a state highway or during the construction, reconstruction or repair of such
2843 highway. The amount which may be recovered for any such injury shall not exceed one-fifth of 1
2844 per cent of the valuation of the town in which the injury was received, nor shall it exceed \$4,000.
2845 Notice of the injury as required by law shall be given to a member of the division.

2846 Section 36. A town shall have police jurisdiction over all state highways within its
2847 limits. It shall forthwith give written notice to the division or its employees of any defect or want
2848 of repair in such highways; but it may make necessary temporary repairs of a state highway
2849 without the approval of the division.

2850 The division shall, at the expense of the authority, keep such state highways or parts
2851 thereof as it may select sufficiently clear of snow and ice to be reasonably safe for travel. The
2852 town in which any such state highway or part thereof lies shall forthwith give written notice to
2853 the division or its employees of any failure to keep such highway or part thereof clear of ice and
2854 snow as aforesaid.

2855 Section 37. The division shall, from time to time, construct sidewalks along such parts of
2856 the state highways as it determines public convenience and necessity require. Sidewalks may
2857 also be constructed along state highways and maintained in accordance with sections 25 and 26
2858 of chapter 83.

2859 Section 38. The division may illuminate, or cause to be illuminated, by means of
2860 highway lighting, traffic circles, traffic underpasses, traffic overpasses, traffic islands and other
2861 locations in the state highways wherever, in its opinion, such illumination is necessary for the
2862 safety of the travelling public.

2863 Section 39. No state highway shall be dug up, nor opening made therein for any purpose,
2864 nor access granted thereto for any purpose, nor shall any material be dumped or placed thereon
2865 or removed therefrom, and no tree shall be planted or removed or obstruction or structure placed
2866 thereon or removed therefrom or changed without the written permit of the division, and then
2867 only in accordance with its regulations. Such work shall be done under the supervision of the
2868 division and to its satisfaction, and the entire expense of replacing and resurfacing the highway at
2869 the same level and in as good condition as before, with materials equal in specifications to those
2870 removed, shall be paid by the persons to whom the permit was given or by whom the work was
2871 done. A town, or a utility, as defined in chapter 164 or chapter 166 ,, may dig up a state highway
2872 without the approval of the division in case of immediate necessity. In such cases the state
2873 highway shall forthwith be replaced in as good condition as before at the expense of the town
2874 and the town shall notify the division by registered mail, return receipt requested, within 7 days
2875 of the excavation. In the case of a driveway opening on a state highway, the division shall not
2876 grant a permit for a driveway location or alteration if the board or division in a city or town
2877 having authority over public ways and highways has notified the division by registered mail,

2878 return receipt requested, of its objection to the driveway; provided, however, that such objection
2879 shall be based on highway safety and accepted by the division. The division may require a bond
2880 to guarantee the faithful and satisfactory performance of the work and payment for any damage
2881 to state highways and facilities caused by or resulting from the operations authorized by such
2882 permit. The amount of the bond shall be determined by the division not to exceed the estimated
2883 cost of the work and possible damage; provided, however, that the bond shall be not less than
2884 \$300,000 unless a lesser amount is approved in writing by a representative of the division.
2885 Except in case of an emergency, no permit for digging up or opening any state highway shall be
2886 approved or issued by the division until copies of the notices to public utility companies required
2887 by section 40 of chapter 82 have been filed with the division by the applicant for such permit.

2888 Any person who builds or expands a business, residential, or other facility intending to
2889 utilize an existing access or a new access to a state highway so as to generate a substantial
2890 increase in or impact on traffic shall be required to obtain a permit under this section prior to
2891 constructing or using such access. Such person may be required by the division to install and pay
2892 for, pursuant to a permit under this section, standard traffic control devices, pavement markings,
2893 channelization, or other highway improvements to facilitate safe and efficient traffic flow, or
2894 such highway improvements may be installed by the division and up to 100 per cent of the cost
2895 of such improvements may be assessed upon such person.

2896 The division may issue written orders to enforce this section or the provisions of any
2897 permit, regulation, order or approval issued under this section. Any person who violates this
2898 section or any permit, regulation, order or approval issued thereunder shall be: (a) punished by a
2899 fine of not more than \$100,000 per day for each such violation or (b) shall be subject to a civil
2900 penalty not to exceed \$1,000 per day for each such violation; provided, however, that each day

2901 such violation occurs or continues shall be a separate offense. The superior court shall have
2902 jurisdiction, upon petition of the administrator of the division, to enforce this section or any
2903 permit, regulation, order or approval issued thereunder.

2904 The administrator of the division shall adopt regulations to effectuate the purposes of
2905 this section.

2906 Section 40. No length of possession, or occupancy of land within the limits of a state
2907 highway by an owner or occupant of adjoining land shall give him any title thereto. Any fence,
2908 building or other object encroaching upon a state highway shall, upon written notice by the
2909 division, be removed within 14 days by the owner or occupant of adjoining land and, if not so
2910 removed, the division may either remove the same to such adjoining land or such encroaching
2911 object, other than a building used for residential purposes, may be removed by the division
2912 forces and shall be placed in the nearest maintenance area of the division. Notice by certified
2913 mail, return receipt requested shall be given to the owner stating where such encroaching object
2914 is located and further stating that if not claimed within 3 weeks said object may be destroyed.

2915 Section 41. The division may expend construction funds of the authority in constructing
2916 or improving the whole or such part of said way as it deems best, either upon the location of the
2917 existing way or upon any new location that may be established by the county commissioners or
2918 the selectmen, and no part of the way so improved shall thereby become a state highway or be
2919 maintained as such. The division may, however, lay out the whole or any part of any such way as
2920 a state highway

2921 Section 42. When any public way has been constructed or improved in whole, or in part,
2922 with money furnished by the authority, and the way is not laid out as a state highway, the town in
2923 which the way lies shall thereafter keep and maintain in good repair and condition that part of the

2924 way which has been so constructed or improved; provided, however, that the expense thereof
2925 shall be borne by the town or county, or both, as may be agreed upon at the time such
2926 construction or improvement is undertaken, except as otherwise provided in section 43 and in
2927 paragraph 2(a) of section 34 of chapter 90. If the division shall determine at any time that such
2928 way is not being maintained in proper condition, it shall so notify the mayor or selectmen having
2929 charge of the repairs of said way and the county commissioners, and shall specify in such notice
2930 what repairs and improvements are necessary and the officials in charge of the way shall
2931 forthwith proceed to make the specified repairs and improvements. If such officials do not make
2932 such repairs or improvements within 15 days from the receipt of such notice, or within such
2933 further time as the division may allow, the division may proceed to have the repairs or
2934 improvements made, and may pay for the same from any money which may be available for the
2935 repair and maintenance of state highways. The division shall annually, in January, certify to the
2936 state treasurer the amount of such expenditures during the preceding year. So much of the
2937 expenditures as by agreement are to be paid by the towns shall be made a part of the state tax for
2938 such towns; and so much of the expenditures as by agreement are to be paid by the counties shall
2939 be paid by the county treasurers to the state treasurer. The division may embody the provisions
2940 of this section in all contracts and agreements for work to be done in the construction or
2941 improvement of public ways, other than state highways, constructed or improved in whole, or in
2942 part, with money furnished by the authority.

2943 Section 43. There may be expended for the repair and improvement of public ways,
2944 other than state highways, in towns having valuations of less than \$5,000,000, as established by
2945 the valuations made for the purpose of apportioning the state tax as appearing in chapter 559 of
2946 the acts of 1945 and in which the proportionate amount paid by such towns of every \$1,000,000

2947 of such tax as established and apportioned in said chapter 559, divided by the number of miles of
2948 such public ways, hereinafter known as the road mileage ratio, is less than \$12, such sums not
2949 exceeding \$250 per mile as the general court may appropriate therefor; provided, however, that
2950 such towns shall contribute or make available for use in connection therewith the following
2951 amounts for each mile of public ways within their respective limits, according to the following
2952 schedule based on their road mileage ratio:—

- 2953 1. Less than \$1.40, \$15.
- 2954 2. \$1.40 and less than \$2, \$25.
- 2955 3. \$2 and less than \$2.80, \$40.
- 2956 4. \$2.80 and less than \$3.50, \$50.
- 2957 5. \$3.50 and less than \$5.50, \$75.
- 2958 6. \$5.50 and less than \$7, \$100.
- 2959 7. \$7 and less than \$9, \$125.
- 2960 8. \$9 and less than \$12, \$150.

2961 The amounts appropriated pursuant to said schedule and contributed by the towns shall
2962 be expended under the direction of the division on such ways as said division and the selectmen
2963 of the towns may agree upon.

2964 The division shall withhold or withdraw the unexpended balance of any funds assigned
2965 by it under this section or section 25 if the town fails to comply with the official standards for
2966 traffic control established by the division or with any provision of a traffic control agreement
2967 negotiated between the division and the town, as required by the United States Secretary of
2968 Commerce under section 109 of Title 23 of the United States Code.

2969 The cost of snow removal upon such ways in any such town, including amounts paid as
2970 rental for trucks and other equipment charges for the use of trucks and other equipment owned
2971 by such town, at hourly rates approved by the division, and the cost of sanding such ways in any
2972 such town may be paid from the amounts so appropriated and contributed, at the rate of not more
2973 than \$75 per mile.

2974 Section 44. The county commissioners of the county wherein any public way is to be
2975 repaired or improved under the preceding section may contribute and expend county funds
2976 therefor in accordance with such agreements as the commissioners may make with the division
2977 and the selectmen of the town. Said county funds may be paid to the department or to the town
2978 from time to time as the work progresses, to the extent that the such commissioners are satisfied
2979 that the work for which agreements have been made is being done in accordance therewith. Such
2980 contributions or expenditures by a county shall not render it liable for defects in any way or for
2981 damages to persons traveling thereon, and when the work of repair or maintenance for which
2982 such contribution or expenditure is made is completed, there shall be no further obligation on the
2983 part of the county as to the repair and maintenance thereof until a further contribution is made by
2984 the county commissioners for such purpose.

2985 Section 45. Expenditure of state funds under section 26 shall be made only upon the
2986 written petition of the selectmen, containing such information as the division may require.

2987 Section 46. Towns may contract with the division for the performance of the work
2988 authorized by section 43 or, if the selectmen so request, the division may have the work done by
2989 such persons and in such manner as it may determine, in which event the towns shall pay their
2990 proportionate part of the expense when and as ordered by the division. The cost of any materials,
2991 machinery or tools purchased by the division for or on account of the work in any town shall be

2992 considered as a part of the expenditures in such town under section 28; and such machinery or
2993 tools shall belong to the authority.

2994 Section 47. The division shall determine, as nearly as possible, the number of miles of
2995 such public ways in towns entitled to the benefits under section 43, and shall inform the
2996 selectmen of such towns of the contributions required from them under said section 43.

2997 Section 48. The division may lay out or alter ways other than state highways in any
2998 county, city or town if the county commissioner of the county, or the mayor of the city or the
2999 board of selectmen of the town consents thereto. Land or rights in land may be acquired for this
3000 purpose by eminent domain under chapter 79 by the division on behalf of the county, city or
3001 town in which the land lies. Any person whose property has been taken or injured by any action
3002 of the division under authority of this section may recover from the authority under chapter 79
3003 such damages therefor as he may be entitled to. For this purpose the division may use any funds
3004 which may be available for highway purposes, including federal aid, and may also use any
3005 money appropriated for a county, or for a city or town, toward the damages sustained, if the
3006 county commissioners, selectmen or mayor have agreed in writing to pay the money thus
3007 appropriated upon the order of the division.

3008 Section 49. The division may make all contracts and agreements and do all other things
3009 necessary to cooperate with the United States in the construction and maintenance of highways,
3010 under an act of congress approved on July 1, 1916, entitled "An Act to provide that the United
3011 States shall aid the states in the construction of rural post roads, and for other purposes", as
3012 amended and supplemented, and submit such plans, estimates and programs for the improvement
3013 of highways as will meet the requirements of the secretary of commerce under said act, and it

3014 may use therefor any funds which may be available for the construction and maintenance of state
3015 highways, and may make any agreements or contracts that may be required to secure federal aid
3016 in the construction of highways under said act of congress, and of all other acts in amendment
3017 thereof, or in addition thereto, and may, in such agreements or contracts, provide, among other
3018 things, for such labor preferences to honorably discharged soldiers, sailors and marines as are
3019 made necessary by federal legislation, and may provide that no other preference or
3020 discrimination among citizens of the United States shall be made in connection with the
3021 expenditure of any money received from the federal government by virtue of said legislation and
3022 any money received from the United States on account of the construction of highways. The
3023 division may also, for the purpose of securing federal aid, use any money appropriated by a
3024 county, city or town for the construction of a way or any part thereof for which federal aid may
3025 be secured, and make contracts or agreements involving the expenditure of such money, if the
3026 county commissioners or the selectmen or duly authorized officials of the city or town have
3027 agreed in writing to pay the money thus appropriated upon the order of the division. The division
3028 may also maintain the roads constructed under this section or said act of congress, from any
3029 money appropriated by the general court for the maintenance of state highways or for the repair
3030 or maintenance of other public ways.

3031 Section 50. The portion of the Surface Transportation Trust Fund, established by section
3032 35LL of chapter 10 allocated for reimbursements to cities and towns for costs actually incurred
3033 in constructing, maintaining and policing city or town streets or roads shall annually be
3034 apportioned among the several cities and towns as follows:

3035 (a) The amount apportioned to each city and town in any calendar year shall be the
3036 amount of the “equalizing municipal highway grant” for such city or town multiplied by the
3037 number of miles of streets and roads in such city or town. The “equalizing municipal highway
3038 grant” for such city or town shall be the total of a basic mileage allowance of \$400 plus an
3039 additional road-use allowance of \$7 per motor vehicle per road mile less an equalizing deduction
3040 of \$.10 per \$1,000 of equalized valuation per mile.

3041 *[There is no clause (b).]*

3042 For the purposes of this section, the following words shall have the following meanings:—

3043 “Streets and roads in such city or town”, the total mileage, to the nearest one hundredth
3044 of a mile, of public ways, other than state highway, in such city or town, as determined by the
3045 most recent mileage survey conducted by the administrator of the division; provided, however,
3046 that said administrator shall conduct such survey annually.

3047 “Motor vehicles per road-mile”, the total number of motor vehicles registered and
3048 garaged in such city or town, exclusive of re-issues, as determined annually by the registrar of
3049 motor vehicles, divided by the total mileage, to the nearest one hundredth of a mile, of public
3050 ways, other than state highway, in such city or town, as determined by the most recent mileage
3051 survey conducted by the administrator of the division.

3052 “Equalized valuation per mile”, the equalized valuation of the aggregate property in such
3053 city or town subject to local taxation, as most recently reported by the commissioner of revenue
3054 to the general court under the provisions of section 10C of chapter 58, divided by the total

3055 mileage, to the nearest one hundredth of a mile, or public ways, other than state highway, in such
3056 city or town.

3057 The administrator of the division shall annually notify the commissioner of revenue of
3058 the amounts apportioned to each city or town under this section; provided, however, that the sum
3059 payable to each city or town shall be used solely to reimburse such city or town for the costs
3060 actually incurred during the fiscal year of such city or town in constructing, maintaining and
3061 policing city or town streets or roads and shall not exceed the amount so incurred by such city or
3062 town.

3063 The mayor of each city and the selectmen of each town shall notify the administrator of
3064 the division in writing of the amount that will be incurred during the fiscal year of such city or
3065 town for constructing, maintaining and policing city or town streets or roads. The administrator
3066 of the division shall annually, on or before December 1, certify to the commissioner of revenue
3067 the amounts approved for payment to each city or town under this section in each fiscal year.

3068 Section 51. For the purposes of reimbursing cities and towns for the costs actually
3069 incurred in constructing, maintaining and policing city or town streets or roads as provided in
3070 section 50 the following words shall have the following meanings:—

3071 “Constructing”, all operations on the travelled way on new location or where
3072 considerable reconstruction is to be undertaken, including resurfacing and other work incidental
3073 thereto, such as shoulders, side road approaches, roadsides, drainage, structures, sidewalks,
3074 traffic control and service facilities, intersection construction, and unusual or disaster operations

3075 and professional services, or for such other purposes that the commissioner of highways may
3076 specifically authorize.

3077 “Maintaining”, all operations on the travelled way including scarifying, reshaping,
3078 applying dust palliatives and restoring material losses; patching, mudjacking, joint filling and
3079 surface treating, and replacement in kind; other work such as restoration of erosion controls;
3080 reshaping drainage channels and side slopes; mowing; tree trimming; replacing topsoil, sod,
3081 shrubs, curbing, gutters, riprap, underdrains and culverts; cleaning and repairing culverts;
3082 cleaning; painting and repairing of structures; replacement of rail, floors, stringers and beams of
3083 structures; replacement of walls and the repairing of drawbridges; removal of snow and ice and
3084 related operations such as sanding and chemical applications; the erection of snow fences and the
3085 opening of inlets clogged with snow and ice; removal of litter from the roadsides and drainage;
3086 operation of drawbridges charged to highway traffic; painting, repairing and replacement in kind
3087 of signs, guardrail, signals and lighting standards; maintenance and replacement in kind of rest
3088 areas; servicing of and furnishing power and light bulbs for highway lighting and traffic control
3089 devices; roadside cleaning operations; operation of roadside areas, towing service, information
3090 booths; or for such other purposes that the administrator of the division may specifically
3091 authorize.

3092 “Policing”, all operations on the travelled way by city or town law enforcement officials
3093 having to do with the direction or control of traffic thereon and such other purposes as the
3094 administrator of the division may specifically authorize.

3095 Section 52. The division may take by eminent domain in accordance chapter 79 or any
3096 alternative method now or hereafter provided by general law, any public land and any fee simple

3097 absolute or lesser interest in private property, or part thereof or rights therein, as it deems
3098 necessary for carrying out this chapter.

3099 Whenever a parcel of private property so taken is used in whole or in part for residential
3100 purposes, the owner of such parcel may, within 30 days of the date of the authority's notice to
3101 vacate such parcel, appeal to the authority for a postponement of the date set for such vacating,
3102 whereupon the authority shall grant to the owner a postponement of 3 months from the date of
3103 such appeal; provided, however, that the appeal for such postponement shall be in the form of a
3104 written request to the authority sent by registered mail, return receipt requested; and provided,
3105 further, that section 40 of said chapter 79 shall govern the rights of the authority and of any
3106 person whose property shall be so taken.

3107 The division shall have power, in the process of constructing, reconstructing, repairing,
3108 rehabilitating, improving, policing or using or administering all or any part of the state highway
3109 system to take by eminent domain pursuant to chapter 79, such land abutting the state highway
3110 system as it may deem necessary or desirable for the purposes of removing or relocating all or
3111 any part of the facilities of any public utility, including rail lines, and may thereafter lease the
3112 same or convey an easement or any other interest therein to such utility company upon such
3113 terms as it, in its sole discretion, may determine. Notwithstanding any general or special law to
3114 the contrary, the relocation of the facilities of any public utility, including rail lines, in
3115 accordance with this section shall be valid upon the filing of the plans thereof with the
3116 department of public utilities, if applicable.

3117 Except as otherwise provided by law, any sale of real property shall be awarded, after
3118 advertisement for bids, to the bidder who is the highest responsible bidder. The division shall

3119 have the right to reject all bids and to readvertise for bids. Before any real property shall be so
3120 sold or conveyed, notice that such real property is for sale shall be publicly advertised in 2 daily
3121 newspapers of general circulation published in the city of Boston or if such real property is
3122 located in any other city or town, in a newspaper of general circulation published in such other
3123 city or town, once a week for 3 successive weeks. Such advertisements shall state the time and
3124 place where all pertinent information relative to the real property to be sold or conveyed may be
3125 obtained, the time and place of opening the bids in answer to such advertisements and that the
3126 division reserves the right to reject any or all such bids. All bids in response to advertisements
3127 shall be sealed and shall be publicly opened by the division. The division may require, as
3128 evidence of good faith, that a deposit of a reasonable sum, to be fixed by the division,
3129 accompany the proposals. This paragraph shall not be applicable to any sale of real property by
3130 the division to the commonwealth or any city, town or public instrumentality nor to a sale of real
3131 property which is determined by the division to have a fair market value of \$5,000 or less.

3132 The division may sell the buildings or other structures upon any lands taken by it or may
3133 remove the same and shall sell, if a sale is practicable or, if not, shall lease, if a lease is
3134 practicable, any lands or rights or interest in lands or other property taken or purchased for the
3135 purposes of this chapter, whenever the same shall, in the opinion of the division, cease to be
3136 needed for such purpose.

3137 Notwithstanding any general or special law to the contrary, all counties, cities, towns and
3138 other political subdivisions and all public agencies, authorities and commissions of the
3139 commonwealth may lease, lend, grant or convey to the division, at its request, upon such terms
3140 and conditions as the proper authorities of such counties, cities, towns, political subdivisions,

3141 agencies, authorities and commissions may deem reasonable and fair and without the necessity
3142 for any advertisement, order of court or other action or formality, other than the regular and
3143 formal action of the authorities concerned, any real property, improvements or personal property
3144 which may be necessary or convenient to the effectuation of the authorized purposes of the
3145 division, including public roads, bridges and other real property, improvements or personal
3146 property already devoted to public use.

3147 Section 53. The division shall establish and implement, for the state highway system, a
3148 local tourism grant program for the benefit of cities and towns located within the turnpike
3149 corridor. Such grant program shall be funded, subject to the rights of the holders of notes or
3150 bonds of the authority issued for the turnpike, from turnpike revenues, on an annual basis in an
3151 amount of not less than \$500,000 nor more than \$1,000,000. The grant program shall be
3152 administered in accordance with procedures promulgated under chapter thirty A.

3153 The division shall also establish and implement for the metropolitan highway system a
3154 local tourism grant program for the benefit of cities and towns through which the metropolitan
3155 highway system runs and the municipalities contiguous to such cities and towns. The grant
3156 program shall be funded, subject to the rights of the holders of notes or bonds of the authority
3157 issued for the metropolitan highway system, from metropolitan highway system revenues, on an
3158 annual basis in an amount not less than \$250,000. Such grant program shall be administered in
3159 accordance with procedures promulgated under said chapter 30A.

3160 Section 53 ½. (a) The division may establish a small town rural assistance program to
3161 assist towns with populations of 7,000 or less in undertaking projects to design, construct,
3162 reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges or for the

3163 construction of chemical storage facilities. The program shall provide grant funds to towns for
3164 projects authorized by this section. The amount of each grant shall not exceed \$750,000.

3165 (b) The division shall establish rules and regulations to govern the application and
3166 distribution of grants under this section. The rules and regulations shall include provisions for
3167 joint applications by 2 or more eligible towns for a single project serving those towns. Funds so
3168 distributed may be apportioned to reflect the percentage of the project located in each town.
3169 Receipt of a grant which is part of a joint application shall not preclude a town from receiving
3170 additional funds under a separate application; provided, however, that the total amount
3171 distributed to any 1 town shall not exceed the maximum amount allowed under this section.

3172 (c) A town with a population of 7,000 or less may, by vote at an annual town meeting or
3173 at a special town meeting called for that purpose or, in a municipality having a town council
3174 form of government, by the town council, make application to the secretary for financial
3175 assistance in undertaking a project described in this section. The application shall include the
3176 proposed cost of the project, the proposed location of the project and any other information
3177 specified by the rules or regulations.

3178 (d) In evaluating the project and the level of funding, the administrator of the division
3179 shall consider, without limitation, the following: (1) the extent to which the project will have a
3180 beneficial impact upon the economy and public safety of an applicant town; (2) the availability
3181 of funds for the project under other state or federal programs; (3) the likelihood of funding under
3182 other state or federal programs; (4) the financial ability of the town to fund the project from its
3183 own sources; (5) the ability of the town to enter the capital markets to obtain borrowed funds for
3184 the project; and (6) the amount of state and federal highway funds expended or to be expended in
3185 the town.

3186 Section 53 ³/₄ . (a) The division may establish a program to assist municipalities with non-
3187 federally reimbursable intermodal transit center economic development projects to design,
3188 construct, repair and improve roads, roadways, rail lines, and other transit oriented or related
3189 facilities, as deemed necessary for economic development by the secretary of transportation, in
3190 consultation with the secretary of economic development upon the petition of an appropriate
3191 local governmental body in accordance with this section and any rules or regulations
3192 promulgated by the secretary of transportation in accordance with this section. The rules and
3193 regulations shall govern the criteria by which the funds shall be distributed and the method by
3194 which a municipality may apply for such funds.

3195 (b) The administrator may commit the funds pursuant to this section by executing a grant
3196 or other contractual agreement with a municipality and, upon execution, the funds so committed
3197 shall be made available as a grant directly to the municipality which has entered into an
3198 agreement without further review or approval of the department. Each agreement shall contain
3199 assurances satisfactory to the secretary that the municipality shall award a construction contract
3200 for the project which is the subject of the agreement not later than 180 days after the date of
3201 execution of the agreement.

3202 (c) In the event that a contract is not awarded by the municipality within the period
3203 provided in subsection (b), the administrator may require, by written notification to the
3204 municipality, that the funds paid to it by the authority pursuant to the agreement shall be returned
3205 forthwith to the authority.

3206 (d) The administrator may, through execution of a grant or other contractual agreement as
3207 provided in subsection (b), commit an amount of funds up to but not exceeding the aggregate
3208 amount of funds returned by municipalities under subsection (3) to any other municipality which

3209 has otherwise complied with the applicable requirements for such projects, including the terms
3210 and conditions provided in this section.

3211 Section 54. The division may establish a program to provide for the construction and
3212 reconstruction of town and county ways as described in paragraph (a) of clause (2) of section 34
3213 of chapter 90 of the General laws.

3214 Section 54 1/2. No motor vehicle, trailer, semi-trailer or semi-trailer unit, hereinafter in
3215 this section called a motor vehicle, shall be operated on the turnpike or the metropolitan highway
3216 system nor shall the owner or bailee thereof require or permit such operation when the gross
3217 weight of such motor vehicle exceeds either the weight provided in the rules and regulations
3218 adopted by the authority or that specified in a special hauling permit issued by the division for
3219 such motor vehicle pursuant to such rules and regulations, whichever is greater, nor shall any
3220 person load or cause to be loaded such motor vehicle in excess of such weights; provided,
3221 however, that the division shall not adopt or enforce any rule or regulation which prohibits a
3222 motor vehicle from traveling on the turnpike or the metropolitan highway system without a
3223 permit if such motor vehicle may travel on a public way of the commonwealth without a permit
3224 under section 19A of chapter 90 or which prohibits the issuance of a permit by the division for
3225 travel on the turnpike or the metropolitan highway system by a motor vehicle if such motor
3226 vehicle may travel on a public way of the commonwealth with a permit under section 30A of
3227 chapter 85.

3228 Enforcement of this section shall be by members of the department of state police who
3229 have been appointed as weighers and measurers of motor vehicles and of the loads of such motor
3230 vehicles pursuant to section 87A of chapter 41. In any prosecution for a violation of this section,
3231 a signed certificate on oath of a member of the department of state police assigned and appointed

3232 as a weigher and measurer of motor vehicles in accordance with this paragraph shall be
3233 admissible in evidence without further proof and shall constitute prima facie evidence of the
3234 weight of the motor vehicle described in such certificate. Such certificate shall be in such form as
3235 the registrar of motor vehicles shall prescribe pursuant to section 19A of chapter 90 and shall be
3236 signed and sworn to by a member of the department of state police assigned and appointed as a
3237 weigher and measurer of motor vehicles in accordance with this paragraph and present at the
3238 weighing of such motor vehicle and the court shall take judicial notice of the signature of such
3239 person and that he is so assigned and appointed.

3240 In any claim for bodily injuries including death or damage to property arising out of such
3241 weighing, a member of the department of state police, assigned and appointed as a weigher and
3242 measurer of motor vehicles in accordance with the preceding paragraph, to enforce this section
3243 may file a written request with the authority that it defend him against such claim and the
3244 authority shall indemnify such member of the department of state police from personal expenses
3245 or damages incurred and arising out of such claim; provided, however, that the defense or
3246 settlement of such claim shall have been made by the general counsel of the authority, by an
3247 attorney retained for such purpose by the authority or by an attorney provided by an insurer
3248 obligated under the terms of a policy of insurance to defend against such claims.

3249 A person convicted of a violation of this section shall be punished by a fine of not less
3250 than \$30 for each 1,000 of weight or fraction thereof by which the gross weight of the motor
3251 vehicle as operated exceeds the weight provided in the rules and regulations adopted by the
3252 authority pursuant to paragraph (k) of section 4 or that specified in a special hauling permit
3253 issued by the authority for such motor vehicle pursuant to said rules and regulations, whichever

3254 is greater; provided, however, that if the total of such excess weight is greater than 10,000
3255 pounds, the fine shall be not less than \$60 for each 1,000 or fraction thereof over such 10,000.

3256 Any person convicted of a violation of the first sentence of section 17 of chapter 90 while
3257 operating a vehicle which is also in violation of the first paragraph of this section shall be
3258 punished by a fine of not more than \$50 for a first offense nor less than \$50 nor more than \$75
3259 for a second offense committed in any 12 month period and not less than \$75 nor more than \$150
3260 for subsequent offenses committed in any 12 month period . Complaints for such violations shall
3261 not be placed on file by the court.

3262 Section 55. The state highway system shall each be deemed a way within the meaning
3263 and purport of chapters 89 and 90 and its use shall be governed by sections 2, 4, 4A, 4B and 5 of
3264 said chapter 89 and sections 1B, 3, 3A, 3B, 3C, 5A, 6, 7, 7B, 7D, 7D 1/2, 7P, 7Q, 7AA, 8B, 8C,
3265 9, 9D, 10, 11, 12, 13, 13A, 14, 14A, 14B, 16, the first sentence of section 17, section 20, the first
3266 sentence of section 21 and sections 22A, 22B, 22E, 23, 24, 24G, 24I, 24L, 25, 26, 29 and 34J of
3267 chapter 90 and such other laws as the authority may determine by regulation necessary for the
3268 safe and efficient operation of the state highway system.

3269 An operator of a vehicle using the turnpike, the metropolitan highway system or the state
3270 highway system who refuses to pay the toll prescribed by the authority or who evades or
3271 attempts to evade payment of the toll prescribed by the authority may be arrested without a
3272 warrant. Whoever, for the purpose of soliciting a ride on the turnpike, the metropolitan highway
3273 system or the state highway system, displays a sign, signals a moving vehicle, causes the
3274 stopping of a vehicle or stands on property of the authority in view of a ramp or roadway of the
3275 turnpike may be arrested without a warrant and shall be punished by a fine of not more than \$50.

3276 A person damaged in his property by the exercise of any of the powers granted by this chapter
3277 may recover his damages from the authority under chapter 79.

3278 Notwithstanding chapters 134 and 147, if money, goods or other property which has been
3279 abandoned, mislaid or lost on the premises of the division comes into the possession of the
3280 division and remains unclaimed for a period of 120 days, the division may sell the same,
3281 excepting money so unclaimed, at public auction after notice of such sale has been published for
3282 3 successive weeks in a newspaper published in the city or town wherein such sale shall occur.
3283 The net proceeds of such sale, after deducting the cost of storage and the expenses of the sale,
3284 and all money so unclaimed, shall be paid into and become the property of the division and may
3285 be applied by the division to any of its corporate purposes. If such property is in the possession
3286 of the division and remains unclaimed for a period of 120 days and is of the value of \$3 or less,
3287 the authority may donate the same to a charitable organization.

3288 Section 56. The turnpike shall thereafter be operated and maintained free of tolls when:
3289 (i) all notes and bonds issued by the authority relating to the turnpike and payable from turnpike
3290 revenues have been paid or a sufficient amount for the payment of all such notes or bonds and
3291 the interest thereon, to the maturity thereof, shall have been set aside in trust for the benefit of the
3292 holders of such notes or bonds; and (ii) the turnpike is deemed to be in good condition and repair
3293 to the satisfaction of the division.

3294 Section 57. The division shall submit to the road and bridge advisory board, pursuant to
3295 section 58, all contracts, plans, agreements and memoranda of understanding relative to land use
3296 plans, air rights, zoning restrictions and environmental impacts associated with the development
3297 on any land owned by the division within the state highway system. The road and bridge

3298 advisory board shall, within 30 days from receipt of all contracts, plans, agreements and
3299 memoranda of understanding submitted by the division for review, provide comments and
3300 recommendations to the division. The division shall prepare a written response to the reports of
3301 the road and bridge advisory board and shall state the basis for any substantial divergence
3302 between the actions of the division and the recommendations contained in such reports of the
3303 road and bridge advisory board.

3304 Section 58. (a) There shall be a road and bridge advisory board to the division to consist
3305 of 11 members, 4 of whom shall be appointed by the governor, 1 of which shall be a resident of a
3306 municipality within the turnpike corridor from the New York state border east to the junction of
3307 interchange 8, 1 of which shall be a resident of a municipality within the turnpike corridor from
3308 the junction of interchange 8 east to the junction of interchange 14, 1 of which shall be a resident
3309 of Essex or Middlesex county provided that the member does not reside in a municipality that is
3310 a member of the metropolitan area planning council, 1 of which shall be a resident of Norfolk,
3311 Plymouth or Bristol county provided that the member does not reside in a municipality that is a
3312 member of the metropolitan area planning council, 2 of whom shall be appointed by the mayor
3313 of the city of Boston, 1 of whom shall be appointed by the commissioner of the division of
3314 capital asset management and maintenance, 2 of whom shall be appointed by the metropolitan
3315 area planning council, 1 of which shall be a resident of Framingham, Natick or Ashland,, 2 of
3316 whom shall be appointed by the Massachusetts Association of Planning Directors who shall be a
3317 resident of a municipality within the turnpike corridor. Each member of the road and bridge
3318 advisory board shall have 1 vote. A majority of members shall constitute a quorum and the road
3319 and bridge advisory board may act by such majority vote represented in the quorum.

3320 (b) For the conduct of its business, the road and bridge advisory board shall adopt and
3321 may revise and amend by-laws. The road and bridge advisory board shall convene its first
3322 meeting within 60 days after the transfer of the state highway system, to the division and shall
3323 thereafter convene regular meetings in accordance with its by-laws. The road and bridge
3324 advisory board shall annually elect a chairperson and vice chairperson and any other officers that
3325 the road and bridge advisory board shall determine. Each member of the road and bridge
3326 advisory board shall serve for a term of 1 years and shall be eligible for reappointment. In the
3327 event of a vacancy, a successor shall be named by the person or organization who originally
3328 appointed the vacated member and such successor shall serve for the remainder of the unexpired
3329 term. Each member of the road and bridge advisory board shall serve without compensation but
3330 may be reimbursed, as an expense of said road and bridge advisory board, for all reasonable
3331 expenses incurred in the performance of its duties as approved by the road and bridge advisory
3332 board.

3333 (c) The purposes of the road and bridge advisory board shall be:

3334 (i) to review and prepare comments on all documents submitted to it pursuant to section
3335 57 and to make recommendations to the division within 30 days of receipt of such
3336 documents;

3337 (ii) to coordinate and share information and best practices in matters of the operation and
3338 maintenance of roads and bridges;

3339 (iii) to make recommendation to the division on its roads and bridges charges;

3340 (iv) to hold hearings, which may be held jointly with the division at the discretion of the
3341 road and bridge advisory board and the division, on matters relating to the division;

3342 (v) to review the annual report of the authority and to prepare comments thereon to the
3343 authority and the governor, and to make such examinations of the reports on the
3344 division's records and affairs as the road and bridge advisory board deems appropriate;
3345 and

3346 (vi) to make recommendations to the governor and the general court respecting the
3347 authority and its road and bridge programs. The road and bridge advisory board shall
3348 have all powers necessary or convenient to carry out and effectuate the forgoing
3349 purposes.

3350 (d) The road and bridge advisory board may incur expenses, not to exceed \$50,000
3351 annually for expenditures authorized under subsection (b) and for personnel and office expenses.
3352 Such expenses shall be paid by the division in the current fiscal year from its operating budget
3353 and, for each year thereafter, shall be provided for in the current expense budget of the division.

3354 (e) The road and bridge advisory board shall be deemed to be a governmental body for
3355 purposes of, and shall be subject to, section 11A ½ of chapter 30A and shall also be subject to
3356 section 10 of chapter 66.

3357 Section 59. The division shall submit to the parkway advisory board, pursuant to section
3358 60, all contracts, plans, agreements and memoranda of understanding relative to the land use
3359 plans, air rights, zoning restrictions and environmental impacts associated with the operation and
3360 maintenance of parkways owned by the division within the geographic area defined in section 33

3361 of chapter 92 using standards set forth in the Historic Parkway Preservation Treatment
3362 Guidelines. The parkway advisory board shall, within 30 days from receipt of all contracts,
3363 plans, agreements and memoranda of understanding submitted by the division for review,
3364 provide comments and recommendations to the division. The division shall prepare a written
3365 response to the reports of the parkway advisory board and shall state the basis for any substantial
3366 divergence between the actions of the division and the recommendations contain in such reports
3367 of the parkway advisory board.

3368 Section 60. (a) There shall be a parkway advisory board to the division of roads and
3369 bridges to consist of 9 members, 2 of whom shall be appointed by the governor and who shall be
3370 residents of a municipality outside the geographic area defined in section 33 of chapter 92, 2 of
3371 whom shall be appointed by the mayor of the city of Boston, 1 of whom shall be appointed by
3372 the commissioner of conservation and recreation, 1 of whom shall be appointed by the
3373 Massachusetts Audubon Society who shall be a resident of a municipality within the geographic
3374 area defined in said section 33 of chapter 92, 1 of whom shall be appointed by the Massachusetts
3375 Sierra Club who shall be a resident of a municipality outside the geographic area defined in said
3376 section 33 of said chapter 92, one of whom shall be appointed by the Environmental League of
3377 Massachusetts who shall be a resident of a municipality within the geographic area defined in
3378 said section 33 of said chapter 92, 1 of whom shall be appointed by Environment Massachusetts
3379 who shall be a resident of a municipality outside the geographic area defined in said section 33
3380 of said chapter 92. Each member of the parkway advisory board shall have 1 vote. A majority of
3381 members shall constitute a quorum and the parkway advisory board may act by such majority
3382 vote represented in the quorum.

3383 (b) For the conduct of its business, the parkway advisory board shall adopt and may
3384 revise and amend by-laws. The parkway advisory board shall convene regular meetings in
3385 accordance with its by-laws. The parkway advisory board shall annually elect a chairperson and
3386 vice chairperson and any other officers that the parkway advisory board deems appropriate. Each
3387 member of the parkway advisory board shall serve for a term of 2 years and shall be eligible for
3388 reappointment. In the event of a vacancy, a successor shall be named by the person or
3389 organization who originally appointed the vacated member and any such successor shall serve
3390 for the remainder of the unexpired term. Each member of the parkway advisory board shall serve
3391 without compensation but may be reimbursed, as an expense of the parkway advisory board, for
3392 all reasonable expenses incurred in the performance of his duties as approved by the parkway
3393 advisory board.

3394 (c) The purposes of the parkway advisory board shall include:

3395 (i) to review and prepare comments on all documents submitted to it pursuant to section
3396 59 and to make recommendations to the division within 30 days of receipt of such
3397 documents;

3398 (ii) to coordinate and share information and best practices in matters of the operation and
3399 maintenance of historic parkways;

3400 (iii) to make recommendation to the division on its parkway charges;

3401 (iv) to hold hearings, which may be held jointly with the division, at the discretion of the
3402 parkway advisory board and said division, on matters relating to the division;

3403 (v) to review the annual report of the authority and to prepare comments thereon to the
3404 authority and the governor, and to make such examinations of the reports on the
3405 division's records and affairs as the parkway advisory board deems appropriate; and

3406 (vi) to make recommendations to the governor and the general court respecting the
3407 authority and its parkway programs. The parkway advisory board shall have all powers
3408 necessary or convenient to carry out and effectuate the forgoing purposes.

3409 (d) The parkway advisory board may incur expenses, not to exceed \$50,000 annually for
3410 expenditures authorized under subsection (b) and for personnel and office expenses. Such
3411 expenses shall be paid by the division in the current fiscal year from its operating budget and, for
3412 each year thereafter, shall be provided for in the current expense budgets of the authority's
3413 division of roads and bridges.

3414 (e) The parkway advisory board shall be deemed to be a governmental body for purposes
3415 of, and shall be subject to, section 11A 1/2 of chapter 30A and shall also be subject to section 10
3416 of chapter 66.

3417 Section 61. No rule or regulation of the division shall prohibit the use of passenger or
3418 station wagon type motor vehicles whose gross weight is less than 5000 pounds and which are
3419 registered for commercial use, on ways, parkways or boulevards where non-commercial
3420 passenger-type motor vehicles are permitted to operate. This section shall apply only to ways,
3421 parkways or boulevards previously under the jurisdiction of the department of conservation and
3422 recreation

3423 Section 62. The division may replace or rebuild any bridge over the Charles river within
3424 the metropolitan parks district whenever funds for the purpose shall become available by
3425 pursuant to this section; provided, however, that no such bridge shall be replaced or rebuilt
3426 without the consent of the city council and the selectmen of any town in which any part of the
3427 bridge is situated. Any such bridge may be replaced or rebuilt without a draw for the passage of
3428 vessels, and may be of no greater height above the water than, in the judgment of the division,

3429 the architectural appearance of the bridge would require, except that every such bridge over the
3430 Charles river basin shall be so constructed as to leave a clear height of at least 12 feet above the
3431 ordinary level of the water in the basin over the main ship channel, and the piers and other
3432 obstructions to the flow of the river shall be constructed in such form and in such places as the
3433 secretary of defense of the United States shall approve. When the work of replacing or rebuilding
3434 any such bridge is completed, the bridge shall be maintained and policed under and in
3435 accordance with the laws governing such maintenance and policing at the time when the work
3436 was begun. The state treasurer may receive, hold, manage and invest any funds given or
3437 bequeathed to him in trust by any person, upon such terms, conditions and limitations as the
3438 donor may impose, for the purpose of enabling the division to carry out this section, and the
3439 division, whenever it shall deem that the public interests so require, may expend, under authority
3440 of this section any such funds in accordance with the terms, conditions or limitations aforesaid.
3441 Any owner or lessee of property abutting on the Charles river above any drawless bridge built
3442 under the authority of this section and under authority of the act of congress entitled "An Act to
3443 authorize the construction of drawless bridges across a certain portion of the Charles river in the
3444 State of Massachusetts", approved February 27, 1911, shall be entitled to adequate compensation
3445 for damages, if any, caused to such property or leasehold interests therein, by reason of the
3446 interference with access by water to said property due to the construction of any such drawless
3447 bridge, in accordance with provisos contained in said act of congress. Upon petition of any such
3448 owner or lessee entitled to such damages, filed in the supreme judicial court within 1 year after
3449 any such bridge without a draw is opened for public travel, said court shall appoint 3
3450 commissioners to hear the parties in interest, and to assess the damages to the property and the

3451 decision of the commissioners as to the amount of the damages and as to questions of fact
3452 involved shall be final.

3453 Section 63. The division may transfer, for care and control, including police protection,
3454 any lands or rights or easements or interest in land held by it to any city, town, county, or local
3455 board of a city or town within the urban parks district, with the consent of such city, town,
3456 county or board, and upon such terms and for such period as may mutually be agreed upon, and
3457 enter into an agreement with any such city, town, county or board for the joint care and control
3458 or police protection of such lands or rights therein. Any city, town, or county, or any local board
3459 within the urban parks district, may transfer, for care and control, including police protection,
3460 any land, rights, easements or interest in land in its control, although the same is already a part of
3461 a public way owned or controlled by it, to the division for such period and upon such terms as
3462 may mutually be agreed upon, and may enter into an agreement with the division for the joint
3463 care and control, including police protection, of such land or public way.

3464 Section 64. (a) The division may provide functional replacement of real property in
3465 public ownership whenever the division has acquired such property in whole or in part under this
3466 chapter or when such property is significantly and adversely affected as a result of the
3467 acquisition of property for a highway or highway-related project and whenever the division
3468 determines that functional replacement is necessary and in the public interest. For the purposes
3469 of this section, "functional replacement" shall mean the replacement, pursuant to chapter 7,
3470 requiring authorization of the general court prior to disposition of real property, including either
3471 land or facilities thereon, or both, which will provide equivalent utility. "Real property in public
3472 ownership" shall mean any present or future interest in land, including rights of use, now existing
3473 or hereafter arising, held by an agency, authority, board, bureau, commission, department,

3474 division or other unit, body, instrumentality or political subdivision of the commonwealth. This
3475 section shall not constitute authorization by the general court as required by said chapter 7.

3476 (b) Whenever the division determines that it is necessary that a utility or utility facility,
3477 as defined under federal law, be relocated because of construction of a project which is to be
3478 reimbursed federally in whole or in part, such facility shall be relocated by the division or by the
3479 owner thereof in accordance with an order from the division; provided, however, that the
3480 authority shall reimburse the owner of such utility or utility facility for the cost of relocation
3481 subject to the limitations in subsections (e) and (f) and in accordance with the following formula:
3482 (1) for any utility facility that is to be reimbursed federally in whole or in part, the division shall
3483 reimburse the owner to the extent that the cost of relocating the utility facility is reimbursed by
3484 the federal government; and (2) for the relocation of any utility facility over \$50,000 that does
3485 not qualify for federal reimbursement, the division may reimburse the owner in accordance with
3486 the owner's ability to meet the following schedule: if the utility performs the relocation in a
3487 manner consistent with the division's policies and not later than the target date established by the
3488 division for the project, the division shall reimburse the utility at least 50 per cent but not more
3489 than 80 per cent of the costs of relocating the utility facility. Failure to comply with an order
3490 from the division shall be subject to enforcement under chapter 81.

3491 (c) Any relocation of facilities carried out under this section which is not performed by
3492 employees of the owner shall be subject to section 27 of chapter 149.

3493 (d) Notwithstanding any general or special law to the contrary, any utility facility that is
3494 required to be relocated because of the construction of a project federally funded under the
3495 Federal-Aid Highway Act of 1982 and the Federal-Aid Highway Act of 1987 may be relocated
3496 temporarily above ground during the construction of the project.

3497 (e) The total cost to the authority for reimbursements for utility relocations under this
3498 section that are not reimbursed federally in whole or in part shall not exceed \$25 ,000,000,
3499 annually, and shall not be credited toward the costs of the annual statewide road and bridge
3500 program.

3501 (f) A utility relocation shall be eligible for reimbursement under this section only if it is
3502 completed to the satisfaction of the division within target dates established by the division and in
3503 accordance with design criteria set forth by the department for the relocation in a manner that
3504 facilitates the timely completion of the affected project.

3505 Section 64A. (a) There shall be within the division a real estate appraisal review board.
3506 The board shall consist of not less than 3 but not more than 5 members to be appointed by the
3507 governor, 2 of whom shall be certified general real estate appraisers licensed by the board of real
3508 estate appraisers pursuant to section 92 of chapter 13. Members of the board shall be appointed
3509 for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed
3510 and may be compensated at a rate to be determined by the secretary. Members of the board shall
3511 be state employees under chapter 268A. A chairman of the board shall be elected annually from
3512 the membership. The division shall provide administrative support to the board as requested. In
3513 the event of a vacancy on the board, the governor shall appoint a new member consistent with
3514 this section to fulfill the remainder of the unexpired term.

3515 (b) The division shall not purchase or acquire by eminent domain any real property or
3516 any interest in real property with a value in excess of \$300,000 without the written approval of
3517 the board.

3518 (c) The board shall meet periodically, but not less than twice each year. The board shall
3519 keep a public record of all meetings, votes and other business.

3520 (d) The board shall submit an annual report of its activities during the preceding fiscal
3521 year not later than September 1 to the governor, the secretary of the transportation, the
3522 administrator of the division of road and bridges, the chairs of the joint committee on
3523 transportation, the chairs of the house and senate committees on ways and means and the
3524 secretary of administration and finance.

3525 Section 65. Notwithstanding section 64 or any other general or special law to the
3526 contrary, the division may reimburse the owner of an underground utility or utility facility
3527 whenever such underground utility or utility facility has been relocated because of construction
3528 of a project which is to be reimbursed federally in whole or in part. The reimbursement
3529 authorized herein shall be to the extent that the cost of relocating the facility is reimbursed by the
3530 federal government.

3531 **SECTION 21.** Chapter 81B is hereby amended by striking out section 1, inserted by
3532 section 20, and inserting in place thereof the following section:-

3533 Section 1. There is hereby created a body politic and corporate to be known as the
3534 Massachusetts Surface Transportation Authority which, while within the executive office of
3535 transportation and construction, shall not be subject to the supervision and regulation of said
3536 executive office or any other department, commission, board, bureau, or agency, except as
3537 specifically provided in any general or special law to the contrary. The authority is hereby
3538 authorized and empowered, subject to the provisions of this chapter, to own, construct, maintain,
3539 repair, reconstruct, improve, rehabilitate, finance, refinance, use, police, administer, control and
3540 operate (a) the state highway system as defined in this chapter; (b) the turnpike as defined in the
3541 chapter; and (c) the metropolitan highway system as defined in this chapter.

3542 The authority is hereby constituted a public instrumentality. The exercise by the
3543 authority of the powers conferred by this chapter shall be deemed and held to be the performance
3544 of an essential governmental function.

3545 **SECTION 22.** Said chapter 81B is hereby further amended by striking out section 1,
3546 inserted by section 21, and inserting in place thereof the following section:-

3547 Section 1. There is hereby created a body politic and corporate to be known as the
3548 Massachusetts Surface Transportation Authority which, shall be within the executive office of
3549 transportation and construction, but not under the supervision and regulation of said executive
3550 office or any other department, commission, board, bureau or agency, except as specifically
3551 provided in any general or special law to the contrary. The authority may, subject to this chapter,
3552 own, construct, maintain, repair, reconstruct, improve, rehabilitate, finance, refinance, use,
3553 police, administer, control and operate the state highway system, the turnpike, the metropolitan
3554 highway system and the state public transit system.

3555 The authority is hereby constituted a public instrumentality. The exercise by the
3556 authority of the powers conferred by this chapter shall be deemed and held to be the performance
3557 of an essential governmental function.

3558 **SECTION 23.** Section 3 of said chapter 81B, inserted by section 20, is hereby further
3559 amended by striking out the definition of “state highway system” and inserting in place thereof
3560 the following definition:-

3561 “State highway system”, all roadways, bridges, tunnels, overpasses, interchanges, parking
3562 facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
3563 information centers and administration, storage, maintenance and other buildings that the
3564 authority owns, constructs or operates and maintains pursuant to this chapter and any additional

3565 highway, tunnel and bridge components as the general court may from time to time determine.
3566 The term “state highway system” shall include the turnpike and the metropolitan highway
3567 system.

3568 **SECTION 24.** Section 4 of said chapter 81B is hereby amended by striking out
3569 subsections (e) and (f), as appearing in section 20, and inserting in place thereof the following 2
3570 subsections:

3571 (e) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,
3572 administer, control and operate the state highway system or any part thereof and the state public
3573 transit system or any part thereof, consistent with agreements entered into with the authority to
3574 the extent applicable, as it may determine; provided, however, that chapter 91 shall not apply to
3575 the authority, except for any parts or areas thereof subject to said chapter 91 on March 1, 1997;

3576 (f) acquire sites abutting the state highway system and the state public transit system and
3577 construct or contract for the construction of buildings and appurtenances for gasoline stations,
3578 restaurants, parking facilities, tourist information centers and other services and lease such
3579 facilities in such manner and under such terms as it may determine;

3580 **SECTION 25.** Said section 4 of said chapter 81B is hereby further amended by striking
3581 out subsection (k) , as appearing in section 20, and inserting in place thereof the following
3582 subsection:-

3583 (k) to fix, revise, charge and collect tolls for transit over the metropolitan highway
3584 system; provided, however, that it shall furnish upon request to a user of the metropolitan
3585 highway system a toll receipt showing the amount of toll paid, the classification of the vehicle
3586 and the date of payment; provided further, that the authority shall convene at least 2 public
3587 hearings to be held within the metropolitan Boston area at least 30 days prior to the effective date

3588 of any proposed change in toll structure within the metropolitan highway system and shall allow
3589 for a 1 week comment period after each such hearing during which the authority shall accept
3590 written testimony and comments;

3591 **SECTION 26.** Said section 4 of said chapter 81B is hereby further amended by striking
3592 out subsection (l), as so appearing, and inserting in place thereof the following subsection:-

3593 (l) adopt such rules and regulations pursuant to chapter 30A and not repugnant to the
3594 General Laws made applicable to the authority, as the authority determines necessary or
3595 appropriate to provide for or govern the construction or reconstruction, including contractor
3596 qualification, operation, maintenance, repair, rehabilitation, improvement, use, policing, control
3597 or administration of the state highway system or state public transit system or the authority's
3598 business or property; provided, however that such regulations may include the authority to grant
3599 easements, permits or other forms of authorization for the installation, construction,
3600 maintenance, repair, renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits,
3601 cables, wires, towers, poles and other equipment and appliances of any public utility, private
3602 entity or corporation or person owning or operating such facilities in, on, along, over or under the
3603 state highway system or state public transit system; provided further, that such regulations may
3604 impose penalties for violations thereof which, in the case of civil penalties, may be recovered
3605 only after notice and hearing conducted by the authority or its designee and subject to judicial
3606 review and enforcement pursuant to chapter 30A or such other civil proceedings under the laws
3607 of the commonwealth or the United States as the law may provide and, in the case of criminal
3608 penalties, may be recovered in a proceeding in a trial court of the commonwealth by indictment
3609 or complaint. ; provided further, that the amount of any such civil or criminal penalty, with the
3610 exception of penalties imposed under section 19, shall not exceed \$500 for each offense, unless

3611 the law otherwise provides; provided further, that the full amount of a civil penalty shall be paid
3612 to the authority and 80 per cent of a penalty recovered in a criminal proceeding shall be
3613 accounted for and paid to the authority; and provided further, that the authority may further
3614 provide in such regulations for adjudicatory proceedings that it or its designee conducts which
3615 are subject to judicial review and enforcement according to the provisions of said chapter 30A;

3616 **SECTION 27.** Section 10 of said chapter 81B, as so appearing, is hereby amended by
3617 adding the following subsection:-

3618 (b) The authority may charge, collect, and, from time to time, fix and revise tolls for
3619 transit over or through the metropolitan highway system or any part thereof subject to such
3620 classifications of vehicles and manners of collection as the authority determines desirable and
3621 subject to clause (k) of section 4. Those tolls shall be so fixed and adjusted as to provide, at a
3622 minimum, a fund sufficient with other revenues, if any, to pay: (a) costs incurred in furtherance
3623 of this chapter related to the metropolitan highway system including, but not limited to, the cost
3624 of owning, constructing, maintaining, repairing, reconstructing, improving, rehabilitating,
3625 policing, using, administering, controlling and operating the metropolitan highway system; and
3626 (b) the principal of, redemption premium, if any, and the interest on notes or bonds relating to the
3627 metropolitan highway system as the notes or bonds shall become due and payable and to create
3628 and maintain reserves established for any of the authority's corporate purposes; provided,
3629 however, that the authority shall not charge or collect a toll for transit through the Callahan
3630 tunnel, the Sumner tunnel or the Ted Williams tunnel by official vehicles of the commonwealth
3631 or any municipality, political subdivision or instrumentality thereof, including police, fire and
3632 ambulance vehicles, while such vehicles are on official business. The authority shall maintain the
3633 confidentiality of all information including, but not limited to, photographs or other recorded

3634 images and credit and account data, relative to account holders who participate in its electronic
3635 toll collection system. That information shall not be a public record under clause Twenty sixth of
3636 section 7 of chapter 4 or section 10 of chapter 66 and shall be used for enforcement purposes
3637 only with respect to toll collection regulations. An account holder may, upon written request to
3638 the authority, have access to all information pertaining solely to the account holder. For each
3639 violation of applicable authority regulations related to electronic toll collection, a violation notice
3640 shall be sent to the registered owner of the vehicle in violation. The notice shall include the
3641 registration number of the vehicle, the state of issuance of such registration and the date, time
3642 and place of the violation. The notice may be based in whole or in part upon inspection of any
3643 photographic or other recorded image of a vehicle and the written certification by a state police
3644 officer or other person employed by or under contract with the authority or its electronic toll
3645 collection system contractor that it is so based shall be prima facie evidence of the facts
3646 contained therein and shall be admissible in any administrative or judicial proceeding to
3647 adjudicate the liability for such violation.

3648 **SECTION 28.** Said chapter 81B is hereby further amended by adding the following 3
3649 sections:-

3650 Section 42. (a) No proposal for a systemwide change in fares under the division of public
3651 transit or decrease in systemwide service of 10 per cent or more shall be effective until the
3652 proposal has been the subject of 1 or more public hearings and has been reviewed by the mass
3653 transit advisory board and, for a systemwide increase in fares of 10 per cent or more, the
3654 Massachusetts Surface Transportation Authority board of directors has made findings on the
3655 environmental impact of such increase in fares and, for a systemwide decrease in service of 10
3656 per cent or more, the decrease shall be the subject of an environmental notification form

3657 initiating review pursuant to sections 61 to 62H, inclusive, of chapter 30. Any systemwide
3658 increase in fares of 10 per cent or more shall conform to the fare policy established under
3659 subsection (c). The authority shall increase fares only to provide needed revenue and shall not
3660 increase fares solely for the purpose of funding the stabilization fund established pursuant to
3661 section 19.

3662 (b) The Massachusetts Surface Transportation Authority board of directors shall not
3663 establish a fare in excess of one-half the regular adult cash fare for pupils of public day or
3664 evening schools, pupils of private day schools or private evening schools or industrial day or
3665 evening schools giving substantially the same character and grade of instruction as the schools
3666 conducted at public expense and of a not higher grade than a high school for transportation
3667 between those schools and their homes, or for children between the ages of 5 and 11 years,
3668 inclusive, or for persons 65 and older who reside within the commonwealth, or for persons with
3669 disabilities who reside within the commonwealth. Any such fare so established shall provide for
3670 free transfer privileges.

3671 (c) The authority, in consultation with the division of public transit, shall adopt, and
3672 revise as appropriate, a fare policy which addresses fare levels, including discounts, fare equity
3673 and a fare structure including, but limited to, fare media and passes. The fare policy shall include
3674 a system for free or substantially price-reduced transfer privileges.

3675 Section 43. The authority shall establish and implement policies that provide for the
3676 maximization of nontransportation revenues from all sources. The authority shall report to the
3677 general court 30 days prior to the board's approval of its preliminary annual budget on efforts of
3678 the authority to maximize nontransportation revenues. The authority, in consultation with the
3679 division of public transit, shall establish and implement policies that maximize and increase total

3680 fare revenue and ridership by improving service quality, expanding transit service where
3681 appropriate, establishing fare policies that promote ridership growth, marketing its transit
3682 services and fare media and providing desirable services and benefits to transit riders.

3683 The authority shall establish and implement policies that increase the proportion of the
3684 division's expenses covered by system revenues; provided, however, that the division shall take
3685 all necessary steps to increase system revenues and improve operating efficiency before
3686 considering any reductions in service levels; provided further that the division take all necessary
3687 steps to maximize nontransportation revenues, increase ridership and improve fare collection
3688 practices before implementing fare increases. Nothing in this chapter shall preclude the authority
3689 from increasing fares, if necessary, to meet debt service obligations.

3690 The authority shall determine, among other accountability measures, the net operating
3691 investment per passenger mile ratio for the purposes of measuring the efficiency of the division
3692 of public transit operations and evaluating the proportion of division's expenses covered by
3693 system revenues.. To calculate such ratio, the authority shall use for the values of the variables in
3694 the ratio the data reported each fiscal year to the federal transit agency, for the purposes of the
3695 national transit database.

3696 In conjunction with the preparation of the preliminary operating budget for the
3697 subsequent fiscal year, the authority shall establish a target net operating investment per
3698 passenger mile ratio that is expected to be achieved in the subsequent fiscal year. The authority
3699 shall forward a report to the secretary of transportation, the general court, and the mass transit
3700 advisory board not later than April 1 of each year detailing the actual net operating investment
3701 per passenger mile ratio achieved in the prior 2 fiscal years, the ratio projected to be achieved in

3702 the current fiscal year and the ratio expected to be achieved in the subsequent 2 fiscal years. The
3703 report shall be accompanied by an explanation of the reasons for year-to-year change in the ratio.

3704 Beginning in fiscal year 2012, the authority shall seek to achieve and maintain a target
3705 ratio of not more than 20 cents for any fiscal year; provided, that the inability to achieve the ratio
3706 of 20 cents shall not, by itself, require the authority to reduce service levels, increase fares or
3707 take any other specific action; provided further, that if the authority is unable to achieve or
3708 maintain the target ratio of 20 cents, or less, it shall, for fiscal year 2012 and subsequent fiscal
3709 years, include in the report the reasons therefor and the plans of the authority for seeking to
3710 achieve the target ratio of 20 cents.

3711 Section 44. (a) If the authority shall operate or contract for the operation of a mass
3712 transportation service or route which is not substantially similar to a service or route previously
3713 operated by the authority or the division of public transit and which is in competition with an
3714 existing mass transportation service or route provided by a private company, and if such
3715 competition causes substantial economic damage to such company, the company may file a
3716 claim for relief with the authority within 6 months of the commencement of such new operation.
3717 The claim for relief shall state all of the facts relevant to the claimed competition and to the
3718 alleged damage suffered therefrom. Thereupon the authority shall make a prompt and full
3719 investigation of the claim. During its investigation and any subsequent arbitration the authority
3720 shall have access to the books and records of the company including, but not limited to, copies of
3721 all federal and state tax returns of the company for prior years. Within 120 calendar days after
3722 the filing of the claim for relief the authority shall issue a report setting forth its findings with
3723 respect to the claim, together with a detailed statement of the facts as to the respective patronage,
3724 revenues and costs on the allegedly competing routes and, if deemed appropriate, an offer of

3725 relief. That offer may include a proposal that the authority purchase all or a portion of the assets
3726 of the company, or that the authority grant to the company a contract under section 4 of chapter
3727 81D, or the authority may propose another plan or alternative plans of relief as it shall deem
3728 reasonable and in the public interest. Within 90 calendar days of receipt of such report the
3729 company shall accept or reject any offer or offers of the authority or it shall make 1 or more
3730 counteroffers. The authority shall accept or reject any counteroffers within 30 calendar days of
3731 receipt. The authority may modify or revoke any such offer and the company may modify or
3732 revoke any such counter-offer at any time before acceptance or rejection.

3733 (b) If the authority declines to make any offer to the company, or if all offers or
3734 counteroffers are rejected, or if the authority or the company fails to act with respect to such
3735 offers or counteroffers within the time prescribed herein, the matter shall be referred to a board
3736 of arbitration for final and binding adjudication. Unless the parties shall agree in writing to some
3737 other method of constituting the board of arbitration, of selecting its members and of providing
3738 for the rules of procedure by which it shall be governed, the board shall be appointed and its
3739 proceedings regulated by the applicable sections of chapter 251. The function of the board of
3740 arbitration shall be to determine whether the operations of the authority in competition with those
3741 of the company during the period complained of have constituted a proximate cause of
3742 substantial damage to the company; to identify and designate the portion of the company's
3743 operations so damaged, that designation to include a complete list of the physical assets of the
3744 company, real and personal fairly allocable to that portion; and to fix the fair value of the portion
3745 of the company's operations as of the time that the competition commenced. In determining the
3746 fair value the board of arbitration shall follow generally accepted accounting principles and shall
3747 place particular emphasis on capitalization of the average net income of the company for prior

3748 years, excluding, however, from such average net income any amounts received by the company
3749 under section 25B of chapter 58, and upon an appraisal of the listed physical assets of the
3750 company valued at their cost basis less depreciation in a manner consistent with the valuation
3751 and depreciation methods employed by the company in filing federal and state income tax
3752 returns for the preceding years. Under no method of valuation shall any value be placed upon
3753 franchises or good will. Within 30 calendar days after the award of the board of arbitration the
3754 company shall sell, and the authority shall purchase, the physical assets listed by the board, and
3755 the authority shall pay to the company the fair value of the portion of the company's operations
3756 as found by the board. The cost to the authority of any acquisition under this section shall be paid
3757 from the proceeds of bonds or bond anticipation notes issued as hereinafter provided. An award
3758 under this section shall be subject to the availability of those bond or note proceeds and any sale
3759 hereunder may be postponed by the agreement of the parties pending the availability of those
3760 funds.

3761 (c) The procedure set forth in this section shall constitute the exclusive remedy of a
3762 private mass transportation company against the authority for relief from the effects of the
3763 division's operations or activities, and no action or suit shall be brought against the authority on
3764 account of alleged damage suffered except to enforce compliance with the provisions of this
3765 section. Nothing herein shall prohibit the authority and the company from entering into an
3766 agreement in settlement of the claim for relief at any time, notwithstanding the rejection of an
3767 offer or counteroffer, the pendency of arbitration proceedings or the existence of an award. All
3768 time requirements in this section may be extended by written agreement between the authority
3769 and the company. It is the intent of this section to encourage cooperation between the authority

3770 and private companies so as to provide fair and reasonable relief as speedily as possible in case
3771 of damaging competition.

3772 **SECTION 29.** The General Laws are hereby amended by inserting after chapter 81C the
3773 following chapter:-

3774 Chapter 81D

3775 THE DIVISION OF PUBLIC TRANSIT

3776 Section 1. (a) Without limiting the generality of the powers granted to the authority
3777 under chapter 81B or this chapter, the following provisions are made for the operation,
3778 improvement and construction of the state public transit system.

3779 (b) There is hereby established a division of public transit within the authority.

3780 Section 2. The division shall be directed by an administrator of public transit, who shall
3781 be appointed by and serve at the pleasure of the chief executive officer of the Massachusetts
3782 Surface Transportation Authority. The administrator shall be responsible for administering and
3783 enforcing this chapter relative to the administration of the division under the administrator's
3784 control and supervision unless otherwise provided herein, subject to the supervision of the chief
3785 executive officer of the authority.

3786 The administrator shall be exempt from chapter 31. The position of administrator shall be
3787 classified in accordance with section 45 of chapter 30 and the salary shall be determined in
3788 accordance with section 46C of said chapter 30. The chief executive officer shall consider a
3789 prospective administrator's fitness, including experience in matters relating to transportation
3790 infrastructure, including roads and bridges, such as their construction, operations, financing or
3791 other relevant experience relative to the efficient exercise of the administrator's powers and
3792 duties. The commissioner shall administer this section and the General Laws, rules and

3793 regulations that grant powers to or impose duties upon the division , subject to the supervision of
3794 the chief executive officer.

3795 (a) The administrator shall establish a procedure for recommending to the chief executive
3796 officer approval or disapproval of all contracts, including specifications, made by the division,
3797 and any changes, alterations, amendments, or modifications thereof and for contract appeals of
3798 all claims made under any contract with the division with the exception of claims subject to
3799 section 39Q of chapter 30. Any person aggrieved by a decision of the chief executive officer
3800 acting in regard to contract appeals may bring suit against the authority for recovery of damages
3801 based on such claim under the provisions of chapter 258.

3802 To assist the chief executive officer and administrator in performing this function, the
3803 chief executive officer may appoint and remove a person of legal training and experience, who
3804 shall be a member of the bar of the commonwealth, to the position of hearing examiner. The
3805 hearing examiner shall devote full-time during business hours to the duties of his position. The
3806 position shall be classified in accordance with section 45 of chapter 30 and the salary shall be
3807 determined in accordance with section 46C of said chapter 30. The chief executive officer may
3808 refer any dispute concerning contracts, contract specifications or the execution of contracts not
3809 subject to section 39Q of said chapter 30 to the hearing examiner for a report on the matter
3810 including a recommendation as to the disposition of the dispute.

3811 The hearing examiner shall hear all claims by contractors from determinations of the
3812 department with the exception of claims subject to section 39Q of chapter 30 and shall, after
3813 hearing, render to the chief executive officer a report of the matter including a recommendation
3814 as to the disposition of the claim. The examiner shall, at the request of the contractor or of the
3815 division or on his own motion, summon witnesses and require the production of books and

3816 records and take testimony under oath. These reports shall be maintained as public records in a
3817 place and form fully accessible to the public.

3818 (b) The administrator shall appoint and may remove all employees in the division, subject
3819 to the approval of the chief executive officer of the authority. Except as provided in this chapter
3820 or as otherwise provided by law, all such appointments and removals shall be made in
3821 accordance with chapter 31. The administrator may, subject to appropriation and regulation,
3822 employ such consultants as he may consider necessary, provided that consultants shall be
3823 engaged to perform only those services for the division which regular employees of the division
3824 are unable to perform owing to lack of special expertise or other inability to perform such
3825 services on the schedule or in the manner required by the division.

3826 (c) The administrator shall establish such bureaus, sections, and district and other offices
3827 as shall be necessary for the efficient and economical administration of the division and, if
3828 necessary for such purpose may, with the approval of the chief executive officer, consolidate or
3829 abolish the same. The administrator shall prepare and keep current a general statement of the
3830 organization of the division, of the assignment of functions to its various administrative units,
3831 officials and employees, and of the established places at which and the methods whereby the
3832 public may secure information or make requests, such statement to be known as the division's
3833 "description of organization". The administrator shall file with the state secretary an attested
3834 copy of such description and of each amendment thereto.

3835 (d) The administrator may adopt rules and regulations to effectuate the purposes of this
3836 chapter.

3837

3838 Section 3. As used in this chapter, the following words shall, unless the context
3839 otherwise requires, have the following meanings:—

3840 “Area constituting the authority”, the service area of the division consisting of the 14
3841 cities and towns, the 51 cities and towns, and other served communities.

3842 “Authority”, the Massachusetts Surface Transportation Authority established in chapter
3843 81B.

3844 “Board”, the board of directors of the authority.

3845 “Capital investment program”, the program of capital spending as promulgated by the
3846 executive office of transportation each fiscal year based on a 5 year capital spending projection
3847 that advances the program for mass transportation of the authority.

3848 “Dedicated revenue source”, monies provided to the authority in accordance with section
3849 35T of chapter 10.

3850 “Division”, the division of public transit established in section 5 of chapter 81D.

3851 “Equipment”, all rolling stock and other conveyances, vehicles, rails, signal and control
3852 systems, lighting and power distribution systems, fences, station equipment, fare collection
3853 equipment, incidental apparatus and other tangible personal property, whether or not affixed to
3854 realty, required or convenient for the mass movement of persons.

3855 “Express service”, all mass transportation service provided by or under the control of the
3856 division, whether by ownership, lease, contract or otherwise, over rights of way with fully
3857 controlled access and restricted to the use of such service exclusively or on a shared basis with
3858 other mass transportation service, including, but not limited to, rapid transit service, the highland
3859 branch and Mattapan high-speed services and express bus, monorail and other similar services,

3860 and such term shall also mean all commuter railroad passenger service provided by or under the
3861 control of the division.

3862 “Fare revenue”, the amount of money directly paid by passengers on all modes of service,
3863 provided that said revenue shall include both the fares accounted for by the division as revenues
3864 and as credits to expenditures.

3865 “51 cities and towns”, the cities and towns of Bedford, Beverly, Braintree, Burlington,
3866 Canton, Cohasset, Concord, Danvers, Dedham, Dover, Framingham, Hamilton, Hingham,
3867 Holbrook, Hull, Lexington, Lincoln, Lynn, Lynnfield, Manchester-by-the-Sea, Marblehead,
3868 Medfield, Melrose, Middleton, Nahant, Natick, Needham, Norfolk, Norwood, Peabody, Quincy,
3869 Randolph, Reading, Salem, Saugus, Sharon, Stoneham, Swampscott, Topsfield, Wakefield,
3870 Walpole, Waltham, Wellesley, Wenham, Weston, Westwood, Weymouth, Wilmington,
3871 Winchester, Winthrop and Woburn.

3872 “14 cities and towns”, the cities and towns of Arlington, Belmont, Boston, Brookline,
3873 Cambridge, Chelsea, Everett, Malden, Medford, Milton, Newton, Revere, Somerville and
3874 Watertown.

3875 “Local service”, all mass transportation service provided by or under the control of the
3876 division, other than express service.

3877 “Massachusetts Bay Transportation Authority State and Local Contribution Fund”, the
3878 fund established pursuant to section 35T of chapter 10.

3879 “Mass transportation facilities”, all real property, including land, improvements,
3880 terminals, stations, garages, yards, shops and structures appurtenant thereto, and all easements,
3881 air rights, licenses, permits and franchises, used in connection with the mass movement of
3882 persons.

3883 “Maximize”, increase to the highest level possible consistent with the principles of sound
3884 financial planning and accepted transportation practices.

3885 “Net operating investment per passenger mile ratio”, the ratio whereby operating
3886 expenses minus the sum of nontransportation revenues and fare revenues are divided by
3887 passenger miles and expressed as a monetary amount per mile.

3888 “Nontransportation revenues”, any and all division revenue sources resulting from
3889 sources other than state or local taxes, state or authority bonds, federal mass transportation
3890 assistance and fares.

3891 “Operating expense”, salaries, wages, benefits, materials and supplies, and purchased
3892 transportation, excluding debt service and capital expenses, for all modes of service.

3893 “Other served communities”, the cities and towns of Abington, Acton, Amesbury,
3894 Andover, Ashburnham, Ashby, Ashland, Attleboro, Auburn, Ayer, Bellingham, Berkley,
3895 Billerica, Boxborough, Boxford, Bridgewater, Brockton, Carlisle, Carver, Chelmsford, Dracut,
3896 Duxbury, East Bridgewater, Easton, Essex, Fitchburg, Foxborough, Franklin, Freetown,
3897 Georgetown, Gloucester, Grafton, Groton, Groveland, Halifax, Hanover, Hanson, Haverhill,
3898 Harvard, Holden, Holliston, Hopkinton, Ipswich, Kingston, Lakeville, Lancaster, Lawrence,
3899 Leicester, Leominster, Littleton, Lowell, Lunenburg, Mansfield, Marlborough, Marshfield,
3900 Maynard, Medway, Merrimac, Methuen, Middleborough. Millbury, Millis, Newbury,
3901 Newburyport, North Andover, North Attleborough, Northborough, Northbridge, Norton, North
3902 Reading, Norwell, Paxton, Pembroke, Plymouth, Plympton, Princeton, Raynham, Rehoboth,
3903 Rochester, Rockland. Rockport, Rowley, Salisbury, Scituate, Seekonk, Sherborn, Shirley,
3904 Shrewsbury, Southborough, Sterling, Stoughton, Stow, Sudbury, Sutton, Taunton, Tewksbury,
3905 Townsend, Tyngsborough, Upton, Wareham, Way land, West Boylston, West Bridgewater,

3906 Westborough, West Newbury, Westford, Westminster, Whitman, Worcester, Wrentham, and
3907 such other municipalities as may be added in accordance with section 6 or in accordance with
3908 any special act to the area constituting the authority.

3909 “Passenger miles”, the sum of the distances ridden by each passenger for all modes of
3910 service.

3911 “Program for mass transportation”, a comprehensive, coordinated program of
3912 construction, reconstruction, and development of mass transportation facilities and equipment
3913 throughout the area constituting the division, promulgated by the executive office of
3914 transportation, for the benefit of the inhabitants thereof and the commonwealth that establishes a
3915 planning horizon of not more than 20 years and incorporates an ongoing capital investment
3916 program.

3917 “Rider”, a person whose residence is in 1 of the 14 cities or towns, 1 of the 51 cities or
3918 towns, or 1 of the other served communities and uses local service or express service of the
3919 division.

3920 “Secretary”, the secretary of the executive office of transportation.

3921 “Serious bodily injury” bodily injury which results in a permanent disfigurement, loss or
3922 impairment of a bodily function, limb or organ.

3923 “Service quality standards”, objectives established by the division for the effectiveness
3924 and quality of each mode of service, rapid transit, light rail, bus, and commuter rail, based on
3925 measurements of: (a) comfort; (b) communication; (c) convenience; (d) rider satisfaction; (e)
3926 reliability; (f) security; and (g) environmental benefit.

3927 “System revenues”, revenues generated by the division, excluding the dedicated revenue
3928 source and municipal assessments.

3929 Section 4. The division may:

3930 (1) establish within the area constituting the division a principal office and such other
3931 offices as necessary;

3932 (2) hold, operate and manage the mass transportation facilities and equipment acquired
3933 by the division;

3934 (3) appoint and employ officers, agents, and employees to serve at the pleasure of the
3935 administrator, except as may otherwise be provided in collective bargaining agreements, and to
3936 fix their compensation and conditions of employment;

3937 (4) make, revise and repeal, by-laws, rules, regulations and resolutions;

3938 (5) establish transit facilities and related infrastructure, including terminals, stations,
3939 access roads, and parking, pedestrian access facilities and bicycle parking and access facilities as
3940 deemed necessary and desirable. The division may charge reasonable fees for the use of such
3941 facilities as it may deem desirable, or it may allow the use of such facilities free of charge;

3942 (6) accept gifts, grants and loans from agencies of local, state and federal governments, or
3943 from private agencies or persons, and to accede to such conditions and obligations as may be
3944 imposed as a prerequisite to any such gift, grant or loan;

3945 (7) provide mass transportation service, whether directly, jointly or under contract, on an
3946 exclusive basis, in the area constituting the division and without being subject to the jurisdiction
3947 and control of the department of public utilities in any manner except as to safety of equipment
3948 and operations and, with respect only to operations of the division with equipment owned and
3949 operated by the division, without, except as otherwise provided in this chapter, being subject to
3950 the jurisdiction and control of any city or town or other licensing authority; provided, that
3951 schedules and routes shall not be considered matters of safety subject to the jurisdiction and

3952 control of said department. Except as otherwise provided in this chapter, the board shall
3953 determine the character and extent of the services and facilities to be furnished, and in these
3954 respects its authority shall be exclusive and shall not be subject to the approval, control or
3955 direction of any state, municipal or other department, board or commission except the advisory
3956 board as provided in this chapter. Nothing contained in this paragraph shall be construed as
3957 exempting any privately owned or controlled carrier, whether operating independently, jointly or
3958 under contract with the division, from obtaining any license required under section 1 of chapter
3959 159A;

3960 (8) operate mass transportation facilities and equipment, directly or under contract in
3961 areas outside the area constituting the authority; but only pursuant to: (i) an agreement with or
3962 purchase of a private mass transportation company, part of whose operations were, at the time
3963 the authority was established, within the area constituting the authority; or (ii) an agreement with
3964 a transportation area or a municipality for service between the area constituting the authority and
3965 that of the transportation area or municipality, where no private company is otherwise providing
3966 that service;

3967 (9) provide for construction, extension, modification or improvement of the mass
3968 transportation facilities in the area constituting the authority;

3969 (10) sell, lease or otherwise contract for advertising in or on the facilities of the division;
3970 and

3971 (11) ensure that land devoted to any public use other than mass transportation may be
3972 taken by the division only: (i) if any substantial interference with such public use is temporary or
3973 any permanent interference therewith is not substantial, or both; or (ii) in the case of takings not
3974 authorized by clause (i), upon providing equivalent land for such public use. Interference with

3975 the public use of a street or public utility line shall not be considered to be substantial unless it
3976 presents a substantial interference with the traffic or utility system of which it is a part.

3977 Section 5. (a) There shall be a mass transit advisory board within the division of public
3978 transit consisting of a representative of each city or town paying an assessment to the authority.
3979 Each such representative shall be, in the case of a city having a Plan D or Plan E form of charter,
3980 the city manager, in the case of every other city, the mayor, or the chairman of the board of
3981 selectmen of every town. Each city manager, mayor, or chairman may appoint a designee to act
3982 for him on the mass transit advisory board by filing the name of said designee with the authority.

3983 The total voting strength of cities and towns on the mass transit advisory board shall be
3984 not less one than 1 vote for each city or town together with additional votes calculated by
3985 multiplying 1 and one-half times the total number of cities and towns paying assessments to the
3986 Surface Transportation Trust Fund, established under section 35LL of chapter 10, by a fraction
3987 of which the numerator shall be the total amount of all assessments made by the state treasurer to
3988 such city or town under this chapter and the denominator shall be the total amount of all
3989 assessments made by the state treasurer to all such cities and towns. The determination of votes
3990 shall be based upon the most recent annual assessment. The total vote of each city and town shall
3991 be determined by the authority and delivered in writing to the mass transit advisory board 30
3992 days after the state treasurer has sent the warrants for payments to the cities and towns.

3993 Whenever the approval of the mass transit advisory board, or of the 14 cities and towns,
3994 or of the 51 cities and towns or of the other served communities, is required for any action by the
3995 authority, such approval shall be deemed to have been granted within 30 days of the authority's
3996 submission for approval thereof, so long as the mass transit advisory board, 14 cities and towns

3997 or the 51 cities and towns or the other served communities has or have not communicated its or
3998 their disapproval to the authority, in writing.

3999 Any notice or submission hereunder to the mass transit advisory board or to the 14 cities
4000 and towns or to the 51 cities and towns or to the other served communities shall be given in such
4001 manner as the authority deems reasonable.

4002 Except as otherwise provided by vote of the mass transit advisory board or of the 14
4003 cities and towns or of the 51 cities and towns or of the other served communities, respectively, a
4004 meeting may be called by the representative or representatives of cities and towns having 5 per
4005 cent or more of the votes of the mass transit advisory board or of 14 cities and towns or of 51
4006 cities and towns or of the other served communities, as the case may be. The first meeting of the
4007 14 cities and towns and of the 51 cities and towns and of the other served communities, which
4008 shall be immediately followed by the first meetings of the 14 cities and towns and of the 51 cities
4009 and towns and of the served communities shall be held as soon as practicable upon the call of the
4010 authority. The mass transit advisory board shall act by a majority vote, except that it may
4011 delegate its power of approval to an executive committee formed and elected pursuant to duly
4012 adopted by-laws of the board and constituting among its members as least one-half of the total
4013 vote of the board, and may at any time, revoke such delegation provided that no such executive
4014 committee shall be empowered to approve the governor's appointments to the board.

4015 The mass transit advisory board may incur expenses, as authorized by majority vote of
4016 such board, for staff, stenographic, clerical and other purposes. Such expenses as do not annually
4017 exceed 0.25 per cent of the assessment upon member communities shall be paid by the authority.

4018 (b) The mass transit advisory board shall be considered a governmental body for
4019 purposes of, and shall be subject to, section 11A½ of chapter 30A of the General Laws and shall
4020 also be subject to section 10 of chapter 66 of the General Laws.

4021 (c) Additional purposes of the mass transit advisory board shall include:

4022 (i) to consider matters committed to the approval of the advisory board under
4023 paragraphs (d) and (p) of section 5 of chapter 161A of the General Laws;

4024 (ii) to make recommendation to the division on its mass transit charges;

4025 (iii) to hold hearings, which may be held jointly with the division at the discretion of
4026 the mass transit advisory board and the division, on matters relating to the
4027 division;

4028 (iv) to review and prepare comments on the annual report of the authority for the
4029 authority and the secretary, and to make such examinations of the reports on the
4030 division's records and affairs as the advisory board deems appropriate; and

4031 (v) to make recommendations to the governor and the general court respecting the
4032 authority and its mass transit programs. The mass transit advisory board shall
4033 have all powers necessary or convenient to carry out and effectuate the forgoing
4034 purposes.

4035 Section 6. Unless otherwise required under section 6A of chapter 31 or any other general
4036 or special law to the contrary, the administrator shall design and implement a program for
4037 performance evaluation of employees. The sole purpose of said program shall be the
4038 improvement of the performance of individual employees and the division. Notwithstanding any
4039 general or special law to the contrary, all information compiled by said program shall be
4040 confidential and exempt from clause twenty-sixth of section 7 of chapter 4 or section 10 of

4041 chapter 66. The division may consult with individuals and organizations and may contract for
4042 technical assistance for the purpose of the evaluation program to the extent it deems necessary.

4043 Section 7. Notwithstanding any general or special law to the contrary, whenever there
4044 exists a continued interruption, stoppage or slowdown of transportation of passengers on any
4045 vehicle or line of the division or a strike causing the same, and which is in violation of an
4046 injunction, a temporary injunction, a restraining order, or other order of a court of competent
4047 jurisdiction, and which threatens the availability of essential services of transportation to such an
4048 extent as to endanger the health, safety or welfare of the community, the governor may declare
4049 that an emergency exists. During such emergency the governor may take possession of, and
4050 operate in whole or in part, the lines and facilities of the division in order to safeguard the public
4051 health, safety and welfare. Such power and division may be exercised through any department or
4052 agency of the commonwealth or through any person or persons and with the assistance of such
4053 public or private instrumentalities as may be designated by the governor. The lines and facilities
4054 shall be operated for the account of the division. The powers hereby granted to the governor shall
4055 expire 45 days after his declaration that a state of emergency exists.

4056 Section 8. (a) In addition to the powers granted to the authority under chapter 81B and
4057 section 4 and all other powers granted by law, the authority shall have the power to establish on a
4058 self-liquidating basis 1 or more separate units of mass transportation facilities and equipment to
4059 furnish, in each instance, express service or local service between specified terminal points and
4060 over a fixed route or routes. In establishing such separate units, the authority may enter into 1 or
4061 more unit lease arrangements with such persons, firms and corporations as the authority shall
4062 select and franchise. Each such unit lease arrangement shall provide for the following:

4063 (i) acquisition by the authority of real property, including easements and rights of way,
4064 necessary or desirable for the operation of such units of mass transportation facilities and
4065 equipment, parking and other related auxiliary services and facilities, by purchase or exercise of
4066 the authority's power of eminent domain under subsection (o) of section 4 of chapter 81B;

4067 (ii) design, construction and acquisition of mass transportation facilities and equipment;

4068 (iii) operation of the mass transportation facilities and equipment so designed,
4069 constructed and acquired by a lessee of the facilities and equipment: (1) for a period not in
4070 excess of 40 years; (2) at a rental or lease charge at least sufficient to discharge the authority's
4071 financial obligations incurred in connection with the unit of facilities and equipment under the
4072 authority's powers as hereinafter set forth in subsection (b); and (3) upon such provisions and
4073 conditions as to fares and other matters relating to the conduct and operation of the mass
4074 transportation facilities and equipment as the authority and lessee shall agree; and

4075 (iv) power in the authority to cancel or terminate the unit lease arrangement at stated
4076 times which shall be not less frequent than once in each calendar year.

4077 (b) To meet the expenditures necessary in carrying out the provisions of this section, the
4078 authority may issue bonds under chapter 81B, and those bonds shall provide, in addition to other
4079 provisions allowed under that chapter, that all payments of principal and interest shall be made
4080 solely from: (1) the rental or lease charges received by the authority under its lease with the
4081 lessee of mass transportation facilities and equipment as aforesaid; provided, however, that the
4082 lease may be assigned by the authority to secure the obligations of those bonds; or (2) in the
4083 event the authority terminates the lease from the income derived from operation of said mass
4084 transportation facilities and equipment; provided, however, that bonds issued for the purposes of

4085 this section shall not be included in the computation of the bonds to which the limitations on
4086 amount contained in section 22 of chapter 81B shall apply.

4087 Section 9. The authority shall have the duty to develop and finance, and the division shall
4088 have the duty to operate, the mass transportation facilities and equipment in the public interest,
4089 consistent with the purposes this chapter. The division shall provide a high standard of service to
4090 its riders, and achieve maximum effectiveness in complementing other forms of transportation in
4091 order to promote the general economic and social well-being of the area constituting the division
4092 and of the commonwealth.

4093 Section 10. The division may sell at public or private sale any land, or rights in land, the
4094 title to which the division has acquired, upon determination by the board that such land or rights
4095 in land are no longer necessary for the division's purposes. In the event of such public or private
4096 sale the division shall execute a deed thereof, with or without covenants of title and warranty, in
4097 the name and behalf of the authority, to the purchaser, his heirs and assigns, and deposit said
4098 deed with the state treasurer, together with a certificate of the terms of the sale and the price paid
4099 or agreed to be paid at said sale. Upon receipt of the agreed upon payment, and upon the terms
4100 agreed to in said deed, the treasurer shall deliver the deed to the purchaser. The state treasurer
4101 may, through the attorney general, file suit for and collect the payment and otherwise enforce the
4102 terms of any such sale.

4103 The division may, with the approval of the authority, transfer to another division, or to a
4104 city, town, or public authority or agency, any land to which it has acquired the title and which the
4105 board determines is no longer necessary for the division's purposes.

4106 The division may also, with the approval of the authority, lease or rent any land, or rights
4107 in land, to which it has acquired the title, and which land, or rights therein, the board determines
4108 are not presently needed for the division's purposes.

4109 The foregoing provisions of law with reference to the sale, leasing or renting of land
4110 acquired by the division, shall also apply to land, or rights in land, acquired by the division for
4111 maintenance sites.

4112 In addition to the foregoing, the division may also transfer to another state agency, land
4113 acquired from that state agency, which is no longer needed for the purposes for which it was
4114 acquired. The use of that land shall be subject to such restrictions as may be imposed by the
4115 division.

4116 Section 11. If the division seeks to contract for local and express bus services theretofore
4117 performed by division employees, it shall conduct a public hearing in each of the affected areas.
4118 The division shall cooperate with the chief executive officers of each of the cities and towns in
4119 the affected areas to determine the appropriate, geographically convenient locations at which
4120 such hearings shall be held. Those hearings shall be held within 30 days after the division's
4121 requests for proposals and before the awarding of a contract for those services. The division shall
4122 provide written notice 10 days before the hearing to elected officials from affected areas. The
4123 division shall be represented at the meeting by the administrator or his designee who is familiar
4124 with the proposed contract. The public hearing shall be conducted in the evening hours in a
4125 location in the area to be affected by the proposed contract. The division shall present reasons for
4126 the proposed contract. Persons in attendance at the public hearing shall have a reasonable
4127 opportunity to ask questions and present reasons why such proposed contract should not be
4128 executed. Within 30 days after the hearing and before the execution of any contract, the division

4129 shall give written notice of its decision and the supporting reasons to persons who received
4130 written notice of the hearing. The division shall continue to conduct public hearings pursuant to
4131 this section each year the contract is in effect. Nothing in this section shall be construed as
4132 affecting the applicability of sections 52 to 55, inclusive, of chapter 7 to any such contract.

4133 Section 12. The division shall on or before April 1 of each year, render to the board, the
4134 secretary, mass transit advisory board, and the general court, a report of its operations for the
4135 preceding calendar year, including therein a description of the organization of the division, its
4136 service quality standards, trends in revenue and ridership, service improvements and
4137 recommendations for legislation, if any, and the program for mass transportation as most
4138 recently revised.

4139 Section 13. Any agreement entered into by the division with a municipality outside of
4140 the territory of the division for service to such municipality directly by the division, or through
4141 agreement with a private company, shall provide for reimbursement by the municipality to the
4142 division only for the net additional expense of such service as determined by the division. Such
4143 agreements may be for such terms, not exceeding 5 years, as the parties may determine, except
4144 as provided in paragraph (x) of section 4 of chapter 81B. The agreements shall not be subject to
4145 the provisions of section 4 of chapter 40 or section 31 of chapter 44. Municipalities may
4146 appropriate from taxes or from any available funds to meet their obligations under any such
4147 contracts.

4148 Section 14. Any private company lawfully providing mass transportation service in the
4149 area constituting the division when the division is established may continue to operate the same
4150 route or routes and levels of service, and may conduct such further operations as the division
4151 may permit in the future with or without a contract; provided, however, that the division shall in

4152 all respects have the same powers and duties in respect to such private carriers as are provided by
4153 law for the department of public utilities except as to safety of equipment and operations;
4154 provided further, that schedules and routes shall not be considered safety of equipment and
4155 operations for the purposes of this paragraph; provided further, that whenever the division
4156 desires to add new routes for service in any area, it shall give preference in the operation of those
4157 routes to the private carrier then serving the area unless the division concludes that the private
4158 carrier has not demonstrated an ability to provide that service according to the standards of the
4159 division, that such service can be operated directly by the division at substantially lesser expense
4160 to the division and the public than if operated by that private carrier, or that for substantial and
4161 compelling reasons in the public interest operation by such private carrier is not feasible.

4162 Section 15. The division, during construction projects, may require the relocation or
4163 removal of public utility facilities; provided, that if such project is in whole or in part funded by
4164 a federal grant, the division may reimburse the utility company for the costs of relocation and
4165 removal as may be agreed upon by the utility and the division.

4166 Section 16. The division shall provide gate attendants daily from 7:00 a.m. until 2:00
4167 a.m. on the following day, on High street in the city of Medford at the railroad crossing.

4168 Section 17. No alcoholic beverages shall be sold on any of the properties under the
4169 supervision and control of the division, its tenants or lessees; provided, however, that this
4170 subsection shall not apply to properties used by or for railroads, as defined in chapter 160, or
4171 properties used for railroad-related purposes including, but not limited to, railroad stations and
4172 terminals.

4173 Section 17A. The division shall be a public employer as defined in section 1 of chapter
4174 258 and shall be subject to the indemnification limits of section 2 of chapter 258; provided,

4175 however, that if the division is liable for a serious bodily injury or death, the limitation of section
4176 2 of chapter 258 shall not apply.

4177 Section 18. No person shall have in his possession on a facility or conveyance under the
4178 supervision or control of the authority, an alcoholic beverage, with the intent to consume such
4179 beverage on the facility or conveyance, unless such possession is exempt under section 17. A
4180 violation of this section shall be punishable as provided in section 40A of chapter 272 and the
4181 alcoholic beverages shall be forfeited to the division.

4182 Section 19. The division shall create, after public hearing and in consultation with the
4183 mass transit advisory board, mechanisms for ensuring reliable, high-quality and cost-effective
4184 operations by establishing and implementing service quality standards.

4185 Section 20. The division shall promote, in consultation with the mass transit advisory
4186 board, maximization of fare revenue and nontransportation revenue, through reasonable and
4187 equitable fares, ridership growth and transit-oriented development of land and air rights
4188 controlled by the division.

4189 Section 21. Any city or town seeking to receive transportation service from the division,
4190 may place upon the official ballot at any biennial or regular or special city election or annual or
4191 special town election the following question:

4192 “Shall this (city, town) be added to the Division of Public Transit of the Massachusetts
4193 Surface Transportation Authority?”

4194 Yes _____ No _____

4195 The city or town solicitor shall prepare a fair, concise summary of each question not later
4196 than 35 days prior to such election. That question shall not be placed upon the official ballot
4197 unless the city council or town meeting shall have voted to have that question so placed or unless

4198 a petition signed by not less than 5 per cent of the registered voters of the city or town, certified
4199 as such by the registrars of voters thereof, shall have been filed with the city or town clerk, at
4200 least 90 days before the date of any election. Forms for such petitions shall be made available
4201 without cost by the city or town clerk and each form shall bear the following heading:

4202 “The undersigned registered voters of (city, town) hereby petition for the placement upon
4203 the official ballot of the question whether this (city, town) shall be added to the area constituting
4204 the Division of Public Transit of the Massachusetts Surface Transportation Authority”.

4205 The votes upon such question shall be counted and returned to the city or town clerk in
4206 the same manner as votes for candidates in municipal elections. Said clerk shall immediately
4207 notify the division of the results of the vote. If a majority of the votes cast upon the question shall
4208 be in the affirmative, the city or town shall be considered added to the division effective on the
4209 first day of January next following the notification by the clerk. If the city council or town
4210 meeting of more than 1 city or town shall vote to have that question placed on the official ballot,
4211 or if a petition signed as provided in this section shall be filed with more than 1 city or town
4212 clerk, and if that combination of cities or towns, if regarded as a single municipality, would be
4213 contiguous to the area constituting the division, the question shall be placed upon the official
4214 ballot in each such city or town. The votes upon the question shall be counted and returned to
4215 each city or town clerk in the same manner as votes for candidates in municipal elections. The
4216 city or town clerks for each city or town shall immediately notify the division of the result of its
4217 vote. If a majority of the votes cast upon the vote in such city or town shall be in the affirmative,
4218 each said city or town shall be considered within the division effective on the first day of January
4219 next following the notifications by the clerks. The division may not provide service to a city or

4220 town that fails to join the transportation area, unless the city or town was receiving service as of
4221 July 1, 2000.

4222 Section 22. Notwithstanding any general or special law to the contrary, all cities and
4223 towns of the authority shall contribute to the Massachusetts Bay Transportation Authority State
4224 and Local Contribution Fund, an amount in the aggregate not less than \$136,026,868, which,
4225 after fiscal year 2006, shall be adjusted each July 1 by the growth rate of the inflation index over
4226 the preceding 12 months; provided, however, that after such fiscal year, in no case shall the
4227 assessment exceed 102.5 per cent of the previous year's assessment. Each municipality's share of
4228 the assessment shall equal its weighted percentage of the total population of the authority. For
4229 the purposes of this calculation, the weights shall be as follows: Boston, 18; Brookline and
4230 Cambridge, 12; the 14 cities and towns excluding Boston, Brookline and Cambridge, 9; the 51
4231 cities and towns, 3; other served communities, 1. For the purpose of this section, "Population"
4232 shall mean population as most recently estimated and published by the United States Census
4233 Bureau. On or before March 1 of each year, the authority shall certify to the state treasurer the
4234 amount to be assessed to each city and town on account of the ensuing fiscal year, and the state
4235 treasurer shall, on behalf of commonwealth, assess each such city and town on account of such
4236 year in accordance with section 20 of chapter 59. Beginning on July 1, 2001, a city or town that
4237 is also a member of a regional transit authority or that at any time joins a regional transit
4238 authority shall have 100 per cent of the amount assessed for the operation of the regional transit
4239 authority credited against its share of the assessment made under this section; provided, however,
4240 that the amount credited shall not exceed the total amount of the assessment; and provided
4241 further, that the amount credited shall be the most recently audited regional transit authority
4242 assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal

4243 year's estimated cherry sheet assessments. The total amount of regional transit authority credits
4244 authorized herein shall be re-assessed to the 14 cities and towns and the 51 cities and towns
4245 based on the weighted percentage of said cities and towns' share of the population of the 14 cities
4246 and towns and 51 cities and towns. For the purposes of this section, the words "inflation index"
4247 shall mean the per cent change in inflation as measured by the per cent change in the consumer
4248 price index for all urban consumers for the Boston metropolitan area as determined by the bureau
4249 of labor statistics of the United States Department of Labor.

4250 A city or town assessed by the authority that is not receiving paratransit services for the
4251 disabled from the authority shall have 50 per cent of the amount it expended in the previous
4252 fiscal year for the operation of or membership in a local or regional paratransit service credited
4253 against its share of the assessment made under this section. The amount credited shall not exceed
4254 the total amount of the assessment. The credit shall apply only to services provided to individuals
4255 eligible for paratransit services. As used in this paragraph, "paratransit services" shall mean
4256 services provided to individuals with disabilities who, as the result of a physical or mental
4257 impairment, including a vision impairment, are unable to board, ride or disembark from a vehicle
4258 in the authority's regular transportation system without the assistance of another individual,
4259 except the operator of a wheelchair lift or other boarding assistance device.

4260 Section 23. The administrator shall have authority to bargain collectively with labor
4261 organizations representing employees of the division and to enter into agreements, with those
4262 organizations relative to wages, salaries, hours, working conditions, the assignment of work
4263 schedules and work locations on the basis of seniority, including:

4264 (a) hours of work each day and days worked each week; provided however, that a change
4265 in such assignment shall not provide for a change in classification; and

4266 (b) the filling of vacancies by promotion or transfer of qualified applicants on the basis of
4267 seniority, health benefits, pensions and retirement allowances of such employees; provided,
4268 however, that the administrator shall have no authority to bargain collectively and shall have no
4269 authority to enter into collective bargaining agreements with respect to matters of inherent
4270 management right which shall include the right:

4271 (i) to direct, appoint, and employ officers, agents and employees and to determine
4272 the standards therefor;

4273 (ii) to discharge or terminate employees subject to the provisions of clauses (a)
4274 and (b).

4275 (a) No such action to discharge or terminate shall be sustained if, in a
4276 proceeding invoked in accordance with the provisions of clause (b), the employee
4277 shall establish by a preponderance of the evidence that it was based upon race,
4278 sex, color, religion, creed, sexual orientation, age, national origin, handicapping
4279 condition, marital status, or political affiliation, or activities or union activities or
4280 union organizing of the employees; a reprisal against the employee for disclosure
4281 of information by an employee which the employee reasonably believes evidences
4282 a violation of any law, rule or regulation or mismanagement, a gross waste of
4283 funds, or abuse of authority; a reprisal against any employee for the refusal of any
4284 person to engage in political activity.

4285 (b) The parties may include in any written agreement a grievance
4286 procedure culminating in final and binding arbitration which may be invoked in
4287 the event any employee of the authority is aggrieved by any action taken to so
4288 discharge or terminate employees;

- 4289 (iii) to plan and determine the levels of service provided by the division;
- 4290 (iv) to direct, supervise, control, and evaluate the departments, units, and
- 4291 programs of the division; to classify the various positions of the division and ascribe
- 4292 duties and standards of productivity therefor;
- 4293 (v) to develop and determine levels of staffing and training; provided however,
- 4294 that to the extent that levels of staffing and training have an impact on the safety of
- 4295 division employees the determination, development and implementation of such levels of
- 4296 staffing and training shall not constitute a matter of inherent management right and the
- 4297 administrator shall have the authority to bargain collectively on such subjects with labor
- 4298 organizations representing employees of the division; and provided further, that the
- 4299 administrator and labor organizations may include in any written agreement a grievance
- 4300 procedure culminating in final and binding arbitration before a neutral arbitrator which
- 4301 may be invoked in the event that an employee of the division to whom such agreement
- 4302 applies is aggrieved by actions taken by the administrator or division management with
- 4303 respect to the development, determination or implementation of levels of staffing and
- 4304 training which have an impact on the safety of division employees;
- 4305 (vi) to determine whether goods or services should be made, leased, contracted
- 4306 for, or purchased on either a temporary or permanent basis;
- 4307 (vii) to assign and apportion overtime; and
- 4308 (viii) to hire part-time employees.

4309 The division is hereby prohibited from bargaining collectively or entering into any

4310 agreement to make pension benefit payments to its employees that are determined in a manner

4311 that includes the amount of overtime earnings of those employees.

4312 The division is hereby prohibited from bargaining collectively or entering into a contract
4313 which provides for automatic cost-of-living salary adjustments which are based on changes in
4314 the consumer price index or other similar adjustments unless specifically authorized by law.
4315 Except as otherwise provided in sections 15 to 19, inclusive, of chapter 81B, the employees of
4316 the division shall submit all grievances and disputes pursuant to arbitration provisions in
4317 agreement existing at the time of the creation of the division or subsequently entered into with
4318 the division or, in the absence of such provisions, to the state board of conciliation and
4319 arbitration, or other board or body having similar powers and duties. Any general or special law
4320 relative to rates of wages, hours of employment and working conditions of public employees,
4321 shall not apply to the division nor to the employees thereof, but the division and its employees
4322 shall be governed with respect to hours of employment, rates of wages, salaries, hours, working
4323 conditions, health benefits, pensions and retirement allowances of its employees by the laws
4324 relating to street railway companies.

4325 Section 24. In the event of any conflict between the regulatory powers and duties of the
4326 department of public utilities and the regulatory powers and duties of the division within its area,
4327 the department of public utilities shall resolve such dispute and exercise such powers as it
4328 requires in the particular instance.

4329 Section 25. The division shall have the power to procure electric utility services,
4330 including the purchase, generation, transmission, transformation and distribution of the supplies
4331 of electricity necessary to operate its mass transportation facilities and equipment, at the lowest
4332 reasonable cost consistent with the provision of public transportation services in an efficient,
4333 reliable and economic manner. In procuring such electric utility services, the division may solicit
4334 offers and proposals to provide such electric utility services from owners or operators, of

4335 facilities that generate, transmit, transform, or distribute electric power and energy including the
4336 New England power pool as defined in chapter 164A., and shall take into consideration factors
4337 relating to the public interest including, but not limited to the following:

4338 (a) the lowest prices that may be offered by responsible bidders, including electric
4339 companies, municipal lighting plants, political subdivisions and alternate energy producers as
4340 defined in section 1 of chapter 164;

4341 (b) the demonstrated ability of any prospective supplier of electric utility services to
4342 provide reliable and continuous service and stability of price; and

4343 (c) consistency with the environmental and conservation goals of the commonwealth
4344 while concurrently fulfilling all obligations of contracts and agreements lawfully entered into and
4345 currently in force.

4346 Section 26. The division shall have the power to engage in electric utility business which
4347 shall include the generation, transformation, transmission and distribution of electricity for
4348 public consumption of electricity used in connection with the mass movement of persons. The
4349 division shall be classified as a domestic electric utility under chapter 164A solely for the
4350 purpose of purchasing electricity and becoming a member of the New England power pool as
4351 defined in chapter 164A. The division may exercise any of its rights and powers necessary or
4352 convenient to carry out and effectuate the purpose of providing light, heat and power in
4353 connection with the mass movement of persons. In addition, the division shall have the following
4354 powers:

4355 (a) to purchase electric power and energy including, without limiting the generality of the
4356 foregoing, all or a portion of the capacity and output of 1 or more specific electric power
4357 facilities and steam, whether or not produced by an electric power facility;

4358 (b) to purchase electric power and energy and other products of electric power facilities
4359 from other utilities, public and private, within and without the commonwealth, political
4360 subdivisions; provided, however, that nothing in this section shall be construed to authorize
4361 resale of electric power and energy so purchased except as otherwise authorized by law;

4362 (c) to contract for the use of transmission and distribution facilities owned by others for
4363 the delivery to the division and any such owner may enter into such contracts with the division;

4364 (d) to contract, with respect to the purchase, sale, delivery, exchange, interchange,
4365 wheeling, pooling, transmission or use of electric power and energy and to otherwise participate
4366 in the New England power pool, as defined by section 1 of chapter 164A; and

4367 (e) to do all things necessary, convenient or desirable to provide electricity in connection
4368 with the mass movement of persons or powers expressly granted or necessarily implied in this
4369 chapter.

4370 Section 27. An officer of the division may immediately give to a person who violates
4371 section 43A of chapter 272 a written notice to appear before the clerk of the district court having
4372 jurisdiction at any time during office hours, not later than 21 days after the date of the violation.
4373 The notice shall be signed by the officer and shall be signed by the offender in acknowledgment
4374 that the offender has received the notice. The officer shall deliver to the offender at the time and
4375 place of the violation a copy of the notice. Whenever it is not possible to deliver a copy of the
4376 notice to the offender at the time and place of the violation, or to such after division employee
4377 authorized by the division, such copy shall be mailed or delivered by the officer or by his
4378 commanding officer to the offender's last known address, within 5 days of the offense, exclusive
4379 of Sundays and legal holidays. The notice mailed by the officer, his commanding officer, or such
4380 person so authorized to the last address of the offender, shall be deemed sufficient notice, and a

4381 certificate of the officer or person so mailing the notice that it has been mailed in accordance
4382 with this section shall be considered prima facie evidence thereof and shall be admissible in any
4383 court of the commonwealth as to the facts contained therein. At or before the completion of each
4384 tour of duty, the officer shall give his commanding officer those copies of each notice of such
4385 violations he has taken cognizance of during such tour which have not already been delivered or
4386 mailed by him as aforesaid. The commanding officer shall retain and safely preserve 1 of those
4387 copies and shall, at a time not later than the next court day after said delivery or mailing, deliver
4388 1 of those copies to the clerk of the court before whom the offender has been notified to appear.
4389 The clerk of each district court shall maintain a separate docket of all such notices to appear.

4390 Any person so notified to appear before the clerk of a district court may appear before the
4391 clerk and confess the offense charged, either personally or through an agent duly authorized in
4392 writing, or by mail to such clerk, with the notice, and the sum of \$25, such payment to be made
4393 only by postal note, money order, or check. Payment of that sum shall operate as a final
4394 disposition of the case. Proceedings under this paragraph shall not be criminal and no person
4395 notified to appear before the clerk of a district court as provided herein shall be required to report
4396 to any probation officer, and no record of the case shall be entered in the probation records.

4397 If any person notified to appear before the clerk of the district court fails to appear and
4398 pay the fine provided hereunder or, having appeared desires not to avail himself of the procedure
4399 hereinbefore provided for the non-criminal disposition of the case, the clerk shall notify the
4400 officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear
4401 in accordance with the summons issued upon such complaint, the clerk shall send the person, by
4402 certified mail, return receipt requested, a notice that the complaint is pending and that if the
4403 person fails to appear within 21 days from the sending of such notice, the court shall issue a

4404 warrant for his arrest. If a person fails to appear within 21 days from the sending of such notice,
4405 the court shall issue a warrant for his arrest.

4406 If, after an officer delivers a notice to an offender, the offender continues to violate
4407 section 43A of chapter 272, an officer of the division may arrest such offender without a warrant.
4408 Any offender arrested under this section shall be subject to the fines and penalties provided
4409 under section 43A of chapter 272.

4410 Section 28. Agreements between the division and a railroad for the provision of
4411 commuter rail service shall provide that the division shall secure and maintain a liability
4412 insurance policy covering the liability of the division and the railroad for property damage,
4413 personal injury, bodily injury and death arising out of such commuter rail service. Such policy
4414 shall name the division as named insured, and the railroad as an additional insured, shall have
4415 policy limits of not less than \$75,000,000 per occurrence annually and \$75,000,000 in the
4416 aggregate annually, and shall be subject to self-insured retention in an amount not less than
4417 \$7,500,000. In no event shall the division or the railroad be liable in excess of the coverage limits
4418 of such insurance policy for any and all claims for damage, whether compensatory or punitive,
4419 for property damage, personal injury, bodily injury and death arising out of such commuter rail
4420 service.

4421 For the purposes of this section, the term “railroad” shall include any person, railroad
4422 corporation or other legal entity in the business of providing rail transportation which contracts
4423 with the division of public transit for the provision of commuter rail services and the term
4424 “commuter rail service”, shall include all services performed by a railroad pursuant to a contract
4425 with the division of public transit in connection with the transportation of rail passengers
4426 including, but not limited to, the operation of trains, trackage and equipment, or the construction,

4427 reconstruction or maintenance of railroad equipment, tracks and any appurtenant facilities or the
4428 provision of trackage rights over lines owned by any such railroad.

4429 Section 29. Whenever the division deems it necessary to make surveys, soundings, test
4430 pits, borings, drillings or examinations to obtain information for or to expedite the construction
4431 of public transportation facilities or other projects under its jurisdiction, the division, or its
4432 authorized agents or employees may, after 30 days notice by registered or certified mail and
4433 without the necessity of any judicial orders or other legal proceedings, enter upon any lands,
4434 waters and premises, not including buildings, in the commonwealth, including lands both
4435 publicly and privately owned, including land owned by railroad corporations, for the purpose of
4436 making such surveys, soundings, test pits, borings, drillings or examinations as it may deem
4437 necessary or convenient for the purposes of this section, and the entry shall not be a trespass. The
4438 division shall make reimbursement for any injury or damage to lands resulting from entry caused
4439 by any act of its authorized agents or employees and shall, so far as possible, restore such lands
4440 to the same condition as prior to the making of such surveys, soundings, test pits, borings,
4441 drillings or examinations.

4442 Section. 30. Any bank, as defined in section 1 of chapter 167, or any credit union, as
4443 defined in section 1 of chapter 171, may subject to agreement entered into with the division or
4444 any regional transit authority established pursuant to chapter 161B, sell prepaid monthly passes,
4445 authorized by the division for use on the facilities of the division or such regional transit
4446 authorities.

4447 Section 31. The division may promulgate rules and regulations pertaining to the parking
4448 of motor vehicles in any terminals, stations, garages, yards, shops, parking lots, or parking
4449 garages owned or operated by the division, but specifically excluding any streets, ways,

4450 highways, roads and parkways. The division may, by a vote of the board, adopt the provisions of
4451 section 20A of chapter 90; provided however, that the board establishes rules and regulations
4452 creating regional districts throughout the division consisting of contiguous cities or towns within
4453 which the parking clerk shall regularly conduct hearings.

4454 Section 32. Any of the 51 cities and towns and other served communities may for the
4455 purpose of providing local bus service enter into agreements with any person lawfully authorized
4456 to operate any motor bus on any public way therein for the carrying of passengers for hire. That
4457 city, town or community shall have the same powers and duties in respect to such private bus
4458 carriers as are provided by law for the department of public utilities, except as to safety of
4459 equipment and operations; provided, however, that schedules and routes shall not be considered
4460 safety of equipment and operations for purposes of this paragraph; provided further, that the
4461 division shall be notified of the establishment of any such contract to provide local service, but
4462 shall not have control or jurisdiction over that service.

4463 **SECTION 29A.** Section 7A of chapter 90 of the General Laws is hereby amended by
4464 striking out in line 94, as appearing in the 2006 Official Edition the words “Highway Fund” and
4465 inserting in place thereof the following words:- Surface Transportation Trust Fund, established
4466 under section 35LL of chapter 10.

4467 **SECTION 30.** chapter 90 of the General Laws, , is hereby further amended by striking
4468 out the entire section 34 as most recently amended by section 19 of chapter 303 of the Acts of
4469 2008, and inserting in place thereof the following section:-

4470 Section 34. The fees received under the preceding sections, together with all other fees
4471 received by the registrar or any other person under the laws of the commonwealth relating to the
4472 use and operation of motor vehicles and trailers shall be paid by the registrar or by the person

4473 collecting the same into the treasury of the commonwealth and disposed of as provided in section
4474 35LL of chapter 10.

4475 **SECTION 31.** Section 34 ½ of chapter 90 is hereby repealed.

4476 **SECTION 32.** Chapter 92 is hereby amended by striking out section 35, as appearing in
4477 the 2006 Official Edition, and inserting in place thereof the following section:-

4478 Section 35. The commission may connect any way, park or other public open space with
4479 any part of the towns of the urban parks district by suitable roadways or boulevards, in this
4480 chapter called boulevards, and for this purpose exercise any of the rights and powers granted the
4481 commission in respect to reservations. The commission shall submit its plans for any such
4482 connection to the secretary of transportation and the administrator of roads and bridges so that it
4483 may be included in their capital plans.

4484 **SECTION 33.** Sections 36, 49 to 52, inclusive, 69, 80, and 86 of said chapter 92 are
4485 hereby repealed.

4486 **SECTION 34.** Said chapter 92 is hereby further amended by striking out section 37 as
4487 appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

4488 Section 37. Except as provided in section 38, the commissioner, in consultation with the
4489 director, may make rules and regulations for the government and use of the reservations under
4490 the division's care and to govern the public use of the Charles river, the Neponset river and the
4491 Mystic river, within the urban park district, and of the ponds and other waters along which it
4492 holds abutting lands for reservations in that district; provided, however, that no rule or regulation
4493 shall affect the water rights of any person, whether a mill owner or otherwise.

4494 A police officer employed by a city or town in whose boundaries, reservations, roads,
4495 driveways, parkways, boulevards or bridges are located shall have all the same powers to enforce

4496 the laws of the commonwealth and the rules and regulations of the department on any bikeway,
4497 pathway, park, reservation or other land under the care of the division as he has as a police
4498 officer of such city or town

4499 The division shall cause such rules and regulations to be posted in the reservation,
4500 bikeway, pathway, park or other land to which they apply, and shall also cause the rules and
4501 regulations to be published at least once in a newspaper published in the county where the
4502 reservation, bikeway, pathway, park or other land is in whole or in part situated, and such posting
4503 and publication shall be sufficient notice to all persons. The sworn certificate of the director of
4504 such posting and publishing shall be prima facie evidence thereof.

4505 Whoever violates any rule or regulation made under this section shall be punished by a
4506 fine not exceeding \$200.

4507 **SECTION 35.** Section 41 of said chapter 92, as so appearing, is hereby amended by
4508 striking out, in line 2, the words “and boulevards”.

4509 **SECTION 36.** Section 42 of said chapter 92, as so appearing, is hereby amended by
4510 inserting after the word “commission” the following words:- , in consultation with division of
4511 roads and bridges,

4512 **SECTION 37.** Said Chapter 92 is hereby further amended by striking out section 53, as
4513 so appearing, and inserting in place thereof the following section:-

4514 Section 53. The commission may provide band concerts in such parks or other places
4515 under its control for boulevard or reservation purposes and at such times as it may select. If the
4516 site of the band concert will also take place on a parkway formerly under its control, the
4517 commission shall, in a timely manner, inform the administrator of roads and bridges.. The
4518 commission shall include, in its annual estimate of the expense of maintenance of the urban

4519 parks system for each year, such sum as it may recommend should be appropriated for the
4520 purposes of this section.

4521 **SECTION 38.** Section 84 of said chapter 92, as so appearing, is hereby amended by
4522 striking out, in line 6, the words “or boulevard”.

4523 **SECTION 39.** Said chapter 92 is hereby further amended by striking out section 87, as
4524 so appearing, and inserting in place thereof the following section:-

4525 Section 87. The department may transfer, for care and control, including police
4526 protection, any lands or rights, easements or interest in land held by it under sections 33 and 35
4527 to any city, town, county or local board of a city or town within the urban parks district, with the
4528 consent of such city, town, county or board and upon such terms and for such period as may
4529 mutually be agreed upon and enter into an agreement with any such city, town, county or board
4530 for the joint care and control or police protection of such lands or rights therein. Any city, town
4531 or county or any local board within the urban parks district, may transfer, for care and control,
4532 including police protection, any land, rights, easements or interest in land in its control to the
4533 department for such period and upon such terms as may mutually be agreed upon and may enter
4534 into an agreement with the department for the joint care and control, including police protection,
4535 of such land.

4536 **SECTION 40.** Said chapter 92 is hereby further amended by striking out section 88, as
4537 so appearing, and inserting in place thereof the following section:-

4538 Section 88. The division may join with any city, town or county in the laying out,
4539 improvement, relocation, widening, repairing, maintaining and caring for any property or stream
4540 which lies along or connects any reservation owned or controlled by the division and in the
4541 expense of such work, and for such purposes or any of them, may make contribution to such city,

4542 town or county by a grant of land or rights in land or by payment of money for its portion of such
4543 expense.

4544 **SECTION 40A.** Subsection (b) of section 44D³/₄ of chapter 149 of the General Laws, as
4545 so appearing, is hereby amended by inserting after the word “Authority”, in line 17, the
4546 following words:- the Massachusetts Surface Transportation Authority.

4547 **SECTION 41.** Chapter 161 of the General Laws is hereby repealed.

4548 **SECTION 42.** Chapter 161A of the General Laws is hereby repealed.

4549 **SECTION 42A.** Clause (4) of subsection (a) of section 13 of chapter 161A of the
4550 General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the
4551 last paragraph.

4552 **SECTION 4B.** Section 20 of said chapter 161A, as so appearing, is hereby amended by
4553 striking out, in line 2, the figure “1” and inserting in place thereof the following figure:- 15.

4554 **SECTION 42C.** Said section 20 of said chapter 161A, as so appearing, is hereby further
4555 amended by striking out, in line 4, the word “March” and inserting in place thereof the following
4556 word:- April.

4557 **SECTION 43.** The General Laws are hereby amended by striking out chapter 161B and
4558 inserting in place thereof the following chapter:

4559 **CHAPTER 161B.**
4560 **TRANSPORTATION FACILITIES, HIGHWAY SYSTEMS AND URBAN DEVELOPMENT**
4561 **PLANS**

4562 Section 1. As used in this chapter, the following words shall have the following
4563 meanings, unless the context otherwise requires:-

4564 “Authority”, an authority established by section 3 or section 14.

4565 “Area constituting the division of public transit for mass transit”, the service area of the division
4566 of public transit of the Massachusetts Surface Transportation Authority consisting of the 14 cities
4567 and towns, the 51 cities and towns and other served communities.

4568 “Equipment”, all rolling stock and other conveyances, vehicles, rails, signal and control
4569 systems, lighting and power distribution systems, fences, station equipment, fare collection
4570 equipment, incidental apparatus and other tangible personal property, whether or not affixed to
4571 realty, required or convenient for the mass movement of persons.

4572 “Fiscal year”, the year beginning with July 1 and ending with the following June 30.

4573 “Mass transportation facilities”, all real property, including land, improvements,
4574 terminals, stations, garages, yards, shops and structures appurtenant thereto, and all easements,
4575 air rights, licenses, permits and franchises, used in connection with the mass movement of
4576 persons.

4577 “Net cost of service”, the difference between: (a) all income received by the authority
4578 including, but not limited to, revenues and receipts from operations, advertising, parking, sale of
4579 capital assets in the ordinary course of business and gifts and grants for current purposes; and (b)
4580 all current expenses incurred by the authority including, but not limited to, expenses for
4581 operations, wages, contracts for service by others, maintenance, debt service, including any
4582 debts, liabilities and obligations assumed by law and including any applicable sinking fund
4583 requirements, taxes, rentals and payments into a reserve account established by subsection (q) of
4584 section 6, and all other expenses which the authority determines not to capitalize, when such
4585 expenses exceed such income. Expenditures from the proceeds of bonds or bond anticipation
4586 notes shall not be included in current expenses.

4587 “Net saving”, any excess of the income items included in the net cost of service over the
4588 expense items included in that computation.

4589 Section 2. The territory within and the inhabitants of each of the following groups of
4590 cities and towns may, upon compliance with section 14, become a body politic and corporate and
4591 a political subdivision of the commonwealth under the name preceding each group.

4592 Berkshire Regional Transit Authority. The cities of North Adams and Pittsfield and the
4593 towns of Adams, Alford, Becket, Cheshire, Clarksburgh, Dalton, Egremont, Florida, Great
4594 Barrington, Hinsdale, Lanesborough, Lee, Lenox, Monterey, Mount Washington, Otis,
4595 Richmond, Sheffield, Stockbridge, Washington and Williamstown;

4596 Brockton Area Regional Transit Authority. The city of Brockton and the towns of
4597 Abington, Avon, Bridgewater, East Bridgewater, Easton, Hanson, Stoughton, West Bridgewater
4598 and Whitman;

4599 Cape Ann Transportation Authority. The city of Gloucester and the towns of Rockport,
4600 Essex and Ipswich;

4601 Cape Cod Regional Transit Authority. The towns of Barnstable, Bourne, Brewster,
4602 Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich,
4603 Truro, Wellfleet and Yarmouth;

4604 Franklin Regional Transit Authority. The city of Greenfield and the towns of Ashfield,
4605 Athol, Bernardston, Blandford, Buckland, Charlemont, Chester, Chesterfield, Colrain, Conway,
4606 Cummington, Deerfield, Erving, Gill, Goshen, Hawley, Heath, Huntington, Leyden, Middlefield,
4607 Montague, Montgomery, New Salem, Northfield, Orange, Petersham, Phillipston, Plainfield,
4608 Rowe, Russell, Shelburne, Shutesbury, Southampton, Southwick, Warwick, Wendell,
4609 Westhampton, Whately, Worthington;

4610 Greater Attleboro Taunton Regional Transit Authority. The cities of Attleboro and
4611 Taunton and the towns of Bellingham, Berkley, Carver, Dighton, Duxbury, Foxborough,
4612 Franklin, Kingston, Lakeville, Mansfield, Marshfield, Medway, Middleborough, Norfolk, North
4613 Attleboro, Pembroke, Plainville, Plymouth, Raynham, Rehoboth, Seekonk, Wareham and
4614 Wrentham;

4615 Lowell Regional Transit Authority. The city of Lowell and the towns of Acton, Billerica,
4616 Chelmsford, Dracut, Dunstable, Groton, Maynard, Pepperell, Tewksbury, Townsend, Tyngsboro
4617 and Westford;

4618 Martha's Vineyard Transit Authority. Towns of Aquinnah, Chilmark, Edgartown, Oak
4619 Bluffs, Tisbury and West Tisbury;

4620 Merrimack Valley Regional Transit Authority. The cities of Lawrence, Haverhill,
4621 Methuen, N Newbury, North Andover; Rowley, Salisbury, West Newbury and Newburyport and
4622 the towns of Amesbury, Andover, Boxford, Georgetown, Groveland, Merrimac,

4623 MetroWest Regional Transit Authority. The city of Marlborough and the towns of
4624 Ashland, Framingham, Holliston, Hopkinton, Natick, Sherborn, Sudbury, Southborough,
4625 Wayland and Weston;

4626 Montachusets Area Transit Authority. The cities of Fitchburg, Leominster, Gardner and
4627 the towns of Ashburnham, Shirley, Ayer, Lancaster, Sterling, Hubbardston, Royalston, Littleton,
4628 Winchendon, Ashby, Templeton, Westminster, Hardwick, Lunenburg, Harvard, Bolton,
4629 Boxborough and Stow

4630 Nantucket Regional Transit Authority. Nantucket;

4631 The Pioneer Valley Transit Authority". The cities of Chicopee, Holyoke, Northampton,
4632 Springfield and Westfield and the towns of Agawam, East Longmeadow, Easthampton, Hadley,

4633 Longmeadow, Ludlow, South Hadley, West Springfield, Wilbraham, Amherst, Belchertown,
4634 Granby, Hampden, Leverette, Palmer, Pelham, Sunderland, Ware and Williamsburg;

4635 Southeastern Regional Transit Authority. The cities of New Bedford and Fall River and
4636 the towns of Westport, Acushnet, Dartmouth, Fairhaven, Freetown, Somerset and Swansea; and
4637 Worcester Regional Transit Authority. The city of Worcester and the towns of Auburn, Boylston,
4638 Grafton, Holden, Leicester, Millbury, Paxton, Shrewsbury and West Boylston;

4639 An authority established under section 3 or section 14 shall have the power to hold
4640 property, to sue and be sued in law and equity and to prosecute and defend in all actions relating
4641 to its property and affairs. Each authority shall be liable for its debts and obligations, but the
4642 property of an authority shall not be subject to attachment or levied upon by execution or
4643 otherwise. Process may be served upon the administrator of an authority or his designee. Section
4644 3 of chapter 12 shall not apply to the authorities established under this chapter.

4645 Section 3. Any city or town or group or combination of cities or towns, other than a city
4646 or town included in the area constituting the division of public transit for mass transit in which
4647 the authority operates a fixed bus service may, upon compliance with this section and with the
4648 approval of a city manager in the case of a city operating under a Plan E form of government, the
4649 mayor and city council in the case of all other cities or the board of selectmen in the case of a
4650 town, be made into a body politic and corporate and a political subdivision of the commonwealth
4651 under the name of the municipality within the new authority having the greatest population or
4652 under any other appropriate regional name agreed to by a majority of the member municipalities
4653 and followed by the words "Transit Authority".

4654 Any such authority shall be deemed to be established upon written notification to the
4655 chief executive officer of the Massachusetts Surface Transportation Authority that the member

4656 municipalities have voted to establish a regional transit authority. Having so notified the chief
4657 executive officer of the Massachusetts Surface Transportation Authority, the advisory board
4658 established in section 5 shall proceed to appoint an administrator in accordance with section 4.
4659 Once established, each such authority shall have the same powers, limitations, duties and
4660 organization as an authority established in section 14 and shall, in all respects, be subject to this
4661 chapter, except section 14, as if it were an authority so established.

4662 Any city or town, or group or combination of cities or towns, other than a city or town
4663 included in the area constituting the division of public transit for mass transit in which the
4664 Massachusetts Surface Transportation Authority operates fixed route bus service or is in an
4665 authority established in section 14 may, with the approval of a city manager in the case of a city
4666 operating under a Plan E form of government, the mayor and city council in the case of all other
4667 cities or the board of selectmen in the case of a town, and subject to the approval of the advisory
4668 board to a regional transit authority, join an authority which is not separated from the city or
4669 town or group or combination of cities and towns by more than 1 other municipality.

4670 Section 4. The affairs of an authority shall be managed by an administrator who shall be
4671 appointed by, and serve at the pleasure of, the advisory board of the authority established in
4672 section 5; provided, however, that the administrator shall not be appointed until after the board
4673 has provided the notification required by clause (c) of section 14; and provided, further, that the
4674 administrator shall not hold any elective office, except that of town meeting member, in any city
4675 or town within the jurisdiction of such authority. The administrator shall be the chief executive
4676 officer of the authority and shall receive such annual salary as shall be determined by said
4677 advisory board. Upon his appointment, the administrator shall give the chief executive officer of
4678 the Massachusetts Surface Transportation Authority a bond for the faithful performance of his

4679 official duties in such penal sum and with such sureties as may be approved by said advisory
4680 board.

4681 Section 5. There shall be an advisory board to each authority consisting of the city
4682 manager, in the case of a city operating under a Plan D or Plan E form of government, or the
4683 mayor of each other city in the authority, and the chairman of the board of selectmen of each
4684 town having such board, or the town manager or town administrator of each other town in the
4685 authority. Each mayor or city manager and each chairman, town manager or town administrator,
4686 may, by writing filed with the authority, from time to time, appoint a designee to act for him on
4687 the advisory board. Each city and town shall have 1 vote on the advisory board plus additional
4688 votes and fractions thereof as determined by multiplying 1 and one-half times the total number of
4689 cities and towns in the authority by a fraction of which the numerator shall be the total amount of
4690 all assessments made by the state treasurer to such city or town under this chapter and the
4691 denominator shall be the total amount of all such assessments made by the state treasurer to such
4692 cities and towns. The total vote of each city and town shall each year be determined by the
4693 authority and delivered in writing to the advisory board 30 days after the state treasurer has sent
4694 his warrants for payments to the cities and towns. The determination of votes shall be based upon
4695 the most recent annual assessment. Until the first such assessment, the fraction specified above
4696 shall be replaced by a fraction of which the numerator shall be the population of each such city
4697 or town and the denominator shall be the total population of all cities and towns in the authority.
4698 Population data shall be determined in accordance with the latest decennial census made by the
4699 United States Department of Commerce.

4700 One representative of the disabled commuter population shall serve on the advisory board
4701 as a non-voting member for a 1-year term. Every city or town in the region, on a rotating basis as

4702 determined by the board, shall successively appoint a representative. The mayor or city manager
4703 or the chairman, town manager or town administrator shall appoint a resident of the city or town
4704 for this purpose. This representative shall be mobility impaired or have a family member who is
4705 mobility impaired, be a caretaker of a person who is mobility impaired, or work for an
4706 organization that serves the needs of the physically disabled. The representative of a city or town
4707 may be reappointed after representatives from the other cities and towns within the region have
4708 served their 1 year terms.

4709 The advisory board shall act by majority vote, except that it may delegate its power of
4710 approval to an executive committee formed and elected pursuant to duly adopted by-laws of the
4711 board and constituting among its members at least a majority of the total vote of the board and
4712 may, at any time, revoke such delegation. Until the board has adopted by-laws and elected
4713 officers, the mayor or city manager of the city having the largest population or, in the case of an
4714 authority composed entirely of towns, the chairmen, town manager or town administrator of the
4715 town having the largest population within the area constituting the authority may call meetings of
4716 the advisory board by sending notice to each other mayor or city manager or chairman, town
4717 manager or town administrator and shall preside at such meetings.

4718 The advisory board may incur expenses, not to exceed \$10,000 annually, for stenographic
4719 and clerical work, and such expenses shall be paid by the authority.

4720

4721 Section 6. In addition to all power otherwise granted to an authority by law, the authority
4722 shall have the following powers, in each case to be exercised by the administrator of the
4723 authority unless otherwise specifically provided:

4724 (a) to adopt and use a corporate seal and designate the custodian thereof;

4725 (b) to establish within its area a principal office and such other offices as may be deemed
4726 necessary;

4727 (c) to hold and manage the mass transportation facilities and equipment acquired by the
4728 authority;

4729 (d) to appoint and employ officers, agents and employees to serve at the pleasure of the
4730 administrator except as may otherwise be provided in collective bargaining agreements and to fix
4731 their compensation and conditions of employment; provided, however, no person employed as
4732 administrative or staff personnel shall hold any elective office, except that of town meeting
4733 member, in any city or town within the jurisdiction of such authority; provided, further, that for
4734 policies of group life insurance and accidental death and dismemberment insurance and group
4735 health insurance purchased by such authority, all active employees and their dependents of such
4736 authority shall contribute to the total monthly premium or rate applicable to said coverages at not
4737 less than the current employee share of monthly premium or rate established in section 8 of
4738 chapter 32 A;

4739 (e) to make and, from time to time, revise and repeal, by-laws, rules, regulations, and
4740 resolutions and establish penalties for violation thereof, not to exceed \$50;

4741 (f) to enter into agreements, subject to approval of the regional transit advisory board,
4742 with other parties including, without limiting the generality of the foregoing, government
4743 agencies, municipalities, authorities, private transportation companies, railroads, corporations
4744 and other concerns, providing: (i) for construction, operation and use by such other party of any
4745 mass transportation facility and equipment; or (ii) for the acquisition of any mass transportation
4746 facility and equipment of another party where the whole or any part of the operations of such
4747 other party takes place within the area constituting the authority. Any such other party is hereby

4748 given power and authority to enter into any such agreements, subject to such laws as may be
4749 applicable. Any agreement with a private company under this chapter which provides for the
4750 rendering of transportation service by such company and for financial assistance to such
4751 company by subsidy, lease or otherwise, shall include such standards for such service as the
4752 authority may deem appropriate and shall not bind the authority for a period of longer than 1
4753 year from its effective date; provided, however that agreements for longer than 1 year shall not
4754 be prohibited if the authority's obligations thereunder are subject to annual renewal or annual
4755 cancellation by the authority for just cause or lack of sufficient appropriation. Such agreements
4756 may provide for cash payments for services rendered, but not more than that which permits any
4757 private company a reasonable return;

4758 (g) to establish at or near its terminals and stations such off-street parking facilities and
4759 access roads as may be deemed necessary and desirable. The authority may charge such fees for
4760 the use of off-street facilities as it may deem desirable or it may allow the use of such facilities
4761 free;

4762 (h) to accept gifts, grants and loans from agencies of local, state and federal governments
4763 or from private agencies or persons, subject to approval of the regional transit advisory board,
4764 and to accede to such conditions and obligations as may be imposed as a prerequisite to any such
4765 gift, grant or loan;

4766 (i) to provide mass transportation service on an exclusive basis, except as provided in
4767 paragraph (j) of section 8 in the area constituting the authority and without being subject to the
4768 jurisdiction and control of the department of telecommunications and energy in any manner
4769 except as to safety of equipment and operations; provided, however, that schedules and routes
4770 shall not be considered matters of safety subject to the jurisdiction and control of said

4771 department. Nothing contained in this paragraph shall be construed as exempting any privately-
4772 owned or controlled carrier, whether operating independently or under contract with the
4773 authority, from obtaining any license required under section 1 of chapter 159A;

4774 (j) to provide mass transportation service under a contract in areas outside the area
4775 constituting the authority but only pursuant to an agreement with another transportation authority
4776 or transportation area or a municipality for service between the area of the authority and that of
4777 such other authority, area or municipality if no private company is otherwise providing such
4778 service, subject to approval by the regional transit advisory board;

4779 (k) to provide for construction, extension, modification or improvement of the mass
4780 transportation facilities and equipment in the area constituting the authority; provided, however,
4781 that any such construction, extension, modification or improvement shall be subject to the
4782 approval of the regional transit advisory board, unless specifically authorized by legislation;

4783 (l) to conduct research, surveys, experimentation, evaluation, design and development, in
4784 cooperation with other government agencies and private organizations if appropriate, with regard
4785 to the mass transportation needs of the area and to the facilities, equipment and services
4786 necessary to meet such needs;

4787 (m) to grant such easements over any real property held by the authority shall not, in the
4788 judgment of the authority, unduly interfere with the operation of any of its mass transportation
4789 facilities;

4790 (n) to sell, lease or otherwise contract for advertising in, or on the facilities of, the
4791 authority;

4792 (o) to issue bonds, notes and other evidences of indebtedness as hereinafter provided;

4793 (p) consistent with the constitution and laws of the commonwealth, the authority shall
4794 have such other powers, including the power to buy, sell, lease, pledge and otherwise deal with
4795 its real and personal property, as may be necessary for, or incident to, carrying out the foregoing
4796 powers and the accomplishment of the purposes of this chapter; and

4797 (q) to establish a reserve account for the purpose of meeting the cost of extraordinary
4798 expenses of the authority. The account shall consist of annual payments made by the authority
4799 into said account in an amount not to exceed 3 per cent of the prior year's local assessment. Any
4800 balance remaining in the account at the end of each fiscal year of the authority shall be carried
4801 forward into the next fiscal year; provided, however, the aggregate amount of the account shall
4802 not exceed 20 per cent of the prior year's local assessment at any time during any fiscal year of
4803 the authority. Any expenditure made by an authority pursuant to this paragraph for extraordinary
4804 expenses shall be subject to the approval of the division of public transit of the Massachusetts
4805 Surface Transportation Authority. The division of public transit of the Massachusetts Surface
4806 Transportation Authority shall issue guidelines to each authority establishing the type of
4807 extraordinary expenses the account may be used for and detailing the procedures for the approval
4808 process for the expenditures.

4809 Section 7. In addition to the powers granted to the authority under section 6 and all other
4810 powers granted by law, the authority shall have the power to establish on a self-liquidating basis
4811 1 or more separate units of mass transportation facilities and equipment. In establishing such
4812 separate units, the authority may enter into 1 or more unit lease arrangements with such persons,
4813 firms and corporations as the authority shall select and franchise. Each such unit lease
4814 arrangement shall provide for the following:

4815 (i) acquisition by the authority of real property, including easements and rights of way,
4816 necessary or desirable for the operation of such units of mass transportation facilities and
4817 equipment, parking and other related auxiliary services and facilities;

4818 (ii) design, construction and acquisition of mass transportation facilities and equipment;

4819 (iii) operation of the mass transportation facilities and equipment so designed,
4820 constructed and acquired by a lessee of such facilities and equipment: (1) for a period not in
4821 excess of 40 years; (2) at a rental or lease charge at least sufficient to discharge the authority's
4822 financial obligations incurred in connection with the unit of facilities and equipment under the
4823 authority's powers; and (3) upon such provisions and conditions as to fares and other matters
4824 relating to the conduct and operation of the mass transportation facilities and equipment as the
4825 authority and lessee shall agree; and

4826 (iv) power in the authority to cancel or terminate the unit lease arrangement at stated
4827 times which shall not be less frequent than once in each fiscal year.

4828 To meet the expenditures necessary in carrying out the provisions of this section, the
4829 authority may issue bonds in accordance with the provisions of the first paragraph of clause (2)
4830 of section 17 and such bonds shall provide, in addition to other provisions allowed under this
4831 chapter, that all payments of principal and interest shall be made solely from: (i) the rental or
4832 lease charges received by the authority under its lease with the lessee of mass transportation
4833 facilities and equipment, which lease may be assigned by the authority to secure the obligations
4834 of the bonds; or (ii) in the event the authority terminates such lease, from the income derived
4835 from operation of the mass transportation facilities and equipment.

4836 Section 8. An authority shall be subject to the following limitations, conditions,
4837 obligations and duties:

4838 (a) The authority shall have the duty to develop, finance and contract for the operation of
4839 mass transportation facilities and equipment in the public interest consistent with this chapter and
4840 to achieve maximum effectiveness in complementing other forms of transportation in order to
4841 promote the general economic and social well-being of the area and of the commonwealth;

4842 (b) No real estate shall be sold unless notice thereof shall have been given to the advisory
4843 board not less than 30 days prior to the date of sale and such real property shall be sold to the
4844 highest bidder unless the sale shall have been advertised once a week for 3 successive weeks
4845 prior to the date of sale in a newspaper of general circulation in the city or town in which the real
4846 property to be sold is located;

4847 (c) Any concession in or lease of property for a term of more than 1 year shall be
4848 awarded to the highest bidder unless the authority shall find, subject to the approval of the
4849 advisory board, that sound reasons in the public interest require otherwise;

4850 (d) No change in fares shall be effective unless submitted and approved by the advisory
4851 board;

4852 (e) No substantial change in mass transportation service in the region constituting the
4853 authority shall be made unless notice thereof shall have been given to the advisory board at least
4854 30 days prior to the change and approved by the board;

4855 (f) The authority shall, in consultation with the regional transit advisory board and the
4856 division of public transit of the Massachusetts Surface Transportation Authority, prepare and
4857 annually revise its program for public mass transportation which shall include a long-range
4858 program for the construction, reconstruction or alteration of facilities for mass transportation of
4859 persons within the area constituting the authority together with a schedule for the implementation
4860 of such program and comprehensive financial estimates of costs and revenues.

4861 Such program, whether prepared by the authority directly, jointly or under contract with
4862 the areawide planning agency, shall be performed in accordance with any agreements that may
4863 exist between the regional transit advisory board, the division of public transit of the
4864 Massachusetts Surface Transportation Authority, the authority and the areawide planning agency
4865 officially established or designated to carry out areawide, comprehensive planning on a
4866 continuing and cooperative basis for the region in which the authority is principally located.
4867 Such mass transportation program shall be consistent with the plans for urban transportation and
4868 comprehensive development for the regional area and, so far as practicable, shall meet the
4869 criteria established by any federal law authorizing federal assistance to preserve, maintain, assist,
4870 improve, extend or build local, metropolitan or regional mass transportation facilities or systems.

4871 In addition to the contracts and agreements authorized in paragraph (f) of section 6, the
4872 authority may enter into contracts or agreements with any areawide planning agency or, if the
4873 authority determines that an agreement with such agency is not practicable, with any other public
4874 or private party for the provision of planning services. Such services may include, but shall not
4875 be limited to, feasibility and need studies, transportation planning, family and business relocation
4876 planning and such other planning services that the authority may require;

4877 (g) The authority shall not later than October 1 of each year render to the chief executive
4878 officer of the Massachusetts Surface Transportation Authority, the regional transit advisory
4879 board, the clerk of the senate and the clerk of the house of representatives and the house and
4880 senate chairmen of the joint committee on transportation a report of its operations for the
4881 preceding fiscal year, including therein a description of organization of the authority, its
4882 recommendations for legislation and its comprehensive program for mass transportation as most
4883 recently revised;

4884 (h) All current expenses of the authority shall be in accordance with an annual budget
4885 prepared by the administrator and submitted to the advisory board no later than April 1 of each
4886 year for the ensuing fiscal year. Not later than June 1 of each year the advisory board shall
4887 approve said budget as submitted or subject it to such itemized reductions therein as the advisory
4888 board shall deem appropriate.

4889 (i) Any agreement entered into by an authority with a contiguous municipality outside of
4890 the area of such authority for service to such municipality through an agreement with a private
4891 company, shall provide for reimbursement by such municipality to an authority only for the
4892 additional expense of such service as determined by the authority. Such agreements may be for
4893 such terms, not exceeding 5 years, as the parties may determine, except as provided in paragraph
4894 (f) of section 6. They shall not be subject to section 4 of chapter 40 or section 31 of chapter 44.
4895 Municipalities may appropriate from taxes or from any available funds to meet their obligations
4896 under any such contracts.

4897 (j) Any private company lawfully providing mass transportation service in the area
4898 constituting the authority at the commencement of operations by the authority may continue to
4899 operate the same route and level of service as theretofore and may conduct such further
4900 operations, without a contract, as the authority, subject to the approval of the department of
4901 public utilities, may permit.

4902 (k) As a condition of any assistance to a private carrier operating under lease, contract or
4903 other arrangement with the authority, the rights, benefits and other employee protective
4904 conditions and remedies of the Urban Mass Transportation Act of 1964, as amended (P.L. 88-
4905 365) as determined by the Secretary of Labor, shall apply for the protection of the employees
4906 affected by such assistance. Pursuant to the Urban Mass Transportation Act of 1964, as

4907 amended, the terms and conditions of a fair and equitable employee protective arrangement
4908 pursuant to this paragraph shall be a proper subject of collective bargaining and arbitration with
4909 the labor organizations that represent such employees. Such protective arrangement shall
4910 include, without limitation, provisions for the continuing employment or reemployment of those
4911 employees who are, or may be, displaced or otherwise affected by such assistance, paid training
4912 and re-training programs, preservation of all employment and retirement rights and interest and
4913 any other protections which are necessary or appropriate to minimize the injury to such persons;
4914 provided, however, that any such protection shall not be detrimental to the employment or
4915 retirement rights and interests of any other persons affected by such assistance. The contract,
4916 lease or other arrangement for the granting of any such assistance to a private carrier shall
4917 specify the terms and conditions of the protective arrangements.

4918 Section 9. If, in any year the Massachusetts surface transportation authority shall be
4919 called upon to pay any amount on account of the net cost of service of any regional transit
4920 authority except the Cape Cod Regional Transit Authority, unless said authority elects not to
4921 assess costs as provided in section 9A, the total amount of such net cost of service shall be
4922 assessed upon the cities and towns which are members of such authority in the proportion which
4923 the loss attributable to each route in each such city or town bears to the loss attributable to all
4924 such routes in all such cities and towns. The loss attributable to each such route in each such city
4925 or town shall be determined on the basis of the difference between the revenues collected from
4926 the route in the city or town and the cost of providing the route therein.

4927 Such determination shall be made by the authority in accordance with sound accounting
4928 practice and guidelines developed in consultation with the regional transit advisory board and the
4929 division of public transit of the Massachusetts Surface Transportation Authority. Amounts

4930 assessed under this section shall be the most recently audited regional transit authority
4931 assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal
4932 year's estimated cherry sheet assessments.

4933 Section 9A. If in any year the Massachusetts Surface Transportation Authority shall be
4934 called upon to pay any amount on account of the net cost of service of the Cape Cod Regional
4935 Transit Authority, the total amount of such net cost of service may be assessed in whole, or in
4936 part, upon the cities and towns which are members of the Authority on the basis of the total
4937 passenger miles and the number of trips attributable to the residents of cities and towns within
4938 the Authority. Any such assessment formula shall be subject to the approval of the regional
4939 transit advisory board, the division of public transit of the Massachusetts Surface Transportation
4940 authority and the advisory board of the Authority.

4941 Such determination shall be made by the Authority in accordance with sound accounting
4942 practice and guidelines developed in consultation with the regional transit advisory board and the
4943 division of public transit of the Massachusetts Surface Transportation Authority. Amounts
4944 assessed under this section shall be the most recently audited regional transit authority
4945 assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal
4946 year's estimated cherry sheet assessments.

4947 Section 10. If, as of the last day of June in any year there was any net cost of service, an
4948 authority shall notify the state treasurer, the regional transit advisory board and the division of
4949 public transit of the Massachusetts Surface Transportation Authority of the amount of such net
4950 cost of service and all other facts required by the state treasurer in order to proceed in accordance
4951 with this chapter to assess such net cost. Upon notification of the amount of such net cost, the
4952 commonwealth shall pay to the authority such amount.

4953 The Massachusetts Surface Transportation Authority may borrow, from time to time, on
4954 the credit of the commonwealth such amounts as may be necessary to make payments required
4955 of the Massachusetts Surface Transportation Authority under this section or under section 11 and
4956 to pay any interest or other charges incurred in borrowing such money and may issue notes of the
4957 commonwealth therefor, bearing interest payable at such times and at such rates as shall be fixed
4958 by the state treasurer. Such interest and other charges shall be included in the assessments under
4959 this chapter in proportion to the respective assessments on the cities and towns constituting the
4960 authority for the net cost of service of the period to which any such payment relates. No note
4961 issued under this paragraph shall mature more than 2 years from its date, but notes payable
4962 earlier may be refunded 1 or more time;, provided, however, that no refunding note shall mature
4963 more than 2 years from the date of the original loan being refunded. Such notes shall be issued
4964 for such maximum term of years, not exceeding 2 years, as the governor may recommend to the
4965 general court in accordance with section 3 of article LXII of the amendments to the constitution
4966 of the commonwealth.

4967 Pending any payment from the state treasurer to the authority and at any other time that
4968 the authority in the opinion of the administrator, has insufficient cash to make the payments
4969 required in the course of its duties as such payments become due, the authority may temporarily
4970 borrow money and issue notes of the authority therefor.

4971 If, at any time any principal or interest is due or about to come due on any note issued by
4972 the authority pursuant to this section and funds to pay the same are not available, the
4973 administrator shall certify to the chief executive officer of the Massachusetts Surface
4974 Transportation Authority the amount required to meet the obligation and the Massachusetts
4975 Surface Transportation Authority shall thereupon pay over to the authority that amount. If the

4976 Massachusetts Surface Transportation Authority shall not make the payment within a reasonable
4977 time, the authority or any holder of an unpaid note issued by the authority pursuant to this
4978 section, acting in the name and on behalf of the authority, shall have the right to require the
4979 Massachusetts Surface Transportation Authority to pay the authority the amount remaining
4980 unpaid, which right shall be enforceable as a claim against the Massachusetts Surface
4981 Transportation Authority. The authority or any holder of an unpaid note issued pursuant to this
4982 section may file a petition in the superior court to enforce a claim or intervene in any proceeding
4983 already commenced to enforce such a claim. Chapter 258 shall apply to the petition insofar as it
4984 relates to the enforcement of a claim against the Massachusetts Surface Transportation
4985 Authority. Any holder of an unpaid note who shall have filed such a petition may apply for an
4986 order of the court requiring the authority to apply funds received by the authority on its claim
4987 against the Massachusetts Surface Transportation Authority to the payment of the holder's
4988 unpaid note, and, if the court finds such amount to be due to the holder, shall issue the order.

4989 All assessments made under this chapter shall be made as provided in section 20 of
4990 chapter 59.

4991 If, in any year the income received by the authority including, but not limited to, revenues
4992 from leasing, advertising, parking, sale of capital assets, gifts and grants, exceeds the expenses
4993 incurred by the authority including, but not limited to, expenses for wages, contracts for service
4994 by others, maintenance, debt service, taxes, rentals, payments to any governmental body and all
4995 other costs, the authority shall determine the amount of such excess. Such excess shall be placed
4996 in a reserve fund up to such amount as shall be determined by the authority with the approval of
4997 the advisory board. Any amount of excess not placed in such reserve fund shall be applied to
4998 reimbursing the Massachusetts Surface Transportation Authority for any amounts which it may

4999 have paid under this section, and the Massachusetts Surface Transportation Authority shall
5000 thereupon distribute the amounts so received among the cities and towns constituting the
5001 authority up to the amounts which they were respectively assessed in the previous fiscal year. All
5002 remaining amounts in excess shall be so distributed up to the amounts assessed in each fiscal
5003 year immediately preceding, commencing with the most recent such year.

5004 Section 12. The state auditor, in conjunction with the internal special audit unit of
5005 Massachusetts Surface Transportation Authority, established in section 40 of chapter 81B, shall
5006 biennially make an audit of the accounts of each authority and make a report thereon to the chief
5007 executive officer of the Massachusetts Surface Transportation Authority, the regional transit
5008 advisory board and the governor. In making such audits, the state auditor, in conjunction with
5009 said internal special audit unit may call upon any of the departments, commissions, officers and
5010 agencies of the commonwealth for such information as may be needed. The state auditor, in
5011 conjunction with said internal special audit unit, may employ such auditors, accountants and
5012 other assistants as he deems necessary for carrying out his duties under this section and chapter
5013 31 and the rules made thereunder shall not apply to such employees. The Massachusetts Surface
5014 Transportation Authority shall be reimbursed by the authority for the cost of the audit.

5015 A copy of each biennial audit shall be provided to the chairs of the senate and house
5016 committees on transportation, the chairs of the senate and house committee on ways and means.

5017 Section 13. An authority and all its real and personal property shall be exempt from
5018 taxation and from betterments and special assessments, and an authority shall not be required to
5019 pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions,
5020 nor shall an authority be required to pay any fee or charge for any permit or license issued to it
5021 by the commonwealth, by any department, board or officer thereof, or by any political

5022 subdivision of the commonwealth or by any department, board or officer of such political
5023 subdivision. Bonds and notes issued by an authority, the transfer thereof and the income
5024 therefrom, including any profit made on the sale thereof, shall at all times be free from taxation
5025 within the commonwealth.

5026 Section 14. An authority described in section 2 shall be deemed to be established after:

5027 (a) 20 per cent of the votes on the advisory board have recorded themselves in favor of calling a
5028 meeting to vote on the establishment of the authority; (b) notice of the meeting has been sent by
5029 a member municipality of the authority to the chief executive officer of the Massachusetts
5030 Surface Transportation Authority, the regional transit advisory board and every other member
5031 municipality at least 2 weeks prior to the meeting; and (c) the advisory board has sent the chief
5032 executive officer of the Massachusetts Surface Transportation Authority written notification that
5033 the advisory board has voted to establish the authority; provided, however, that such notification
5034 shall not be given except after a majority of municipalities have voted to establish the authority
5035 and after a majority of the regional transit advisory board have voted to establish the authority.

5036 The membership of the authority, upon its establishment as provided in this section, shall
5037 consist of those cities and towns that affirmatively vote for the formation of the authority as
5038 provided in this section. This section shall not prevent any city or town, including a city or town
5039 which did not vote for the formation of the authority, from joining an authority subsequent to the
5040 formation thereof.

5041 Section 15. Any city or town which is a member of an authority may place upon the
5042 official ballot at any biennial, regular or special city election or annual or special town election
5043 the following question:

5044 “Shall this (city, town) continue to be a member of the (name) Regional Transit
5045 Authority?”

5046 The city or town solicitor shall prepare a fair, concise summary of each question no later
5047 that 35 days prior to such election. Such question shall not be placed upon the official ballot
5048 unless the city council or town meeting shall have voted that such question be so placed or a
5049 petition signed by not less than 5 per cent of the registered voters of the city or town, certified as
5050 such by the registrars of voters thereof, shall have been filed with the city or town clerk, at least
5051 60 days before the date for any such election. Forms for such petitions shall be made available
5052 without cost by the city or town clerk and each form shall bear the following heading: “The
5053 undersigned registered voters of the (city or town) hereby petition for the placement upon the
5054 official ballot of the question whether this (city, town) shall continue to be a member of the
5055 (name) Regional Transit Authority”.

5056 The votes upon such a question shall be counted and returned to the city or town clerk in
5057 the same manner as votes for candidates in municipal elections. The clerk shall forthwith notify
5058 the authority of the result of the vote. If a majority of the votes cast upon the question shall be in
5059 the negative, the authority shall forthwith take all steps necessary and appropriate for the
5060 termination of membership of such city or town in such authority.

5061 Section 16. In the event of any conflict between the regulatory powers and duties of the
5062 department of public utilities in respect to mass transportation service within an area, the
5063 department of public utilities shall resolve such dispute and exercise such powers as it deems
5064 required in the particular instance.

5065 Section 17. An authority is hereby authorized to provide by resolution at 1 time or from
5066 time to time for the issue of bonds of the authority for any 1 or more of the following purposes:

5067 (1) To acquire by purchase or otherwise, plan, design, construct, reconstruct, alter,
5068 recondition and improve for lease to any eligible private company, mass transportation facilities
5069 and equipment; or

5070 (2) To pay any capital costs of the authority, whether or not bonds for any such purchase
5071 may also be issued under clause (1);

5072 Bonds may be issued for any costs of the foregoing incurred either before or after the
5073 issue of the bonds. Bonds issued under either of the foregoing clauses may be issued in sufficient
5074 amount to pay the expenses of issues and to establish such reserves as may be required by any
5075 applicable trust agreement or bond resolution. The aggregate principal amount of bonds for all
5076 authorities established under this chapter which may be outstanding at any 1 time under this
5077 section shall not exceed the sum of \$20,000,000; provided, however, that no such bonds may be
5078 issued under this section without the prior approval of the chief executive officer of the
5079 Massachusetts Surface Transportation Authority. Seventy-five per cent of the bond proceeds
5080 shall be extended only for projects for which the authority has agreements with the federal
5081 government or other sources including, but not limited to, other governmental jurisdictions or
5082 private entities providing for matching grants or for expenditures which are preliminary to the
5083 obtaining of federal grants.

5084 The chief executive officer of the Massachusetts Surface Transportation Authority shall
5085 make and, from time to time revise, guidelines for the allocation and distribution of the principal
5086 amount of said bonds, or any part thereof, among the authorities established by this chapter..

5087 The chief executive officer of the Massachusetts Surface Transportation Authority shall
5088 adopt rules and regulations governing the procedures by which private companies shall apply for
5089 assistance pursuant to any agreements financed from proceeds of bonds or bond anticipation

5090 notes and governing the use of such assistance. Such rules and regulations shall include: (a)
5091 requiring any private company which receives such assistance to agree to limit its profits and its
5092 expenses for salaries and overhead to make available as much of its earnings as possible for
5093 repayment to the authority of such assistance; (b) requiring such repayment; (c) enabling the
5094 authority and the chief executive officer of Massachusetts Surface Transportation Authority to
5095 examine and audit the books and records of such company for the purpose of establishing and
5096 enforcing such limitation and repayment; and (d) requiring the authority to transfer to the
5097 Massachusetts Surface Transportation Authority, the Massachusetts Surface Transportation
5098 Authority's share of such repayment.

5099 The bonds of each issue shall be dated, shall bear interest at such rates, shall mature at
5100 such time not exceeding 40 years from the date thereof as may be determined by the authority
5101 and may be made redeemable before maturity at the option of the authority at such price or
5102 prices and under such terms and conditions as may be fixed by the authority prior to the issue of
5103 the bonds. The authority shall determine the form of the bonds, including any interest coupons to
5104 be attached thereto, and the manner of execution of the bonds and shall fix the denomination of
5105 the bonds and the place of payment of principal and interest which may be at any bank or trust
5106 company within or without the commonwealth. In case any officer whose signature or a
5107 facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer
5108 before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid
5109 and sufficient for all purposes, as if he had remained in office until such delivery. All bonds
5110 issued under this chapter shall have, and are hereby declared to have, all the qualities and
5111 incidents of negotiable instruments under the Uniform Commercial Code. The bonds may be
5112 issued in coupon or in registered form, or both, as the authority may determine and provisions

5113 may be made for the registration of any coupon bonds as to principal alone and also as to both
5114 principal and interest, for the reconversion into coupon bonds of any bonds registered as to both
5115 principal and interest and for the exchange of coupon and registered bonds. The authority may
5116 sell such bonds in such manner, either at public or private sale, and for such price as it may
5117 determine to be for the best interest of the authority.

5118 The proceeds of such bonds shall be disbursed in such manner and under such
5119 restrictions, if any, as the authority may provide. The authority may also provide for the
5120 replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds and
5121 bond anticipation notes may be issued under the provisions of this chapter after obtaining the
5122 consent of the Massachusetts Surface Transportation Authority and without any other
5123 proceedings or the happening of any other conditions or things other than those proceedings,
5124 conditions or things which are specifically required by this chapter. This chapter, as it, relates to
5125 the preparation, adoption or approval of plans, programs, projects, budgets and expenditures,
5126 shall not affect the issue of bonds and notes and the bonds and notes may be issued either before
5127 or after such preparation, adoption or approval.

5128 While any bonds or notes issued or assumed by the authority remain outstanding, the
5129 powers, duties and existence of the authority and the provisions for payments by the
5130 Massachusetts Surface Transportation Authority to the authority shall not be diminished or
5131 impaired in any way that will adversely affect the interests and rights of the holders of such
5132 bonds or notes.

5133 Section 18. In the discretion of the authority, such bonds shall be secured by a trust
5134 agreement by, and between, the authority and a corporate trustee, which may be any trust
5135 company or bank having the powers of a trust company within the commonwealth. Either the

5136 resolution providing for the issue of bonds or the trust agreement may contain provisions for
5137 protecting and enforcing the rights and remedies of the bondholders as may be reasonable and
5138 proper and not in violation of law, including covenants setting forth the duties of the authority in
5139 relation to the acquisition, improvement, maintenance, operation, repair and insurance of
5140 property, and the custody, safeguarding and application of all moneys and may pledge or assign
5141 the revenues to be received, but shall not convey or mortgage any property.

5142 Section 19. Bonds issued under this chapter are hereby made securities in which all
5143 public officers and public bodies of the commonwealth and its political subdivisions, all
5144 insurance companies, and savings banks, co-operative banks and trust companies in their
5145 banking departments, banking associations, investment companies, executors, trustees and other
5146 fiduciaries and all other persons who are now, or may hereafter be, authorized to invest in bonds
5147 or other obligations of a similar nature may properly and legally invest funds, including capital in
5148 their control or belonging to them and such bonds are hereby made obligations which may
5149 properly and legally be made eligible for the investment of savings deposits and the income
5150 thereof in the manner provided by section 15B of chapter 167. Such bonds are hereby made
5151 securities which may properly and legally be deposited with and received by any state or
5152 municipal officer or any agency or political subdivision of the commonwealth for any purpose
5153 for which the deposit of bonds or other obligations of the commonwealth now or may hereafter
5154 be authorized by law.

5155 Section 20. Any holder of bonds issued under this chapter or of any of the coupons
5156 appertaining thereto, and the trustee under the trust agreement, if any, except to the extent the
5157 rights herein may be restricted by such resolution or trust agreement may, either at law or in
5158 equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights

5159 under the laws of the commonwealth or granted hereunder or under such resolution or trust
5160 agreement and may enforce and compel the performance of all duties required by this chapter or
5161 by such resolution or trust agreement to be performed by the authority or by any officer thereof.

5162 Section 21. An authority may provide by resolution, at 1 time or from time to time, for
5163 the issue of interest bearing or discounted notes for the purposes and in the amounts that bonds
5164 may be issued. The notes shall be payable within 3 years from their dates, but the principal of
5165 and interest on notes issued for a shorter period may be renewed or paid from time to time by the
5166 issue of other notes hereunder maturing within the required time from the date of the original
5167 loan being refunded. When bonds are issued for the purposes for which the notes were issued,
5168 the proceeds of the bonds shall be used to repay the notes, except that interest on the notes may
5169 be financed as a current expense to the extent deemed appropriate by the authority. The notes
5170 may be secured by a trust agreement or by the provisions of a resolution, as in the case of bonds.
5171 Bond anticipation notes may be issued either before or after the authorization of the bonds being
5172 anticipated. If any bond anticipation note is paid otherwise than from the proceeds of bonds or
5173 renewal notes, such payment shall be included in the measure of the net cost of service;
5174 provided, however, that if bonds or renewal notes are later issued to provide for such payment,
5175 there shall be a corresponding offset against the net cost of service.

5176 Section 22. Each authority, in conjunction with the regional transit advisory board, shall,
5177 from time to time, take all necessary action to secure any federal assistance which is, or may
5178 become, available to the Massachusetts Surface Transportation Authority for any of the purposes
5179 of this chapter. If any federal law, administrative regulation or practice requires any action
5180 relating to such federal assistance to be taken by any department or instrumentality of the
5181 commonwealth, other than the authority, such other department or instrumentality shall take all

5182 such action including, without limitation, filing applications for assistance, supervising the
5183 expenditure of federal grants or loans and making any determinations and certifications
5184 necessary or appropriate to the foregoing and the authority shall take all action necessary to
5185 permit such other department or instrumentality to comply with all federal requirements.

5186

5187 Section 23. The chief executive officer of the Massachusetts Surface Transportation
5188 Authority may enter into a contract with the authorities created in this chapter providing that at
5189 least 50 per cent and up to 75 per cent of the net cost of service of each authority incurred in each
5190 fiscal year shall be paid by the Massachusetts Surface Transportation Authority, and shall not be
5191 assessed upon the cities and towns constituting the authorities; provided, however, that the share
5192 assessed upon the cities and towns shall be at least 25 per cent of the net cost of service;
5193 provided further, that in the event that 25 per cent of the net cost of service of each authority
5194 exceeds 102.5 per cent of the previous year's local assessment, excluding payments made by
5195 cities and towns for the costs of new service for which the cities and towns have not previously
5196 been assessed by the regional transit authority, the authority shall reduce its operating expenses
5197 of an increase its revenues to meet the difference. Such amount, not to be so assessed, shall be
5198 called contract assistance.

5199 Contracts shall provide for payment of debt service by the Massachusetts Surface
5200 Transportation Authority when due, except to the extent that the authority shall have previously
5201 notified the state treasurer that the revenues of the authority are sufficient for the purpose.

5202 Any debt service on bonds issued by an authority, for which contract assistance is
5203 provided, shall mature serially beginning not later than 10 years after the date of issue and
5204 ending not later than 40 years after the date of the bonds, so that the amounts payable in the

5205 several years for principal and interest combined shall be as nearly equal as in the opinion of the
5206 authority as is practicable to make them or, in the alternative, in accordance with a schedule
5207 providing a more rapid amortization of principal.

5208 Any contracts or agreements made between an authority and any private company or
5209 carrier for which contract assistance is provided shall be subject to the following limitations: (i)
5210 in determining whether assistance is needed under this paragraph with respect to an operating
5211 agreement with a private transportation company, and in determining the terms of such
5212 assistance, the authority shall review the entire transportation operations of the company and its
5213 affiliates and shall make a finding that the assistance will not permit the applicant company to
5214 make more than a reasonable return overall; and (ii) that the assistance shall cover only those
5215 services determined by the authority to be in the public interest.

5216 Any contract under this section shall include such provisions as the chief executive
5217 officer of the Massachusetts Surface Transportation Authority deems necessary and desirable to
5218 assure the efficient operation of the authority and the minimum burden on the Massachusetts
5219 Surface Transportation Authority and on the cities and towns within the authority and to insure
5220 contract assistance is provided for projects which are consistent with the program for public mass
5221 transportation of the authority.

5222
5223 Section 24. Section 10 of chapter 40A, sections 28, 59 to 64, inclusive, 83 to 85,
5224 inclusive, and 92 to 104, inclusive, of chapter 159 and sections 89, 103 and 113 of chapter 161
5225 shall apply to the authorities created by this chapter, its property and employees in the same
5226 manner as though each were a street railway company.

5227

5228 Section 25. Nothing in this chapter shall be deemed to authorize or permit any authority
5229 established by this chapter to directly operate any mass transportation service.

5230

5231 Section 26. The regional transit authorities shall establish a Stabilization Fund into which
5232 the authorities shall deposit revenues in excess of expenditures. The Stabilization Fund shall
5233 have a fund balance not greater than 15 per cent of total revenues for all regional transit
5234 authorities for the fiscal year most recently ended. Monies from the fund shall be subject to
5235 appropriation and used for capital improvements and expenditures, to offset the unforeseen and
5236 dramatic loss of revenues within a fiscal year, and to pay current expenses after implementing all
5237 efficiencies and savings possible. The authorities may not assume draws from the fund in
5238 preparing their annual budgets. In the event that an authority requires a draw from the fund, it
5239 shall file with the chief executive officer of the Massachusetts Surface Transportation Authority,
5240 the regional transit advisory board, the joint committee on transportation and the house and
5241 senate committees on ways and means a financial plan that projects to produce, in the following
5242 fiscal year, an excess of revenues over expenses, all measures taken to implement efficiencies
5243 and savings, the amount necessary to offset operating losses and any other information that the
5244 chief executive officer, regional transit advisory board or committees may require.

5245

5246 Section 27. (a) There shall be a regional transit advisory board within the division of
5247 public transit of the Massachusetts Surface Transportation Authority to represent the needs of the
5248 15 regional transit authorities in the commonwealth.

5249 The regional transit advisory board shall consist of 17 members including the following:
5250 1 representative from each of the regional transit authorities, as defined in section 2, to serve

5251 terms of 2 years; 1 representative, appointed by the governor, for a term of 3 years who shall be
5252 an expert with experience in the fields of transportation law or public policy, transportation
5253 planning or design and construction of transportation projects; provided, however, that the
5254 representative shall not reside in an area constituting the division for public transit for mass
5255 transit; and the chief executive officer of the authority, or his designee. The members of the
5256 advisory board shall be appointed not later than August 1, 2009.

5257 The first meeting of the regional transit advisory board shall be held as soon as
5258 practicable upon the call of the chief executive officer of the authority. The regional transit
5259 advisory board shall act by a majority vote, except that it may delegate its power of approval to
5260 an executive committee formed and elected pursuant to duly adopted by-laws of the board and
5261 constituting among its members as least one-half of the total vote of the regional transit advisory
5262 board, and may at any time, revoke such delegation; provided, however, that no such executive
5263 committee shall be empowered to approve the governor's appointments to the Massachusetts
5264 Surface Transportation Authority's board of directors. Until the regional transit advisory board
5265 has adopted by-laws and elected officers, the chief executive officer of the authority may call
5266 meetings of the regional transit advisory board by sending notice to the executive director of
5267 each regional transit authority and shall preside at such meetings.

5268 The regional transit advisory board may incur expenses, not to exceed \$10,000 annually,
5269 for stenographic and clerical work, and such expenses shall be paid by the Massachusetts Surface
5270 Transportation Authority.

5271 (b) The regional transit advisory board shall be deemed to be a governmental body for
5272 purposes of, and shall be subject to, section 11A1/2 of chapter 30A and shall also be subject to
5273 section 10 of chapter 66.

5274 (c) The purpose of the regional transit advisory board shall be as follows:

5275 (i) oversee the federally funding Rural Transit Assistance Program under contract with
5276 the Massachusetts Surface Transportation Authority;

5277 (ii) coordinate and share information and best practices in matters of security and public
5278 safety planning and preparedness, service delivery including, the disabled and senior
5279 population, cost savings and administrative efficiencies;

5280 (iii) to create, after public hearings and in consultation with the administrator of the
5281 division of public transit, mechanisms for ensuring reliable, high-quality and cost-
5282 effective operations by establishing and implementing service quality standards;

5283 (iv) to adopt and revise, as appropriate, a system-wide fare policy which addresses fare
5284 levels, including discounts, fare equity and a fare structure including, but not limited to,
5285 fare media and passes. The fare policy shall include a system for free or substantially
5286 price-reduced transfer privileges;

5287 (v) to make recommendation to the division of public transit on its regional transit
5288 charges;

5289 (vi) to hold hearings, which may be held jointly with the division of public transit at the
5290 discretion of the regional transit advisory board and the division of public transit, on
5291 matters relating to the division of public transit;

5292 (vii) to review the annual report of the authority and to prepare comments thereon to the
5293 authority and the secretary of transportation and to make such examinations of the reports
5294 on the division of public transit's records and affairs as the regional transit advisory board
5295 deems appropriate; and

5296 (viii) to make recommendations to the governor and the general court respecting the
5297 authority and its regional transit programs. The regional transit advisory board shall have
5298 all powers necessary or convenient to carry out and effectuate the forgoing purposes.

5299 **SECTION 45.** Chapter 161C of the General Laws is hereby repealed.

5300 **SECTION 46.** Section 1 of chapter 258 of the General Laws, as appearing in the 2006
5301 Official Edition, is hereby amended by inserting after the word “including”, in line 40, the words
5302 “the Massachusetts Surface Transportation Authority established pursuant to chapter 81B,”.

5303 **SECTION 47.** Said Section 1 of said chapter 258, as so appearing is hereby further
5304 amended by striking out, in lines 50 and 51, the words, “the Massachusetts Bay Transportation
5305 Authority”.

5306 **SECTION 48.** Said section 1 of said chapter 258, as so appearing, is hereby further
5307 amended by striking out, in lines 51 and 52, the words “the Massachusetts Turnpike Authority,”.

5308 **SECTION 49.** Section 2 of chapter 634 of the acts of 1971, as most recently amended
5309 by section 1 of chapter 364 of the acts of 1990, is hereby amended by striking out the second
5310 paragraph, and inserting in place thereof the following paragraph:-

5311 Following acquisition of said bridges by the department, said department shall, in its sole
5312 discretion, furnish or otherwise provide for the necessary flag protection on the railroad rights-
5313 of-way of the Massachusetts bay transportation authority, which may be required when the
5314 department is performing inspection, maintenance and repair, reconstruction, or replacement of
5315 any such bridges.

5316 **SECTION 49A.** Notwithstanding section 31 of chapter 15 of the acts of 1988 or any
5317 other general or special law to the contrary, the Massachusetts Bay Transportation Authority may
5318 sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of the public

5319 parking garage constructed and operated by the authority and the land acquired by the authority
5320 pursuant to such law, subject to such terms, restrictions, covenants and conditions, for facilitating
5321 economic development, employment opportunities and increase of the tax base, as determined by
5322 the Authority in consultation with the Boston Redevelopment Authority.

5323 **SECTION 50.** Notwithstanding any general or special law to the contrary, the secretary
5324 of administration and finance shall establish an office of transition management for
5325 transportation within the executive office for administration and finance to accomplish the
5326 purposes of this act. Agencies from within that executive office including, but not limited to, the
5327 human resources division and the division of capital asset management and maintenance, as well
5328 as the executive office of transportation and public works and the department of labor shall staff
5329 the office.

5330 The office shall monitor compliance with this act, recommend to the secretary of
5331 transportation and public works rules and regulations not inconsistent with this act to facilitate
5332 the orderly, expeditious transfer of assets and functions from the executive office of
5333 transportation and public works, the Massachusetts Turnpike Authority, the Massachusetts Bay
5334 Transportation Authority, the Massachusetts Port Authority, the department of conservation and
5335 recreation and the department of highways to the Massachusetts Surface Transportation
5336 Authority, developing administrative processes to assure continuity of employment and
5337 operations during the transitions, identifying opportunities for potential efficiencies and cost
5338 savings and recommending legislation to realize such savings and efficiencies, resolve issues or
5339 assist government agencies with the transition of transportation agencies.

5340 Ninety days after the effective date of this act and quarterly thereafter until such
5341 transition period is complete, the secretary of transportation and public works shall submit a

5342 report to the governor, the secretary of administration and finance, the joint committee on
5343 transportation, the senate and house committees on ways and means and the clerks of the senate
5344 and the house of representatives, relative to the progression of the incorporation of the agencies
5345 and authorities into the Massachusetts Surface Transportation Authority.

5346 The report shall include, but shall not be limited to, plans for the assignment and
5347 reassignment of resources including personal, equipment and supplies into the Massachusetts
5348 Surface Transportation Authority. The reports shall also include the status of the transition of
5349 roads, bridges, parkways and any other transportation assets of the Massachusetts Turnpike
5350 Authority, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority,
5351 the department of conservation and recreation and the department of highways and shall further
5352 include approximate schedules for the completion of the transition.

5353 **SECTION 51.** Notwithstanding any general or special law to the contrary, the bureau
5354 for environmental health within the department of public health shall conduct a comprehensive
5355 baseline study of the health effects of particulate air pollution from surface transportation in
5356 Massachusetts. The study shall focus on understanding the health impacts from fine and ultrafine
5357 particulate matter upon populations that are located within 500 feet of any roadway with 50,000
5358 or more motor vehicle trips per day or any rail line regularly used by diesel locomotives;
5359 provided, however, that the study may include, but shall not be limited to, examining respiratory
5360 and cardiovascular disease and cancer incidence that may be affected by exposure to traffic-
5361 related particles. The following departments and agencies of the commonwealth shall provide
5362 information to the bureau relevant to this study: the department of environmental protection, the
5363 executive office of transportation, the Massachusetts Surface Transportation Authority and the
5364 central transportation planning staff of the Boston region metropolitan planning organization.

5365 The bureau shall report its interim findings, or a progress report, together with any recommended
5366 response actions by the commonwealth to the house and senate committees on ways and means
5367 not later than December 31, 2009. The study shall be concluded and filed with the house and
5368 senate committees on ways and means not later than June 30, 2010.

5369 **SECTION 52.** (a) In order to provide funds during the period from the effective date of
5370 this act until December 31, 2009, the state treasurer, on behalf of the commonwealth, shall loan
5371 to the authority through investment in a note or other appropriate instrument of the Authority,
5372 and the authority is authorized to borrow from the state treasurer, at any time and from time to
5373 time on or prior to December 31, 2009, on such terms and conditions as the state treasurer and
5374 the authority shall agree, an amount not to exceed \$100,000,000. Any amount so borrowed by
5375 the authority, with interest thereon at such reasonable rate as the state treasurer and the authority
5376 shall agree, shall be repaid to the commonwealth to be credited on the books of the
5377 commonwealth not later than June 30, 2010.

5378 (b) The authority may issue at 1 time or from time to time prior to June 30, 2014, notes of
5379 the Authority in the aggregate principal amount of \$1,000,000,000 outstanding at any 1 time,
5380 excluding notes refunded by other notes issued under this paragraph, for the purpose of
5381 providing funds for: (i) repaying the commonwealth for any amounts borrowed by the authority
5382 from the commonwealth including interest thereon pursuant to paragraph (c); (ii) paying all or
5383 part of the cost of the authority's projects undertaken at any time prior to December 31, 2013;
5384 (iii) paying all or any part of the current expenses of the authority in anticipation of receipt of
5385 revenues of the authority, but in no event shall the aggregate amount of notes outstanding for this
5386 purpose exceed one-half of the budgeted current expenses of the authority for the fiscal year in
5387 which such notes are outstanding; and (iv) paying all or any part of the interest payable on any

5388 notes of the authority issued under this paragraph. Notes issued by the Authority in accordance
5389 with this subsection shall be issued for such term or terms as the authority shall determine and
5390 may be renewed from time to time; provided, however, that all such notes and any renewals
5391 thereof shall mature and be payable not later than June 30, 2014 except that notes issued in
5392 anticipation of revenues shall be payable and shall mature not later than 1 year from their date.
5393 Notes issued by the authority in accordance with this paragraph, except notes issued in
5394 anticipation of revenues, shall be issued in anticipation of bonds to be issued by the authority
5395 pursuant to section 22 of chapter 81B of the General Laws. All notes issued pursuant to this
5396 subsection shall be authorized, issued and sold in the same manner as, and shall otherwise be
5397 subject to said section 22 of said chapter 81B and the other provisions of said chapter 81B
5398 relating to bonds; provided, however, that notes issued under this subsection shall be issued at a
5399 fixed..

5400 (c) The commonwealth, acting by and through the secretary of administration and finance
5401 with the approval of the governor, upon application of the authority, shall guarantee the principal
5402 of and interest on notes of the authority issued in accordance with subsection (b). The secretary
5403 of administration and finance with the approval of the governor may approve the form, terms and
5404 conditions of, and may execute and deliver on behalf of the commonwealth such guaranty and
5405 any related agreements with or for the benefit of the holders of such notes containing such terms,
5406 conditions and covenants as the secretary of administration and finance may deem reasonable,
5407 including provision for the payment of notes not paid or refunded by the authority by application
5408 of the proceeds of the loan authorized in subsection (d) . Without limiting the generality of the
5409 foregoing, such guaranty may take the form of an agreement to reimburse the issuer of a letter of
5410 credit or other credit facility which relates to such notes. The full faith and credit of the

5411 commonwealth shall be pledged for the guaranty provided for in this paragraph. The total
5412 principal amount of notes to be guaranteed under this paragraph shall not exceed \$1,000,000,000
5413 in the aggregate; provided, however, that the refunding note shall be included within such total
5414 amount; provided, further, that any note being refunded by the issuance of a guaranteed note
5415 shall not be included within such total amount.

5416 (d) If the authority fails or is otherwise unable to refund or pay when due any guaranteed
5417 notes, or the interest thereon, issued by the authority in accordance with subsection (c), such
5418 notes, and the interest thereon, upon presentation to the state treasurer, shall be paid by the
5419 commonwealth. For the purpose of providing funds to pay any such guaranteed notes and
5420 interest or to reimburse the treasury for any such payments, the state treasurer shall, upon the
5421 request of the governor, issue and sell bonds of the commonwealth in an amount specified by the
5422 governor from time to time, but not exceeding in the aggregate the sum of \$1,000,000,000 for
5423 principal and \$150,000,000 for interest. Bonds issued by the commonwealth under this
5424 subsection shall be designated on their face, Massachusetts Surface Transportation Authority
5425 Loan, Act of 2009. Such bonds shall be issued for such maximum term or terms not exceeding
5426 20 years as the governor may recommend to the general court in accordance with Section 3 of
5427 article LXII of the amendments to the constitution of the commonwealth. The Authority shall
5428 reimburse the commonwealth in accordance with a schedule to be determined by the secretary of
5429 administration and finance at the time such bonds are issued, from any moneys of the authority
5430 which are available for such purposes. Bonds and interest thereon issued by the commonwealth
5431 under the authority of this section shall, notwithstanding any other provisions of this act, be
5432 general obligations of the commonwealth. In anticipation of the receipt of proceeds of such
5433 bonds, the treasurer may issue and sell temporary notes and renewals thereof in an amount

5434 outstanding at 1 time not in excess of the amount of bonds specified by the governor pursuant to
5435 this subsection, for a term not to exceed 3 years, including any renewals thereof. The principal of
5436 and interest on such notes may be paid from the proceeds of the renewal notes or bonds and to
5437 the extent not so paid shall be paid from any other funds or receipts; provided, however, that if
5438 the principal amount of such notes is paid from other than the proceeds of the renewal notes or
5439 bonds, the principal amount of the bonds which may be issued under this section shall be
5440 reduced by a like amount. Such notes and any renewals thereof shall be general obligations of
5441 the commonwealth.

5442 (e) The state treasurer may borrow, from time to time, on the credit of the commonwealth
5443 such amounts as may be necessary to make any loans required of the commonwealth under
5444 subsection (a) and to pay any interest or other charges incurred in borrowing such money, and
5445 may issue notes of the commonwealth therefor, bearing interest payable at such times and at such
5446 rates as shall be fixed by him. No note issued under this paragraph shall mature more than one
5447 and one-half years from its date but notes may be refunded 1 or more times. Such notes shall be
5448 issued for such maximum term of years, not exceeding one and one-half years, as the governor
5449 may recommend to the general court in accordance with Section 3 of article LXII of the
5450 amendments to the constitution.

5451 **SECTION 53.** The state auditor shall perform a close-out audit of each agency or
5452 authority admitted to the Massachusetts Surface Transportation Authority. Said audit shall
5453 include a catalog of any issues relating to the agency or authority's current and future finances
5454 and operations, current and future revenues or debt structure, and internal policies and
5455 procedures, that he believes are not within Financial Accounting Standards Board of practice or
5456 may violate other General Laws, rules and procedures..

5457 **SECTION 54.** (a) The Massachusetts Surface Transportation Authority may provide by
5458 resolution for the issuance of revenue bonds of the authority, at 1 time or from time to time, for
5459 the purpose of providing funds for:

5460 (1) refunding the western turnpike revenue bonds then outstanding, including the payment of
5461 the redemption premium thereon;

5462 (2) paying the cost of constructing such extensions, enlargements and improvements to the
5463 western turnpike as may be authorized by said resolution; and

5464 (3) providing funds for paying the current expenses of the authority prior to the time when the
5465 revenues of the projects will be available for such purposes.

5466 (b) The proceeds of such bonds shall be deposited with the trustee and applied as follows:

5467 (1) such amount of the proceeds as may be required for paying the principal of and the
5468 redemption premium on the western turnpike revenue bonds then outstanding shall be deposited
5469 with the trustee under the trust agreement securing the bonds in trust for the sole and exclusive
5470 purpose of paying such principal and redemption premium, and the bonds shall thereupon be
5471 called for redemption at the earliest practicable date;

5472 (2) the trustee shall set aside from the proceed amounts as may be provided in the trust
5473 agreement for paying the current expenses of the authority prior to the time when the revenues of
5474 the projects will be available for such purpose; and

5475 (3) the balance of such proceeds shall be deposited with the trustee to the credit of a special
5476 fund to be used solely for the payment of the cost of the extensions, enlargements and
5477 improvements of the western turnpike authorized by the resolution and shall be disbursed in such
5478 manner and under such restrictions as may be provided in the trust agreement.

5479 (c)The Authority may, in its sole discretion assume the western turnpike revenue bonds
5480 then outstanding.

5481 (d) Upon the issuance of revenue bonds under subsection (a) and the application of the
5482 proceeds of the bonds as provided in subsection (b), or the assumption of revenue bonds under
5483 subsection (c), title to the western turnpike shall be vested in the authority; provided, however,
5484 that the turnpike shall thereafter be maintained, repaired and operated by the Authority, the
5485 trustee under the trust agreement securing the outstanding western turnpike revenue bonds shall
5486 deposit with the trustee for the credit of the appropriate funds all moneys then in its hands which
5487 pertain to the western turnpike.

5488 (e) The Massachusetts Turnpike Authority shall transfer the turnpike, as defined in
5489 section 3 of chapter 81A of the General Laws, its right to collect toll revenues on the turnpike,
5490 and all related assets, liabilities, expenses and obligations to the division of roads and bridges in
5491 the Massachusetts Surface Transportation Authority not later than July 1, 2009. The transfer by
5492 the Massachusetts Turnpike Authority of the turnpike may be made pursuant to such other terms
5493 and conditions as may be acceptable to the transferor and the Massachusetts Surface
5494 Transportation Authority, but such terms shall be consistent with any trust agreement to which
5495 the Massachusetts Turnpike Authority is a party as of the effective date of this act.

5496 (f) On July 1, 2009, ownership, possession and control of the turnpike shall pass to and
5497 be vested in the Massachusetts Surface Transportation Authority without consideration or further
5498 evidence of transfer.

5499 (g) All books, maps, papers, plans, records and documents of whatever description
5500 pertaining to the design, construction, operation and affairs of the turnpike which are in the

5501 possession of the Massachusetts Turnpike Authority on June 30, 2009, or which thereafter come
5502 into the possession of the Massachusetts Turnpike Authority shall also be transferred and
5503 delivered to the Massachusetts Surface Transportation Authority for its use, ownership,
5504 possession and control.

5505 (h) On July 1, 2009, all proceeds of the western turnpike revenue bonds, any other bonds
5506 and grants and other aid which are held by the Massachusetts Turnpike Authority for the benefit
5507 of the turnpike at the effective date of this act shall then and thereafter be deemed to be held in
5508 trust for the Massachusetts Surface Transportation Authority, be transferred to the Massachusetts
5509 Surface Transportation Authority to be applied to projects for which such bonds, grants or other
5510 aid was authorized. All proceeds of bonds, grants or other aid referred to herein, which shall be
5511 so held in trust and transferred pursuant to this section, and shall be in the amount as certified by
5512 the executive director of the Massachusetts Turnpike Authority to the state treasurer.

5513 **SECTION 55.** (a) The commonwealth shall transfer the roadways, driveways, parkways,
5514 boulevards and bridges and land thereunder, in the care, custody and control of the department
5515 of conservation and recreation and all appurtenant facilities, works and systems and any
5516 machinery and equipment related to the operation and maintenance of the assets and the roads
5517 and bridges, as well as any machinery and equipment related to the operation and maintenance of
5518 said assets and all appurtenant facilities, works and systems in the custody and control of the
5519 department of highways to the division of roads and bridges in the Massachusetts Surface
5520 Transportation Authority not later than July 1, 2009.

5521 (b) The division of capital asset management and maintenance shall take any required
5522 actions relative to specifically defining and documenting the boundaries of the
5523 transfer affected by this section.

5524 (c) Nothing in this section shall be construed to transfer any lands, parks, reservations,
5525 approaches or other facilities under the care, custody or control of the department of
5526 conservation and recreation.

5527 (d) On July 1, 2009, ownership, possession and control of the facilities transferred under
5528 this section shall pass to and be vested in the Massachusetts Surface Transportation
5529 Authority without consideration or further evidence of transfer.

5530 **SECTION 56.** (a) The Massachusetts Port Authority shall transfer the Maurice J. Tobin
5531 Memorial Bridge, in the city of Chelsea its right to collect toll revenues on that bridge and all
5532 related assets, liabilities, expenses and obligations to the division of roads and bridges in the
5533 Massachusetts Surface Transportation Authority not later than July 1, 2010. The transfer by the
5534 Massachusetts Port Authority of that bridge may be made pursuant to such other terms and
5535 conditions as may be acceptable to the Massachusetts Port Authority and the Massachusetts
5536 Surface Transportation Authority, but such terms shall be consistent with and authorized by
5537 Chapter 465 of the Act of 1956 and any trust agreement to which the Massachusetts Port
5538 Authority is a party as of the effective date of this act.

5539 (b) On July 1, 2009, ownership, possession and control of the bridge shall pass to and be
5540 vested in the Massachusetts Surface Transportation Authority without consideration or further
5541 evidence of transfer.

5542 (c) All books, maps, papers, plans, records and documents of whatever description
5543 pertaining to the design, construction, operation and affairs of the bridge which are in the
5544 possession of the Massachusetts Port Authority on June 30, 2010, or which thereafter come into
5545 the possession of the Massachusetts Port Authority shall be transferred and delivered to the
5546 Massachusetts Surface Transportation Authority for its use, ownership, possession and control.

5547 (d) On July 1, 2010, all proceeds of bonds and grants and other aid which are held by the
5548 Massachusetts Port Authority for the benefit of the bridge on the effective date of this act shall
5549 then and thereafter be deemed to be held in trust for, and shall upon demand of the
5550 Massachusetts Surface Transportation Authority be transferred to the Massachusetts Surface
5551 Transportation Authority to be applied to projects for which such bonds, grants or other aid were
5552 authorized. All proceeds of bonds, grants or other aid referred to herein, which shall be so held in
5553 trust and transferred upon demand, shall be in the amount as certified by the executive director of
5554 the Massachusetts Port Authority to the state treasurer.

5555 **SECTION 57.** (a) The Massachusetts Surface Transportation may provide by resolution
5556 for the issuance of revenue bonds of the authority, at 1 time or from time to time, for the purpose
5557 of providing funds for:

5558 (1) refunding the metropolitan highway system revenue bonds then outstanding, including the
5559 payment of the redemption premium thereon;

5560 (2) paying the cost of constructing such extensions, enlargements and improvements to the
5561 metropolitan highway system as may be authorized by the resolution; and

5562 (3) providing funds for paying the current expenses of the authority prior to the time when the
5563 revenues of the projects will be available for such purposes.

5564 (b) The proceeds of such bonds shall be deposited with the trustee and applied as follows:

5565 (1) such amount of the proceeds as may be required for paying the principal of and the
5566 redemption premium on the metropolitan highway system revenue bonds then outstanding shall
5567 be deposited with the trustee under the trust agreement securing the bonds in trust for the sole
5568 and exclusive purpose of paying such principal and redemption premium, and the bonds shall
5569 thereupon be called for redemption at the earliest practicable date;

5570 (2) the trustee shall set aside from the proceed amounts as may be provided in the trust
5571 agreement for paying the current expenses of the authority prior to the time when the revenues of
5572 the projects will be available for such purpose; and

5573 (3) the balance of such proceeds shall be deposited with the trustee to the credit of a special
5574 fund to be used solely for the payment of the cost of the extensions, enlargements and
5575 improvements of the metropolitan highway system authorized by the resolution and shall be
5576 disbursed in such manner and under such restrictions as may be provided in the trust agreement.

5577 (c)The Authority may, in its sole discretion, assume the metropolitan highway system
5578 revenue bonds then outstanding.

5579 (d) Upon the issuance of revenue bonds under subsection (a) and the application of the
5580 proceeds of the bonds as provided in subsection (b) or the assumption of revenue bonds under
5581 subsection (c), title to the metropolitan highway system shall be vested in the authorit,. The
5582 metropolitan highway system shall thereafter be maintained, repaired and operated by the
5583 Authority, the trustee under the trust agreement securing the outstanding metropolitan highway
5584 system revenue bonds shall deposit with the trustee for the credit of the appropriate funds all

5585 moneys then in its hands which pertain to the metropolitan highway system and the
5586 Massachusetts Turnpike Authority shall be dissolved.

5587 (e) The Massachusetts Turnpike Authority shall transfer the metropolitan highway
5588 system, as defined in section 3 of chapter 81A of the General Laws, its right to collect toll
5589 revenues on the metropolitan highway system and all related assets, liabilities, expenses and
5590 obligations to the division of roads and bridges in the Massachusetts Surface Transportation
5591 Authority not later than July 1, 2010.

5592 (f) The transfer by the Massachusetts Turnpike Authority of the metropolitan highway
5593 system may be made pursuant to such other terms and conditions as may be acceptable to the
5594 transferor and the Massachusetts Surface Transportation Authority, but such terms shall be
5595 consistent with and authorize by chapter 354 of the Act of 1952 and any trust agreement to
5596 which the Massachusetts Turnpike Authority is a party as of the effective date of this act.

5597 (g) On July 1, 2010, ownership, possession and control of the metropolitan highway
5598 system shall pass to and be vested in the Massachusetts Surface Transportation Authority
5599 without consideration or further evidence of transfer.

5600 (h) All books, maps, papers, plans, records and documents of whatever description
5601 pertaining to the design, construction, operation, and affairs of the metropolitan highway system
5602 which are in the possession of the Massachusetts Turnpike Authority on June 30, 2010, or which
5603 thereafter come into the possession of the Massachusetts Turnpike Authority shall be transferred
5604 and delivered to the Massachusetts Surface Transportation Authority for its use, ownership,
5605 possession and control.

5606 (i) On July 1, 2010, all proceeds of the metropolitan highway system revenue bonds, all
5607 other bonds and grants and other aid which are held by the Massachusetts Turnpike Authority at
5608 the effective date of this act shall then and thereafter be deemed to be held in trust for, and shall
5609 upon demand of the Massachusetts Surface Transportation Authority be transferred to the
5610 Massachusetts Surface Transportation Authority to be applied by the Massachusetts Surface
5611 Transportation Authority to projects for which such bonds, grants or other aid were authorized.
5612 All proceeds of bonds, grants or other aid referred to herein, which shall be so held in trust and
5613 transferred upon demand, shall be in the amount as certified by the executive director of the
5614 Massachusetts Turnpike Authority to the state treasurer.

5615 **SECTION 58.** (a) The Massachusetts Bay Transportation Authority shall transfer all
5616 mass transportation facilities and equipment under its custody and control, the right to collect
5617 fare revenue for services in connection with such mass transportation facilities and equipment
5618 and all related assets, liabilities, expenses and obligations to the division of public transit in the
5619 Massachusetts Surface Transportation Authority not later than July 1, 2011.

5620 (b) The transfer by the Massachusetts Bay Transportation Authority of the mass
5621 transportation facilities and equipment required in this section may be made pursuant to such
5622 other terms and conditions as may be acceptable to the transferor and the Massachusetts Surface
5623 Transportation Authority, but such terms shall be consistent with and authorized by chapter 161a
5624 of the General Laws and any trust agreement to which the Massachusetts Bay Transportation
5625 Authority is a party as of the effective date of this act.

5626 (c) On July 1, 2011, ownership, possession and control of the mass transportation
5627 facilities and equipment referred to in this section shall pass to and be vested in the

5628 Massachusetts Surface Transportation Authority without consideration or further evidence of
5629 transfer.

5630 (d) All books, maps, papers, plans, records and documents of whatever description
5631 pertaining to the design, construction, operation and affairs of the mass transportation facilities
5632 and equipment which are in the possession of the Massachusetts Bay Transportation Authority
5633 on June 30, 2011, or which thereafter come into the possession of the Massachusetts Bay
5634 Transportation Authority shall be transferred and delivered for the Massachusetts Surface
5635 Transportation Authority to its use, ownership, possession and control.

5636 (e) On July 1, 2011, all proceeds of bonds, grants and other aid which are held by the
5637 Massachusetts Bay Transportation Authority on the effective date of this act shall then and
5638 thereafter be deemed to be held in trust for, and shall upon demand of the Authority be
5639 transferred to the Massachusetts Surface Transportation Authority to be applied to projects for
5640 which such bonds, grants or other aid were authorized. All proceeds of bonds, grants or other aid
5641 referred to herein, which shall be so held in trust and transferred upon demand, shall be in the
5642 amount as certified by the general manager of the Massachusetts Bay Transportation Authority
5643 to the state treasurer.

5644 **SECTION 59.** Notwithstanding any other provision of this act or any other general or
5645 special law to the contrary, commencing on July 1, 2009, all amounts of any kind received by the
5646 commonwealth which are derived from or related to the operation of the state highway system,
5647 as defined in section 3 of chapter 81B of the General Laws, shall be deemed to be held in trust
5648 for and shall be transferred and paid over to the Massachusetts Surface Transportation Authority,
5649 herein after referred to as the Authority, when received without further appropriation to be

5650 applied to the purposes of the Authority. All amounts of any kind received by the Massachusetts
5651 Turnpike Authority which are derived from the operation of the turnpike, as defined in said
5652 chapter 3 of said chapter 81B, shall be deemed to be held in trust for and shall be transferred and
5653 paid over to the Massachusetts Surface Transportation Authority when received without further
5654 appropriation to be applied to the purposes of the Massachusetts Surface Transportation
5655 Authority .

5656 **SECTION 60.** Notwithstanding any other provision of this act or any other general or
5657 special law to the contrary, commencing on July 1, 2010, all amounts of any kind received by the
5658 Massachusetts Port Authority which are derived from or related to the operation of the Tobin
5659 memorial bridge, as defined in section 3 of chapter 81B of the General Laws, shall be deemed to
5660 be held in trust for and shall be transferred and paid over to the Massachusetts Surface
5661 Transportation Authority , hereinafter referred to as the Authority, when received without
5662 further appropriation to be applied to the purposes of the said Massachusetts Surface
5663 Transportation Authority . All amounts of any kind received by the Massachusetts Turnpike
5664 Authority which are derived from the operation of the metropolitan highway system, as defined
5665 in said section 5 of said chapter 81B, shall be deemed to be held in trust for and shall be
5666 transferred and paid over to the Massachusetts Surface Transportation Authority when received
5667 without further appropriation to be applied to the purposes of the Massachusetts Surface
5668 Transportation Authority .

5669 **SECTION 61.** All amounts of any kind received by the Massachusetts Bay
5670 Transportation Authority which are derived from the operation of the state public transit system,
5671 as defined in section 3 of chapter 81B of the General Laws, shall be deemed to be held in trust
5672 for and shall be transferred and paid over to the Massachusetts Surface Transportation Authority

5673 when received without further appropriation to be applied to the purposes of the Massachusetts
5674 Surface Transportation Authority.

5675 **SECTION 61A.** Notwithstanding any general or special law to the contrary, any fees
5676 formerly pledged to the Highway Fund shall be pledged to the Surface Transportation Trust
5677 Fund.

5678 **SECTION 62.** (a) Upon transfer of control of all roads, driveways, parkways, boulevards
5679 and bridges by the department of conservation and recreation to the division of roads and bridges
5680 of the Massachusetts Surface Transportation Authority, the employees in the department of
5681 conservation and recreation whose work is directly related to projects to be administered by the
5682 division shall be transferred to the division.

5683 (b) Subject to appropriation, the employees of the department of conservation and
5684 recreation including those who, immediately before the effective date of this act, hold permanent
5685 appointment in positions classified under chapter 31 of the General Laws or have tenure in their
5686 positions as provided in section 9A of chapter 30 of the General Laws or do not hold such tenure,
5687 or hold confidential positions, are hereby transferred to the division of roads and bridges, without
5688 interruption of service within the meaning of said section 9A of said chapter 30, without
5689 impairment of seniority, retirement or other rights of the employee, and without reduction in
5690 compensation or salary grade, notwithstanding any change in title or duties resulting from such
5691 reorganization and without loss of accrued rights to holidays, sick leave, vacation and further
5692 benefits, and without change in union representation or certified collective bargaining unit as
5693 certified by the state labor relations commission or in local union representation or affiliation.
5694 Any collective bargaining agreement in effect immediately before the transfer date shall continue
5695 in effect and the terms and conditions of employment therein shall continue as if the employees

5696 had not been so transferred. The transfer shall not impair the civil service status of reassigned
5697 employee who immediately before the effective date of this act either holds a permanent
5698 appointment in a position classified under chapter 31 of the General Laws or has tenure in a
5699 position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general
5700 or special law to the contrary, all such employees shall continue to retain their right to
5701 collectively bargain pursuant to chapter 150E of the General Laws and shall be considered
5702 employees for the purposes of said chapter 150E. Nothing in this section shall be construed to
5703 confer upon any employee any right not held immediately before the date of the transfer or to
5704 prohibit any reduction of salary or grade transfer, reassignment, suspension, discharge, layoff or
5705 abolition of position not prohibited before such date.

5706 (c) All petitions, requests, investigations and other proceedings appropriately and duly
5707 brought or duly begun and pending before the effective date of this act, shall continue unabated
5708 and remain in force, but shall be assumed and completed by the division of roads and bridges.

5709 (d) All orders, rules and regulations duly made and all approvals duly granted by the
5710 department of conservation and recreation, which are in force immediately before the effective
5711 date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised,
5712 rescinded or canceled, in accordance with law, by the division of roads and bridges.

5713 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other
5714 property, both personal and real, including all such property held in trust, which immediately
5715 before the effective date of this act are in the custody of each transferor agency shall be
5716 transferred to the respective transferee agency.

5717 All questions regarding the identification of such property and of the agencies to which
5718 custody thereof is transferred shall be determined by the secretary of transportation.

5719 (f) All duly existing contracts, leases and obligations of the department of conservation and
5720 recreation as they related to any property transferred to the division of roads and bridges
5721 pursuant to this section shall continue in effect but shall be assumed by the division of roads and
5722 bridges. No existing right or remedy of any character shall be lost, impaired or affected by this
5723 act.

5724 **SECTION 63.** (a) On July 1, 2009, each employee of the Massachusetts Turnpike
5725 Authority whose salary is paid out of revenue generated by the authority as defined in section 3
5726 of chapter 81A of the General Laws, and whose salary is accounted for on the books of the
5727 Massachusetts Turnpike Authority as arising from revenue generated that authority shall become
5728 an employee of the Massachusetts Surface Transportation Authority, hereinafter referred to as
5729 the Authority.

5730 (b) On July 1, 2010, all remaining employees of the Massachusetts Turnpike Authority
5731 shall become employees of the Massachusetts Surface Transportation Authority .

5732 All officers and employees of the Massachusetts Turnpike Authority transferred to the
5733 service of the Massachusetts Surface Transportation Authority shall be transferred without
5734 impairment of seniority, civil service status, retirement or other statutory rights of employees,
5735 without reduction in compensation or salary grade, notwithstanding any change in job titles or
5736 duties, without loss of accrued rights to holidays, sick leave, vacation and other benefits, and
5737 without change in union representation, except as otherwise provided in this section. Terms of
5738 service of employees of the Massachusetts Turnpike Authority shall not be deemed to be
5739 interrupted by virtue of transfer to the Massachusetts Surface Transportation Authority.

5740 (d) Rights and obligations under collective bargaining agreements with respect to
5741 employees transferred from the Massachusetts Turnpike Authority, except to the

5742 extent expressly inconsistent with this section, shall be assumed by and imposed upon
5743 the Massachusetts Surface Transportation Authority . Except to the extent expressly
5744 inconsistent with this section, any collective bargaining agreement in effect for such
5745 transferred employees immediately before the transfer date shall continue as if the
5746 employees had not been so transferred, until the expiration date of such collective
5747 bargaining agreement. The Massachusetts Surface Transportation Authority shall
5748 negotiate in good faith pursuant chapter 150E of the General Laws with respect to
5749 wages, hours and other terms and conditions of employment to become effective as of
5750 the expiration date of such collective bargaining agreement. Any expired collective
5751 bargaining agreement covering employees transferred to the Massachusetts Surface
5752 Transportation Authority for which successor contract negotiations are on-going as of
5753 March 1, 2009 will be extended for 6 months after the effective date of the act, unless
5754 mutually agreed otherwise by the employees' exclusive bargaining representative and
5755 the Massachusetts Surface Transportation Authority, to permit the successful
5756 completion of successor negotiations. Nothing in this section shall be construed to
5757 confer upon any employee any right not held immediately prior to the date of the
5758 transfer or to prohibit any reduction of salary or grade, transfer, reassignment,
5759 suspension, discharge, layoff or abolition of position not prohibited before such date.

5760

5761 (e) Notwithstanding any general or special law to the contrary, an employee of the
5762 Massachusetts Turnpike Authority who is hired on or after the effective date of this act shall only
5763 be eligible for health care coverage under the group insurance commission, provided that the
5764 employee meets the eligibility requirements of the group insurance commission.

5765 (f) Notwithstanding any general or special law to the contrary, an employee of the
5766 Massachusetts Turnpike Authority whose salary is paid out of revenue generated by the
5767 authority, as defined in section 3 of chapter 81A of the General Laws, and whose salary is
5768 accounted for on the books of the Massachusetts Turnpike Authority as arising from revenue
5769 generated by the authority who is employed by the Massachusetts Turnpike Authority on the
5770 effective date of this act and who becomes an employee of the Massachusetts Surface
5771 Transportation Authority on July 1, 2009 and who is eligible for group insurance coverage under
5772 insurance plans offered by the Massachusetts Turnpike Authority or who is insured under such a
5773 plan, shall have his eligibility and coverage transferred to the jurisdiction of the group insurance
5774 commission effective on July 1, 2009 and such person shall cease to be eligible or insured under
5775 the plans previously offered by the Massachusetts Turnpike Authority.

5776 (g) Notwithstanding any general or special law to the contrary, an employee of the
5777 Massachusetts Turnpike Authority who is employed by the Massachusetts Turnpike Authority on
5778 the effective date of this act and who becomes an employee of the Authority on July 1, 2010 and
5779 who is eligible for group insurance coverage under insurance plans offered by the Massachusetts
5780 Turnpike Authority or who is insured under such a plan, shall have his eligibility and coverage
5781 transferred to the jurisdiction of the group insurance commission effective on July 1, 2010 and
5782 such person shall cease to be eligible or insured under the plans previously offered by the
5783 Massachusetts Turnpike Authority.

5784 (h) The group insurance commission shall provide uninterrupted coverage for group life
5785 and accidental death and dismemberment insurance and group general or blanket insurance
5786 providing hospital, surgical, medical, dental and other health insurance benefits to the extent
5787 authorized under chapter 32A of the General Laws; provided, however, that an employee who

5788 was covered by a collective bargaining agreement on the date of the transfer to the
5789 Massachusetts Surface Transportation Authority shall continue to receive the group insurance
5790 benefits required by his respective collective bargaining agreement until the expiration date of
5791 such agreement. All questions relating to group insurance rights, obligations, costs and payments
5792 shall be determined by the group insurance commission and shall include the manner and method
5793 for the payment of all required premiums applicable to all such coverage.

5794 (i) If the Massachusetts Turnpike Authority has monies in an employees' group insurance trust
5795 fund related to the employees transferred to the Massachusetts Surface Transportation Authority,
5796 these funds shall be transferred to the group insurance commission trust fund established in
5797 section 9 of said chapter 32A.

5798 (j) Nothing in this section shall be construed to affect the eligibility and coverage of
5799 retired employees of the Massachusetts Turnpike Authority and the surviving spouses of active
5800 or retired employees of the Massachusetts Turnpike Authority who are eligible for group
5801 insurance coverage under a plan offered by the Massachusetts Turnpike Authority or who are
5802 insured under a plan offered by the Massachusetts Turnpike Authority.

5803 **SECTION 63A.** Notwithstanding any general or special law to the contrary, any
5804 employee who retires from the executive office of transportation, the highway department, the
5805 registry of motor vehicles, the Massachusetts Turnpike Authority, the Massachusetts Port
5806 Authority, the Massachusetts Bay Transportation Authority, the Massachusetts Aeronautics
5807 Commission, or the Massachusetts Surface Transportation Authority is prohibited from
5808 employment by the agency or authority from which the employee retired or any successor
5809 agency or authority to the agency or authority from which the employee retired, for a period of
5810 not less than 1 year.

5811 **SECTION 64.** (a) On July 1, 2010, each employee of the Massachusetts Port Authority
5812 who is, as of the effective date of this act, employed to work primarily on the Maurice J. Tobin
5813 Memorial Bridge in the city of Chelsea shall become an employee of the Massachusetts Surface
5814 Transportation Authority. For purposes of this section, all such employees shall be known as
5815 “Tobin bridge employees.”

5816 (b) All Tobin bridge employees transferred to the service of the Massachusetts Surface
5817 Transportation Authority shall be transferred without impairment of seniority, civil service
5818 status, retirement or other statutory rights of employees, without reduction in compensation or
5819 salary grade, notwithstanding any change in job titles or duties, without loss of accrued rights to
5820 holidays, sick leave, vacation and other benefits and without change in union representation,
5821 except as otherwise provided in this section. Terms of service of Tobin bridge employees shall
5822 not be deemed to be interrupted by virtue of transfer to the Massachusetts Surface Transportation
5823 Authority.

5824 (c) Rights and obligations under collective bargaining agreements with respect to Tobin
5825 bridge employees, except to the extent expressly inconsistent with this section, shall be assumed
5826 by and imposed upon the Massachusetts Surface Transportation Authority. Except to the extent
5827 expressly inconsistent with this section, any collective bargaining agreement in effect for such
5828 transferred employees immediately before the transfer date shall continue as if the employees
5829 had not been so transferred, until the expiration date of such collective bargaining agreement.
5830 The Massachusetts Surface Transportation Authority shall negotiate in good faith beginning on
5831 April 1, 2010 to the end of the collective bargaining agreement with Teamsters Local #25
5832 pursuant to chapter 150E of the General Laws with respect to wages, hours and other terms and
5833 conditions of employment to become effective as of the expiration date of such collective

5834 bargaining agreement. Any expired collective bargaining agreement covering employees
5835 transferred to the Massachusetts Surface Transportation Authority for which successor contract
5836 negotiations are on-going as of March 1, 2009 will be extended for 6 months after the effective
5837 date of the act, unless mutually agreed otherwise by the employees' exclusive bargaining
5838 representative and the Massachusetts Surface Transportation Authority, to permit the successful
5839 completion of successor negotiations.

5840 (d) Nothing in this section shall be construed to confer upon any employee any right not
5841 held immediately prior to the date of the transfer or to prohibit any reduction of salary or grade,
5842 transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited
5843 before such date.

5844 (e) Notwithstanding any general or special law to the contrary, a Tobin bridge employee
5845 who is employed by the Massachusetts Port Authority on the effective date of this act and who
5846 becomes an employee of the Massachusetts Surface Transportation Authority on July 1, 2010
5847 and who is eligible for group insurance coverage under insurance plans offered by the
5848 Massachusetts Port Authority or who is insured under such a plan, shall have his eligibility and
5849 coverage transferred to the jurisdiction of the group insurance commission effective on July 1,
5850 2010 and such a person shall cease to be eligible or insured under the plans previously offered by
5851 the Massachusetts Port Authority.

5852 (f) The group insurance commission shall provide uninterrupted coverage for group life
5853 and accidental death and dismemberment insurance and group general or blanket insurance
5854 providing hospital, surgical, medical, dental and other health insurance benefits to the extent
5855 authorized under chapter 32A of the general laws; provided, however, that a Tobin bridge
5856 employee who was covered by a collective bargaining agreement on the date of the transfer to

5857 the Massachusetts Surface Transportation Authority shall continue to receive the group insurance
5858 benefits required by his respective collective bargaining agreement until the expiration date of
5859 such agreement. All questions relating to group insurance rights, obligations, costs and payments
5860 shall be determined by the group insurance commission and shall include the manner and method
5861 for the payment of all required premiums applicable to all such coverage.

5862 (g) If the Massachusetts Port Authority has monies in an employees' group insurance
5863 trust fund related to the Tobin bridge employees transferred to the Massachusetts Surface
5864 Transportation Authority, these funds shall be transferred to the group insurance commission
5865 trust fund established in section 9 of said chapter 32A.

5866 (h) Nothing in this section shall be construed to affect the eligibility and coverage of
5867 retired Tobin bridge employees and the surviving spouses of active or retired Tobin bridge
5868 employees who are eligible for group insurance coverage under a plan offered by the
5869 Massachusetts Port Authority or who are insured under a plan offered by the Massachusetts Port
5870 Authority.

5871 (i) On and after the effective date of this act, the Massachusetts Port Authority shall not
5872 hire any employee to work primarily on the Maurice J. Tobin Memorial Bridge in the city of
5873 Chelsea.

5874 **SECTION 65.** (a) On July 1, 2011, each employee of the Massachusetts Bay
5875 Transportation Authority shall become an employee of the Authority.

5876 (b) All officers and employees of the Massachusetts Bay Transportation Authority
5877 transferred to the service of the Authority shall be transferred without impairment of seniority,
5878 civil service status, retirement or other statutory rights of employees; without reduction in
5879 compensation or salary grade, notwithstanding any change in job titles or duties; without loss of

5880 accrued rights to holidays, sick leave, vacation and benefits; and without change in union
5881 representation, except as otherwise provided in this chapter. Terms of service of employees of
5882 the Massachusetts Bay Transportation Authority shall not be deemed to be interrupted by virtue
5883 of transfer to the Authority.

5884 (c) Rights and obligations under collective bargaining agreements with respect to
5885 employees transferred from the Massachusetts Bay Transportation Authority, except to the extent
5886 expressly inconsistent with this chapter, shall be assumed by and imposed upon the Authority.
5887 Except to the extent expressly inconsistent with this chapter, any collective bargaining agreement
5888 in effect for such transferred employees immediately before the transfer date shall continue as if
5889 the employees had not been so transferred, until the expiration date of such collective bargaining
5890 agreement. The Authority shall negotiate in good faith pursuant to the provisions of chapter
5891 150E of the General Laws with respect to wages, hours and other terms and conditions of
5892 employment to become effective as of the expiration date of such collective bargaining
5893 agreement. Any expired collective bargaining agreement covering employees transferred to the
5894 Massachusetts Surface Transportation Authority for which successor contract negotiations are
5895 on-going as of March 1, 2009 will be extended for 6 months after the effective date of the act,
5896 unless mutually agreed otherwise by the employees' exclusive bargaining representative and the
5897 Massachusetts Surface Transportation Authority, to permit the successful completion of
5898 successor negotiations.

5899 (d) Nothing in this section shall be construed to confer upon any employee any right not
5900 held immediately prior to the date of said transfer, or to prohibit any reduction of salary or grade,
5901 transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior
5902 to such date.

5903 (e) Prior to July 1, 2011, the Massachusetts Bay Transportation Authority shall be subject
5904 to regulations adopted by the secretary of administration and finance creating a process by which
5905 to evaluate the Massachusetts Bay Transportation Authority's future cost of providing health
5906 benefits to its active employees.

5907 Within 30 days after the regulations have been adopted, and in subsequent years as
5908 determined by the regulations, the group insurance commission and the Massachusetts Bay
5909 Transportation Authority shall submit to the secretary all documentation necessary for this
5910 evaluation. The evaluation shall be based on an actuarial analysis that compares: (1) the
5911 Massachusetts Bay Transportation Authority's projected total net cost of providing health
5912 benefits to its active employees, including both administrative costs and the employer premium
5913 contributions, to (2) the projected total net cost of providing health benefits, including both
5914 administrative costs and the employer premium contributions, to the same member group under
5915 the group insurance commission.

5916 In estimating the total net cost for health benefits provided under the Massachusetts Bay
5917 Transportation Authority, the secretary shall assume that the benefit level and premium
5918 contribution ratio are consistent with the most current collective bargaining agreement. In
5919 estimating the total net cost for health benefits provided under the group insurance commission,
5920 the secretary shall assume that the benefit level and premium contribution ratio are consistent
5921 with other active state employees covered through the group insurance commission.

5922 If the secretary determines that the total projected net cost of providing health benefits
5923 under the Massachusetts Bay Transportation Authority exceeds the total projected net cost of
5924 providing health benefits under the group insurance commission by more than a percentage
5925 determined in the regulations, the secretary shall notify the Massachusetts Bay Transportation

5926 Authority that on December 31, 2011 the active employees covered by the Massachusetts Bay
5927 Transportation Authority shall have their eligibility and health care coverage and any other
5928 future eligible post-retirement benefits transferred to the group insurance commission. In this
5929 event, all questions relating to group insurance rights, obligations, costs and payments shall be
5930 determined by the group insurance commission and shall include the manner and method for the
5931 payment of all required premiums applicable to all such coverage. Benefit levels and premium
5932 contribution ratios for transferred employees shall be consistent with other state employees
5933 covered through the group insurance commission.

5934 The secretary may contract with another entity with the requisite objective financial and
5935 actuarial expertise to assist the secretary in conducting this evaluation.

5936 (f) Nothing in this section shall be construed to affect the eligibility, coverage, and
5937 premium contribution ratios of retired employees of the Massachusetts Bay Transportation
5938 Authority and the surviving spouses of active or retired employees of the Massachusetts Bay
5939 Transportation Authority who are eligible for group insurance coverage under a plan offered by
5940 the Massachusetts Bay Transportation Authority or who are insured under a plan offered by the
5941 Massachusetts Bay Transportation Authority.

5942 **SECTION 66.** Notwithstanding any other general or special law to the contrary, the
5943 Massachusetts Surface Transportation Authority may enter into contracts to create and permit
5944 employee contributions to individual retirement accounts for employees of the Authority
5945 pursuant to sections 64A to 64C, inclusive, of chapter 29 of the General Laws.

5946 **SECTION 67.** Notwithstanding any general or special law to the contrary, the
5947 Massachusetts Turnpike Authority shall not enter into any contract to employ a person as an

5948 employee or officer for a fixed term of more than 1 year, nor shall it extend any employment
5949 contract for a term of more than 1 year.

5950 **SECTION 68.** Notwithstanding section 2 of chapter 81A of the General Laws or of any
5951 other general or special law to the contrary, the Massachusetts Bay Transportation Authority
5952 shall not enter into any contract to employ a person as an employee or officer for a fixed term of
5953 more than 1 year, nor shall it extend any employment contract for a term of more than 1 year.

5954 **SECTION 69.** Notwithstanding any general or special law to the contrary, the
5955 Massachusetts Turnpike Authority shall not extend the term of any collective bargaining
5956 agreement to a date after December 31, 2010 and shall not enter into any collective bargaining
5957 agreement with an expiration date after December 31, 2010.

5958 **SECTION 70.** Notwithstanding any general or special law to the contrary, on and after
5959 the effective date of this act, the Massachusetts Bay Transportation Authority shall not extend
5960 the term of any collective bargaining agreement to a date after December 31, 2011, and shall not
5961 enter into any collective bargaining agreement with an expiration date after December 31, 2011.

5962 Any collective bargaining agreement necessary solely to conform the requirements of the
5963 Massachusetts Bay Transportation Authority retirement system to the requirements of this
5964 legislation shall not be subject to the restriction set forth in the preceding sentence.

5965 **SECTION 71.** (a) Notwithstanding any general or special law to the contrary, employees
5966 of the Massachusetts Turnpike Authority who: (i) are employed by or have retired from the
5967 Massachusetts Turnpike Authority on or before the effective date of this act; or (ii) are inactive
5968 members of the Massachusetts Turnpike Authority's retirement system shall be members of the
5969 Massachusetts Turnpike Authority's retirement system. The Massachusetts Turnpike
5970 Authority's retirement system shall pay the cost of benefits to the employees and retirees

5971 identified in this subsection and their survivors. The Massachusetts Turnpike Authority's
5972 retirement system shall be responsible for the accrued pension liability attributable to the service
5973 of such employees, retirees and inactive members.

5974 (b) Notwithstanding paragraph (c) of subsection (8) of the section 3 of Chapter 32 of
5975 General Laws or any other general or special law to the contrary, employees of the
5976 Massachusetts Turnpike Authority who are hired by the Massachusetts Turnpike Authority after
5977 the effective date of this act shall become members of the state retirement system. The state
5978 retirement system shall be responsible for all liability attributable to the service of such
5979 employees. The liabilities attributable to the service of such employees shall be recoverable by
5980 the commonwealth pursuant to said subdivision 8 of said section 3 of said chapter 32.

5981 Employees hired by the Massachusetts Turnpike Authority after the effective date of this act
5982 shall not be members of the Massachusetts Turnpike Authority's retirement system.

5983 **SECTION 72.** (a) Notwithstanding any general or special law to the contrary, employees
5984 of the Massachusetts Bay Transportation Authority who: (i) are employed by, or had retired
5985 from, the Massachusetts Bay Transportation Authority on or before the effective date of this act
5986 or (ii) are inactive members of the Massachusetts Bay Transportation Authority's retirement
5987 system shall be members of the Massachusetts Bay Transportation Authority's retirement
5988 system. The Massachusetts Bay Transportation Authority's retirement system shall pay the cost
5989 of benefits to such the employees and retirees identified in this subsection and their survivors.
5990 The Massachusetts Bay Transportation Authority's retirement system shall be responsible for the
5991 accrued pension liability attributable to the service of such employees, retirees and inactive
5992 members.

5993 (b)Notwithstanding any general or special law to the contrary, the Massachusetts Bay
5994 Transportation Authority or any successor authority, shall enter into an agreement to establish or
5995 amend existing retirement or pension benefits only if any employee hired after the effective date
5996 of the agreement or amendment may not receive a retirement or pension benefit prior to the
5997 completion of 25 years of credited pension service and attained 55 years of age. The
5998 Massachusetts Bay Transportation Authority is not prohibited by this section from permitting
5999 retirement prior to attaining age 55, provided however, that either: (i) the employee is entitled to
6000 a disability pension under the Massachusetts Bay Transportation Authority retirement system; or
6001 (ii) the employee has earned the maximum percentage allowed under the retirement formula of
6002 the Massachusetts Bay Transportation Authority retirement system and that the employee waives
6003 the ability to collect a pension and retirement benefit due until attaining age 55.

6004 **SECTION 72A.** Notwithstanding any general or special law to the contrary, members of
6005 the Massachusetts Bay Transportation Authority police retirement system pursuant sections 1 to
6006 28, inclusive, of chapter 32 of the General Laws, who (i) are employed by, or have retired from,
6007 the Massachusetts Bay Transportation Authority police retirement system on or before the
6008 effective date of this act; or (ii) are inactive members of the Massachusetts Bay Transportation
6009 Authority's police retirement system, shall be members of the Massachusetts Bay Transportation
6010 Authority's police retirement system. The Massachusetts Bay Transportation Authority's police
6011 retirement system shall pay the cost of benefits to the employees and retirees identified in this
6012 section and their survivors. The Massachusetts Bay Transportation Authority's police retirement
6013 system shall be responsible for the accrued pension liability attributable to the service of such
6014 employees, retirees and inactive members.

6015 **SECTION 73.** (a) Notwithstanding the provisions of any general or special law to the
6016 contrary, employees of the Massachusetts Port Authority who: (i) on the effective date of this
6017 act, are employed to work primarily on the Maurice J. Tobin Memorial Bridge in the city of
6018 Chelsea, or who had been so employed and have retired from the Massachusetts Port Authority
6019 on or before the effective date of this act; or (ii) are or have been employed to work primarily on
6020 said Maurice J. Tobin Memorial Bridge in the city of Chelsea, and are inactive members of the
6021 Massachusetts Port Authority's retirement system shall be members of the Massachusetts Port
6022 Authority's retirement system. The Massachusetts Port Authority's retirement system shall pay
6023 the cost of benefits to such the employees and retirees identified in this section and their
6024 survivors. The Massachusetts Port Authority's retirement system shall be responsible for the
6025 accrued pension liability attributable to the service of such employees, retirees and inactive
6026 members.

6027 (b) Notwithstanding paragraph (c) of subdivision 8 of section 3 of chapter 32 of the
6028 General Laws and any other general or special law to the contrary, employees of the
6029 Massachusetts Port Authority who are hired by the Massachusetts Port Authority to work
6030 primarily on the Maurice J. Tobin Memorial Bridge in the city of Chelsea after the effective date
6031 of this act shall become members of the state retirement system and notwithstanding the any
6032 general or special law to the contrary including, but not limited to, , the system shall be
6033 responsible for all liability attributable to the service of such employees. The liabilities
6034 attributable to the service of such employees shall be recoverable by the commonwealth pursuant
6035 to the terms of said subdivision 8 of said section 3 of said chapter 32. Employees hired by the
6036 Massachusetts Port Authority after the effective date of this act shall not be members of the
6037 Massachusetts Port Authority's retirement system.

6038 (c) Nothing in this section shall be considered to decrease or abridge the annuities,
6039 pensions, retirement allowances, refunds or accumulated total deductions or any right or benefit
6040 to which an employee was entitled immediately before the effective date of this act.

6041 (d) Except as otherwise expressly provided by this section, employees of said authority
6042 shall become members of the state retirement system.

6043 **SECTION 74.** (a) When all payments due on account of the turnpike and the
6044 metropolitan highway system, both as defined in section 3 of chapter 81B of the General Laws,
6045 shall have been made, and when all bonds issued under chapter 81A of the General Laws and the
6046 interest thereon shall have been paid or a sufficient amount of the payment of all such bonds and
6047 the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the
6048 bondholders, and contributions shall have been made to the several funds of the Massachusetts
6049 Turnpike Authority employees' retirement system established in sections 1 to 28, inclusive, of
6050 chapter 32 of the General Laws such as are sufficient, in the opinion of the actuary, as defined in
6051 said section 1 of said chapter 32, to provide for the payment of all amounts payable by the
6052 system after that date with respect to all persons then receiving allowances from the
6053 Massachusetts Turnpike Authority employees' retirement system and with respect to all persons
6054 who are then employees, as defined in said section 1 of said chapter 32, of the Massachusetts
6055 Turnpike Authority, whether or not any such amount is or becomes payable to any such person
6056 or the spouse or other beneficiary of any such person, such opinion to be based upon the
6057 assumption, among others, that such persons who are then employees are then or thereafter
6058 become entitled to receive retirement allowances in the amounts then provided by sections 5, 6
6059 and 7 of said chapter 32 on the basis of the regular compensation received by, and the years of
6060 creditable service of, such persons at such date, all projects then under the control of the

6061 Massachusetts Turnpike Authority shall be operated and maintained by the division of roads and
6062 bridges in the Massachusetts Surface Transportation Authority.

6063 (b) Upon the transfer provided in subsection (a), the members of the Massachusetts
6064 Turnpike Authority employees' retirement system on the effective date of the dissolution of the
6065 authority who do not then transfer to or enter service in a governmental unit in which a
6066 contributory retirement system established under sections 1 to 28, inclusive, of said chapter 32,
6067 or under corresponding provisions of earlier laws or of any special law, shall continue to be
6068 members of the Massachusetts Turnpike Authority employees' retirement system and shall then
6069 be entitled to apply for and receive retirement allowances from such system in the amounts, upon
6070 the terms, subject to the conditions and with all of the related rights provided by and under
6071 sections 6, 7, 10 and 12 of said chapter 32.

6072 (c) Effective upon the date of dissolution of the Massachusetts Turnpike Authority: (1)
6073 the Massachusetts Turnpike Authority employees' retirement system shall continue under
6074 sections 1 to 28, inclusive of said chapter 32; (2) the management of the Massachusetts Turnpike
6075 Authority employees' retirement system shall be transferred to the state board of retirement
6076 provided for in section 18 of chapter 10 of the General Laws which board shall have with respect
6077 thereto the general powers and duties set forth in subdivision (5) of section 20 of chapter 32 of
6078 the General Laws; (3) all data, files, papers and records and other materials of the retirement
6079 board provided for in paragraph (b) of subdivision (4 1/2) of said section 20 of said chapter 32
6080 shall be transferred to and held by the state board of retirement; (4) the funds of the
6081 Massachusetts Turnpike Authority employees' retirement system in the custody of the secretary-
6082 treasurer of said Authority shall be transferred to the state treasurer who shall be the custodian of
6083 such funds to be held by him for the exclusive benefit and use of the members of the

6084 Massachusetts Turnpike Authority employees' retirement system and their beneficiaries; and (5)
6085 the retirement board provided for in said paragraph (b) of said subdivision (4 1/2) of said section
6086 20 of said chapter 32 shall be abolished; provided, however, that the members and officers
6087 thereof shall continue to be authorized to do all such things and take all such action as may be
6088 necessary or desirable to be done or taken by them to effectuate the transfers to be made pursuant
6089 to this section.

6090 (d) Effective upon the date of dissolution of the Massachusetts Turnpike Authority or a
6091 default in its obligations under said chapter 32, the payment of all annuities, pensions, retirement
6092 allowances and refunds of accumulated total deductions and of any other benefits granted under
6093 the provisions of sections 1 to 28, inclusive, of said chapter 32 shall obligations of the
6094 commonwealth in the case of any such payments from funds of the Massachusetts Turnpike
6095 Authority employees' retirement system.

6096 **NO SECTION 75.**

6097 **SECTION 75A.** In order to promote transparency, accountability and equity, the
6098 executive office of transportation and public works, in coordination with the Massachusetts
6099 Surface Transportation Authority, shall not later than October 31, submit an annual revenue and
6100 expenditure report, not later than October 31, to the house and senate chairs of the joint
6101 committee on transportation and the chairpersons of the house and senate committees on ways
6102 and means. The report also shall be posted on the websites for the executive office of
6103 transportation and public works and the Massachusetts Surface Transportation Authority.

6104 The annual revenue and expenditure report shall provide a full accounting of the
6105 operational and capital revenues received and expended by the executive office of transportation

6106 and public works, the registry of motor vehicles, the Massachusetts aeronautics commission and
6107 the Massachusetts Surface Transportation Authority, including the Division of Roads and
6108 Bridges and the Division of Public Transit, during the preceding fiscal year ending the preceding
6109 June 30, including fiscal activity during the accounts payable period for that fiscal year.

6110 The report shall include, among other information necessary to provide a full accounting,
6111 the following information relative to revenues: revenues raised by the various state motor fuels
6112 taxes, broken down by category, such as gasoline, special fuels and aviation fuel; revenues raised
6113 through fares, which shall be broken down to reflect fares collected for commuter rail, rapid
6114 transit, bus service, water transportation, regional transit service and any other similar fares;
6115 tolls, broken down by those collected for travel on the metropolitan highway system, for travel
6116 on the turnpike and any other similar tolls; fees collected by the registry of motor vehicles, which
6117 shall be broken down by each specific fee; revenues raised by the portion of the sales tax
6118 credited to the Surface Transportation trust fund; assessments deposited into the Surface
6119 Transportation Trust Fund, broken down by source; federal funds received from the Federal
6120 Highway Administration, funds received from the Federal Transit Administration and any other
6121 similar federal funds; and any other revenues received by the executive office of transportation
6122 and public works, the registry of motor vehicles, the Massachusetts aeronautics commission and
6123 the Massachusetts Surface Transportation Authority and any of its divisions.

6124 The report shall also include, amongst other information necessary to provide a full
6125 accounting, the following information relative to the expenditures: expenditures by the executive
6126 office of transportation and public works, including expenditures for operations, capital planning
6127 and rail; expenditures by the registry of motor vehicles, including operations and capital
6128 expenditures; expenditures by the Massachusetts aeronautics commission, including operations

6129 and capital expenditures; and expenditures by the Massachusetts Surface Transportation
6130 Authority and its divisions of roads and bridges and division of public transit, including
6131 operating and capital expenditures. In addition to the above-referenced expenditures, the report
6132 shall also detail the overall expenditures for commuter rail, rapid transit, water transportation,;
6133 regional transit services; the state-wide road and bridge program, the chapter 90 program, which
6134 funds town and county ways; the accelerated bridge program, and any other capital programs
6135 administered by the executive office of transportation and public works or the Massachusetts
6136 Surface Transportation Authority.

6137 The report shall include an accounting of debt of the Massachusetts Surface
6138 Transportation Authority, including those projects and programs for which the debt was incurred,
6139 and what revenues have been pledged to repay that debt.

6140 **SECTION 76.** This act provides additional, alternative and complete methods for
6141 accomplishing the purpose of this act and shall be construed to be supplemental and additional
6142 to, and not in derogation of any powers conferred upon the Massachusetts Surface Transportation
6143 Authority and others by law; provided, however, that insofar as the provisions of this act are
6144 inconsistent with any general or special law, administrative order or regulation, the provisions of
6145 this act shall be controlling.

6146 **SECTION 77.** The secretary of transportation, in consultation with the secretary of the
6147 executive office of labor and workforce development and director of workforce development
6148 shall institute a workforce retraining initiative to mitigate potential impacts to employees
6149 displaced by the organizational efficiencies and agency restructuring directed by this act. The
6150 secretary of transportation and the secretary of labor and workforce development, or their
6151 designees, shall establish a committee to coordinate the workforce retraining initiative and adopt

6152 policies that identify and categorize displaced employees, while advancing workforce
6153 development opportunities for those displaced employees whose lack of skills may prevent or
6154 limit their successful employment. That committee shall include representatives from labor
6155 unions likely to be affected by this act, representatives from the business industry, and
6156 representatives from the human resources division of the executive office for administration and
6157 finance. The committee shall outline and recommend various retraining programs available to
6158 employees identified as being displaced by this act, establish eligibility criteria and base skills
6159 requirements for the administration of these programs, promote program accountability and job
6160 placement through the division of career services and one stop career centers, identify available
6161 professional development and technical assistance needs and resources, and encourage economic
6162 diversification and industry growth through technology-focused training.

6163 The director of workforce development together with agencies and other entities that
6164 provide employment or training services in the commonwealth, shall utilize existing state and
6165 federal grant funding, including funding for workforce retraining programs at existing
6166 institutions, community colleges, labor organizations, and administrative entities to implement
6167 the workforce retraining initiative. Where applicable, the director may utilize any funds received
6168 pursuant to the federal Workforce Investment Act of 1998, 112 Stat. 936, 29 U.S.C. § 2801, as
6169 amended, to provide additional funding for the workforce retraining initiative.

6170 In the event an employee displaced by the operation of this act does not have severance
6171 or other termination benefits, the department of transportation shall pay, for a period not to
6172 exceed 2 months following the date of termination of employment, the then current salary for
6173 that employee.

6174 This section shall expire 18 months after the effective date of this act.

6175 **SECTION 77A.** Any order, rule, or regulation duly promulgated, or any license, permit,
6176 certificate or approval duly granted, by or on behalf of the Massachusetts Turnpike Authority
6177 shall continue in full force and effect to the extent consistent with this act and the laws of the
6178 commonwealth, and, from and after the date of dissolution of that authority, shall continue to be
6179 enforced, until superseded, revised, rescinded or cancelled by the chief operating officer of the
6180 Massachusetts Surface Transportation Authority, with the approval of the secretary of
6181 transportation.

6182 **SECTION 77B.** All uncommitted and unexpended funds and authorizations, which have
6183 been appropriated from time to time to the executive office of transportation and public works,
6184 including any agency and authority within said executive office, including but not limited to,
6185 funds authorized in chapter 15 of the acts of 1988, chapter 33 of the acts of 1991, chapter 102 of
6186 the acts of 1994, chapter 273 of the acts of 1994, chapter 28 of the acts of 1996, chapter 113 of
6187 the acts of 1996, chapter 205 of the acts of 1996, chapter 11 of the acts of 1997, chapter 55 of the
6188 acts of 1999, chapter 87 of the acts of 2000, chapter 235 of the acts of 2000, chapter 246 of the
6189 acts of 2002, chapter 40 of the acts of 2003, chapter 291 of the acts of 2004, chapter 27 of the
6190 acts of 2007, chapter 86 of the acts of 2008, chapter 233 of the acts of 2008, and chapter 303 of
6191 the acts of 2008, shall be transferred to the Massachusetts Surface Transportation Authority for
6192 use by the authority or any of its divisions for purposes consistent with such authorizations.

6193 **SECTION 77C.** The human resources division, in consultation with the secretary of
6194 transportation and the Massachusetts Surface Transportation Authority, shall develop and
6195 implement a revised salary structure for positions within the commonwealth requiring licensure
6196 as a professional engineer. That salary structure shall be competitive with salaries earned in the

6197 private industry for similar employment requiring licensure as a professional engineer and shall
6198 be collectively bargained once implemented.

6199 **SECTION 77D.** The Massachusetts Surface Transportation Authority shall, in
6200 consultation with the Federal Highway Administration, inventory the requirements for, and
6201 assume the responsibilities of, rehabilitating and reconstructing the turnpike and metropolitan
6202 highway system in compliance with Title 23 of the United States Code. The inventory shall
6203 include operational and safety considerations associated with direct access to the mainline
6204 roadway from: (i) maintenance, administration, and state police facilities, (ii) emergency median
6205 crossovers, and (iii) adjacent local roadways and service plazas.

6206 **SECTION 77E.** Notwithstanding any general or special law to the contrary, the division
6207 of roads and bridges of the Massachusetts Surface Transportation Authority shall enter into an
6208 agreement with the Massachusetts Bay Transportation Authority to assume all bridge inspection
6209 responsibilities for any bridges owned and operated by the Massachusetts Bay Transportation
6210 Authority over the roads of the commonwealth.

6211 **SECTION 77F.** Section 77E of this act shall expire on July 1, 2011.

6212 **SECTION 77G.** The healthy transportation compact established by subsection (g) of
6213 section 19 of chapter 6A of the General Laws shall complete, in consultation with the department
6214 of public health, not later than September 30, 2010, a comprehensive baseline study of the health
6215 effects of particulate air pollution from surface transportation in Massachusetts. The study shall
6216 focus on understanding the health impacts from fine and ultrafine particulate matter upon
6217 populations that are located within 500 feet of any roadway with 50,000 or more motor vehicle
6218 trips per day, or any rail line regularly used by diesel locomotives as reported between January 1,
6219 2007 and January 1, 2008; provided, however, that the study may include, but shall not be

6220 limited to, examining respiratory and cardiovascular disease and cancer incidence that may be
6221 affected by exposure to traffic-related particles. The following departments and agencies shall
6222 provide information relevant to this study: the department of environmental protection, the
6223 department of public health, and the central transportation planning staff of the Boston
6224 metropolitan planning organization.

6225

6226 **SECTION 77H.** The Massachusetts Surface Transportation Authority shall develop and
6227 implement the integrated management system required under section 5 of chapter 81B of the
6228 General Laws not later than January 1, 2012.

6229 **SECTION 77I.** The initial progress report required under subsection (d) of section 8 of
6230 chapter 81B of the General Laws shall be filed by the Massachusetts Surface Transportation
6231 Authority on December 15, 2009.

6232 **SECTION 77J.** The Massachusetts Surface Transportation Authority shall file the initial
6233 report required by subsection (a) of section 29 of chapter 81B of the General Laws shall apply to
6234 the fiscal year of the said authority commencing July 1, 2009.

6235 **SECTION 77K.** The parkway advisory board established by section 60 of chapter 81C
6236 of the General Laws shall convene its first meeting within 60 days after the transfer of parkways
6237 and bridges from the department of conservation and recreation to the division of roads and
6238 bridges of the Massachusetts surface transportation authority

6239 **SECTION 77L.** The members of the special public-private infrastructure oversight
6240 commission established in section 70 of chapter 7 of the General Laws, shall be appointed not
6241 later than August 30, 2009.

6242 **SECTION 78.** Section 67 is hereby repealed.

6243 **SECTION 79.** Section 68 is hereby repealed.

6244 **SECTION 80.** Section 69 is hereby repealed.

6245 **SECTION 81.** Section 70 is hereby repealed.

6246 **SECTION 82.** Sections 1, 1A, 2, 2A, 4A, 5, 8, 10 through 12, inclusive, 14 through 18,
6247 inclusive, 20, 30 through 40, inclusive, 42A, 42B, 42C, 45, 46, 54, 55, 59, 62, 63, 63A, 77, 77B,
6248 77C, 77D, 77E, 77G, 77H, 77I, 77J, 77K and 77L shall take effect on July 1, 2009.

6249 **SECTION 83.** Section 3, 9, 19, 21, 23, 25, 27, 43, 56, 57, 60, 64, 77A, 78 and 80 shall
6250 take effect on July 1, 2010.

6251 **SECTION 84.** Sections 4, 6, 7, 13, 22, 24, 26, 28, 29, 42, 58, 61, 65, 79 and 81 shall
6252 take effect on July 1, 2011.

6253 **SECTION 85.** Except as otherwise provided for in this act, this act shall take effect
6254 upon its passage.