

Senate, No. 2024, printed as amended

[Senate, March 25, 2009 –Text of the Senate Bill modernizing the transportation systems of the Commonwealth, being the text of Senate, No. 2023, printed as amended.]

**The Commonwealth of Massachusetts**

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In the Year Two Thousand and Nine

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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 office of  
81 environmental affairs and the executive office of economic affairs in the development of said  
82 plan. Said plan shall provide for meeting not less than 5 per cent annually of the estimated  
83 construction, reconstruction and repair needs of public highways and bridges of the  
84 commonwealth, its counties, cities and towns, estimated as follows. Before the secretary  
85 publishes or updates said plan, the Massachusetts Surface Transportation Authority shall  
86 determine and certify to the secretary its estimate of the total value of all construction,  
87 reconstruction and repair needs of the commonwealth's highway and bridge infrastructure. The  
88 total value estimate shall be based on satisfying current safety and maintenance standards of the  
89 Federal Highway Administration and the American Association of State Highway and  
90 Transportation Officials. The estimate shall be substantiated by documented objective  
91 engineering estimates which shall be made available for 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 work cooperatively to adopt best practices to increase efficiency to achieve  
99 positive health outcomes through the coordination of land use, transportation and public health

100 policy. The compact shall consist of the secretary of transportation, the secretary of health and  
101 human services, the secretary of energy and environmental affairs, the administrator of roads and  
102 bridges, the administrator of public transit and the commissioner of public health, or their  
103 designees.

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

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

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

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

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

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

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

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

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

131 (viii) explore opportunities and encourage the use of public-private partnerships  
132 with private and non-profit institutions;

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

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

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

140

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

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

160 The ongoing schedule of maintenance shall be designed to prevent the deferral of routine  
161 and scheduled maintenance, and shall be undertaken prior to investing in new facilities or service  
162 expansion, unless such investment is required by law or can be demonstrated to be cost-effective,  
163 environmentally-beneficial or produces quantifiable savings.



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

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

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

184           The capital investment program shall be based on a rolling 5-year plan, updated annually,  
185 that establishes the priorities and cash flow needs of the capital borrowing program of the  
186 authority. The 5-year plan shall be accompanied by a timeline for the implementation of the

187 projects and priorities established therein and comprehensive financial estimates of the capital  
188 and operating costs and revenues associated with each project established by the plan.

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

192 The authority shall be responsible for the architectural engineering design and the  
193 construction of mass transportation facilities and the operation thereof.

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

206 (4) Prior to the final approval of a transportation infrastructure project, including mass  
207 transit expansion or the construction of new roadways with a projected capital cost of more than  
208 \$25,000,000, and prior to expending any funds for the planning, design and construction of any  
209 such project, the secretary of transportation shall request that the administrator of the appropriate

210 division of the Massachusetts Surface Transportation Authority, in consultation with the chief  
211 executive officer of the authority, prepare a fiscal analysis, including life cycle costs,  
212 demonstrating that sufficient revenues exist or will be generated to operate and maintain in good  
213 repair a new transportation asset. This analysis shall be also be submitted to the advisory boards  
214 each of the respective divisions of the Massachusetts Surface Transportation Authority.

215           If a project for the expansion of mass transit has a projected total cost in excess of  
216 \$200,000,000, the secretary of transportation shall submit the analysis to the secretary of  
217 administration and finance for a determination as to which costs, if any, will become part of the  
218 commonwealth's plan of capital expenditures.

219           (5) The long-range transportation plan developed by the secretary of transportation under  
220 this section shall ensure that the commonwealth's total 5-year capital expenditures for road and  
221 bridge projects across all capital programs for such projects managed by the executive office,  
222 excluding competitive grant programs, shall be equitable across the districts established in  
223 section 3 of chapter 57. For the purposes of this paragraph, "equitable" shall mean not less than  
224 75 per cent of the annual percentage of the total statewide collections of motor vehicle fuel tax  
225 generated by each such district; provided, however, that the minimum percentage shall be 85 per  
226 cent for districts in which the revenue generated by registered vehicles that have a Fast Lane  
227 transponder exceeds the average revenue generated by registered vehicles that have a Fast Lane  
228 transponder in districts statewide.

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

232           Section 19A. (a) The executive office shall take such steps as may be necessary to  
233 provide for the development, promotion, preservation and improvement of an adequate, safe,  
234 efficient and convenient rail system for the movement of passengers. In carrying out the  
235 purposes of this section, the executive office shall seek to encourage and develop rail services  
236 which promote and maintain the economic well-being of citizens and which preserve the  
237 environment and the natural resources.

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

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

255 for the purpose of property management and maintenance on railroad properties owned by the  
256 executive office on behalf of the commonwealth.

257 (c) The executive office or the Massachusetts Surface Transportation Authority, acting  
258 pursuant to clause (vi) of subsection (d), may enter into contracts or agreements to provide  
259 financial assistance, from such funds as may be provided for such purpose, for all or part of the  
260 costs of maintaining rail rights-of-way or related facilities or equipment, or operating rail  
261 services in the commonwealth.

262 Such contracts or agreements shall be subject to the following limitations: (i) in  
263 determining whether such assistance is necessary or appropriate under this chapter with respect  
264 to an operating agreement with a private transportation company, and in determining the terms  
265 and conditions under which such assistance shall be given, the secretary shall review the  
266 transportation operations of such company and its affiliates and shall make a finding that such  
267 assistance will not permit the applicant company to make more than a reasonable return overall;  
268 provided, however, that the criteria for reasonable return overall shall be established by the  
269 secretary pursuant to regulations promulgated in accordance with chapter 30A; and

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

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

275 (i) to serve as the principal source of rail transportation planning for the commonwealth,  
276 and may conduct research, surveys, demonstration projects or studies in cooperation with  
277 federal, state, regional or local agencies or appropriate private parties for such purpose; provided,

278 however, the secretary shall be responsible for the preparation of continuing, comprehensive and  
279 coordinated rail transportation proposals, plans, programs and projects; provided further, that the  
280 secretary shall submit the proposals, plans, programs and projects for review or consideration by  
281 other governmental agencies as may be required by law or deemed appropriate by the secretary  
282 and shall prepare such plans and programs in coordination with related land use and other  
283 development plans, so far as practicable;

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

295 (iii) to make and enter into any contracts or agreements necessary or incidental to the  
296 performance and execution of the powers and duties of the executive office under this chapter or  
297 any general or special law provided, however that any party, public or private, including, without  
298 limitation, federal, state and local agencies, authorities or political subdivisions of the  
299 commonwealth, or private corporations or companies, may enter into any such contract or  
300 agreement, subject to applicable laws; provided further, that any such contract or agreement, if

301 made with the Massachusetts Surface Transportation Authority, may include provision for the  
302 transfer to said authority of appropriations or other funds made available to the executive office  
303 under subsections (b) and (c) for the purpose of carrying out such contract or agreement; and  
304 provided further, that; any contract or agreement made under this chapter, including, without  
305 limitation, contracts or agreements entered into by the executive office of administration and  
306 finance pursuant to said subsection (c), shall include such provisions, terms or conditions as the  
307 secretary of transportation may deem necessary or appropriate;

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

311 (v) to exercise all powers and do all acts or things necessary to carry out this section; and

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

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

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

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

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

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

344 Section 19B. The secretary shall apply for, accept and expend, subject to appropriation,  
345 on behalf of the commonwealth, any gift, loan or grant-in-aid from the federal government, or  
346 any agency or instrumentality thereof, for demonstration projects and programs as may become



347 available to the commonwealth for the purpose of energy conservation for improved  
348 transportation management systems or for improved transportation management systems.

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

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

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

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

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

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

370           **SECTION 5.** Chapter 7 of the General Laws is hereby amended by adding the following  
371 14 sections:-

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

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

389           “Authority”, the Massachusetts Surface Transportation Authority.

390           “Construction”, the process of building, altering, repairing, improving or demolishing  
391 any transportation facility, including any structure, building or other improvements of any kind  
392 to real property. “Construction” shall not include the routine operation, routine repair or routine

393 maintenance of any existing transportation facility, including structures, buildings or real  
394 property.

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

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

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

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

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

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

412 “Design-build-operate-maintain”, a project delivery method in which the authority enters  
413 into a single contract for design, construction, maintenance and operation of a transportation  
414 facility over a contractually defined period. All or a portion of the funds required to pay for the  
415 services provided by the contractor during the contract period shall either be appropriated by the

416 commonwealth or by the authority prior to award of the contract or secured by the  
417 commonwealth or by the authority through fare, toll or user charges.

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

420 (1) required features, functions, characteristics, qualities and properties required by the  
421 authority;

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

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

427 “Independent peer reviewer services”, additional architectural and engineering services  
428 provided to the authority in design-build-operate-maintain or design-build-finance-operate-  
429 maintain procurements to confirm that the key elements of the professional engineering and  
430 architectural design provided by the contractor are in conformance with the applicable standard  
431 of care.

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

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

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

442           “Operator”, a private entity that has entered into a public-private agreement to provide  
443 design-build-finance-operate-maintain or design-build-operate-maintain services under sections  
444 57 to 70, inclusive.

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

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

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

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

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

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

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

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

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

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

484 applicable requirements of federal, state and local law, including section 26 to 27H, inclusive, of  
485 chapter 149; provided further, that any such contract shall not be subject to the competitive bid  
486 requirements set forth in sections 38A½ to 38O, inclusive, section 39M of chapter 30, or sections  
487 44A to 44M, inclusive, of chapter 149; and provided further, that each such contract shall be  
488 awarded pursuant to chapter 30B except for clause (3) of paragraph (b) and paragraphs (e) and  
489 (g) of section 6, clause (4) of section 13 and section 16 of said chapter 30B.

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

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

495 (A) shall include design requirements;

496 (B) shall solicit proposal development documents; and

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

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

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

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

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

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

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

514 (B) Each request for proposals for design-build-operate-maintain and design-build-  
515 finance-operate-maintain:

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

616 (26) the operator's plans to obtain a labor and material payment bond, in accordance  
617 with section 29 of chapter 149 of the General Laws, covering all construction, reconstruction, or  
618 maintenance, including capital maintenance, work of the project and require the payment of  
619 prevailing wages for labor performed on the project in accordance with sections 26 to 27H,  
620 inclusive, of said chapter 149;

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

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

627 (29) other terms and conditions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

665 (2) Any bonds, debt, other securities or other financing issued for the purposes of sections  
666 57 to 70, inclusive, shall not be considered a debt of the commonwealth or any political  
667 subdivision thereof state or a pledge of the faith and credit of the state or any political  
668 subdivision of the commonwealth.

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

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

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

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

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

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

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

686 (1) a transportation facility; and

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

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

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

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

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

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

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

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



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

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

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

714 The commission shall have 7 members, none of whom shall be employees of the  
715 executive branch or members or employees of the legislature for a period of at least 2 years prior  
716 to his appointment. The commission shall include: 4 members to be appointed by the governor, 1  
717 of whom shall be a representative from the Massachusetts Organization of State Engineers and  
718 Scientists and 3 of whom shall reside in different geographic regions of the commonwealth, for  
719 terms of 2 years; 1 member to be appointed by the president of the senate for a term of 2 years; 1  
720 member to be appointed by the speaker of the house of representatives for a term of 2 years; 1  
721 member to be appointed by the state treasurer, but who shall not be an employee thereof, for a  
722 term of 2 years. Each member of the commission shall be an expert with experience in the fields  
723 of transportation law, public policy, public finance, management consulting, transportation or  
724 organizational change; provided, however, that one of the members appointed by the governor  
725 shall be an expert in the field of public finance, 1 member appointed by the governor shall be an  
726 expert in the field of transportation and 1 member appointed by the governor shall be the  
727 president of the Massachusetts AFL-CIO, or his designee. One of the members shall be  
728 appointed by the governor to serve as chairperson of the commission. The members appointed by  
729 the governor may be eligible for reappointment; provided, however, that no such member shall

730 serve for more than 3 terms. No member shall have served as a legislative agent for the period of  
731 5 years prior to his appointment.

732 No director shall have been a registered legislative agent, as defined in section 39 of  
733 chapter 3 for a period of at least 5 years prior to his appointment, no director shall have been a  
734 member or employee of the general court or an employee of the executive branch for a period of  
735 2 years prior to his appointment, and no director shall have been employed by an organization  
736 that has business before the authority, or any predecessor agency or authority, for a period of at  
737 least 2 years prior to his appointment.

738 Whenever the authority notifies the commission of its intent to issue a request for  
739 proposal for design-build-finance-operate-maintain or design-build-operate-maintain services,  
740 the authority shall submit a draft of the request for proposal to the commission for its review and  
741 approval. As provided in section 58, no request for proposal shall be issued by the authority for  
742 a public-private agreement for design-build-finance-operate-maintain or design-build-operate-  
743 maintain services without the commission's written approval. The commission shall provide an  
744 initial written response to the request for proposal within 15 days.

745 For each request for proposal for design-build-finance-operate-maintain or design-build-  
746 operate-maintain services, the commission shall report on issues surrounding the request for  
747 proposal, including, but not limited to: (1) the status of current employees; (2) the policy and  
748 regulatory structure for overseeing a privately operated transportation facility and on-going  
749 legislative oversight; (3) issues of taxation, profit-sharing and resolution of new revenue  
750 producing ideas; (4) advertising and marketing; (5) use of new technologies; (6) lease terms and  
751 termination clauses; (7) additional responsibilities by both the private infrastructure operator and  
752 the commonwealth during the lease period; (8) the financial valuation of the commonwealth

753 transportation facility; and (9) the anticipated advantages of entering into the anticipated public-  
754 private agreement for design-build-finance-operate-maintain or design-build-operate-maintain  
755 services.

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

761 In order to submit the commission's written approval of a request for proposal for design-  
762 build-finance-operate-maintain or design-build-operate-maintain services to the state auditor, the  
763 commission's process shall be sufficient to satisfy the requirements of sections 52 to 55,  
764 inclusive.

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

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

773

774           **SECTION 6.** Chapter 10 of the General Laws is hereby amended by striking out section  
775 35T, as appearing in the 2006 Official Edition, and inserting in place thereof the following  
776 section:-

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

779           “Base revenue amount”, for fiscal year 2001 the amount of \$645,000,000, and for each  
780 fiscal year thereafter the base revenue amount for the prior fiscal year multiplied by the inflation  
781 index for the preceding 12 months, as certified by the secretary of administration and finance, in  
782 consultation with the department of revenue, on March 1 of each year, beginning on March 1,  
783 2001 as set forth in subsection (b); provided, however, that in no year shall the base revenue  
784 amount exceed 103 per cent of the base revenue amount applicable for the prior fiscal year;  
785 provided further, that if in any year the inflation index is less than 3 per cent but greater than the  
786 per cent increase in gross sales tax revenues received pursuant to chapters 64H and 64I in the  
787 preceding 12 months, excluding any portion of such taxes imposed on meals as defined in  
788 paragraph (h) of section 6 of said chapter 64H, the base revenue amount shall be adjusted by the  
789 same percentage increase in such gross sales tax revenues; provided further, that if in any year  
790 the per cent increase in such gross sales tax revenues is zero or less, the base revenue amount  
791 shall not be adjusted for the subsequent fiscal year.

792           “Dedicated sales tax revenue amount”, all monies received by the commonwealth equal  
793 to 1 per cent of the gross receipts of a sale as defined in chapter 64H and 1 per cent of the sales  
794 price of a purchase as defined in chapter 64I from that portion of the taxes imposed under said  
795 chapters 64H and 64I as taxes upon the sale and use at retail of tangible property or of services,  
796 and upon the storage, use or other consumption of tangible property or of services, including

797 interest thereon and penalties, but not including any portion of such taxes imposed on the sale of  
798 meals as defined in paragraph (h) of section 6 of said chapter 64H.

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

802 (a) There shall be credited to the Surface Transportation Trust Fund established in section  
803 35LL: the dedicated sales tax revenue amount: provided, however, that in any fiscal year the  
804 amount shall be not less than the base revenue amount as certified pursuant to subsection (b)  
805 there shall also be credited all assessments received by the commonwealth pursuant to section 22  
806 of chapter 81D.

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

818 In order to increase the marketability of any bonds or notes of the authority which may be  
819 secured by or payable from amounts held in the fund, the sums credited to the fund in accordance

820 with this subsection shall be impressed with a trust for the benefit of the authority and the  
821 holders, from time to time, of any such bonds or notes and, in consideration of the acceptance of  
822 payment for any such bonds or notes, the commonwealth covenants with the purchasers and all  
823 subsequent holders and transferees of any such bonds or notes that while any such bond or note  
824 shall remain outstanding, and so long as the principal of or interest on any such bond or note  
825 shall remain unpaid, the sums to be credited to the fund shall not be diverted from the purposes  
826 identified herein and, so long as such sums are necessary, as determined by the authority in  
827 accordance with any applicable trust agreement, bond resolution or credit enhancement  
828 agreement, for the purposes for which they have been pledged, the rates of the excises imposed  
829 by said chapters 64H and 64I shall not be reduced below the dedicated sales tax revenue amount  
830 or the base revenue amount and the amount to be assessed on cities and towns pursuant to said  
831 section 9 of said chapter 161A shall not be reduced below \$136,026,868 per fiscal year.

832 (b) For purposes of determining the amount to be credited to the fund, the secretary shall,  
833 on March 1 of each year beginning on March 1, 2001, certify the base revenue amount for the  
834 following fiscal year. On March 15 of each year, beginning on March 15, 2001, the secretary  
835 shall, after consultation with and based upon projections of the department of revenue, certify  
836 whether the dedicated sales tax revenue amount is projected to exceed the base revenue amount  
837 for the upcoming fiscal year. If the secretary certifies that the projected dedicated sales tax  
838 revenue amount will be less than the base revenue amount, the comptroller shall for the  
839 following fiscal year credit to the fund amounts sufficient to meet the base revenue amount. If  
840 the secretary certifies that the projected dedicated sales tax revenue amount will exceed the base  
841 revenue amount, then the comptroller shall for the following fiscal year credit to the fund the  
842 sales tax revenue amount. On November 15 of each year, beginning on November 15, 2001, the

843 secretary shall certify whether the dedicated sales tax revenue amount, as of that date, is  
844 projected to exceed the base revenue amount for the current fiscal year. If the secretary certifies  
845 that the dedicated sales tax revenue amount is projected to be less than the base revenue amount,  
846 then the comptroller shall credit to the fund amounts sufficient to meet the base revenue amount  
847 for that fiscal year. If the secretary certifies that the dedicated sales tax revenue amount is greater  
848 than the base revenue amount, then the comptroller shall credit to the fund the dedicated sales tax  
849 revenue amount. On April 1 of each year, beginning on April 1, 2002, the secretary shall repeat  
850 the certification process required on November 15, and the comptroller shall credit the  
851 appropriate amount to the fund.

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

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

855         Section 35LL. There is hereby set up on the books of the commonwealth a separate fund  
856 to be known as the Surface Transportation Trust Fund. There shall be credited to the fund all  
857 fees received by the registrar of motor vehicles pursuant to chapter 90, all tolls collected pursuant  
858 to subsection (j) of section 4 of chapter 81B, all contributions and assessments paid into the  
859 treasury of the commonwealth by cities, towns or counties for maintaining, repairing, improving  
860 and constructing ways, whether before or after the work is completed, all refunds and rebates  
861 made on account of expenditures on ways by the department, all receipts paid into the treasury of  
862 the commonwealth and directed to be credited to the Surface Transportation Trust Fund under  
863 section 35T, chapter 64A, 64E, 64F or any other applicable general or special law, all monies  
864 received by the commonwealth in satisfaction of claims by the commonwealth for damage to  
865 highway safety signs, signals, guardrails, curbing and other highway related facilities, and all

866 receipts received by the state treasurer under the provisions of section 8 of chapter 10 on behalf  
867 of the registrar or for other surface transportation, as defined herein.

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

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

875 (2) \$2 from each motorcycle registration fee shall be paid by the registrar or by the  
876 person collecting the registration fee into the General Fund and shall be appropriated solely for  
877 the purpose of promoting and advancing motorcycle safety.

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

885 The authority shall use the fund:

886 (a) For expenditure, under the direction of the authority, for maintaining, repairing,  
887 improving and constructing municipal and county ways and bridges, sidewalks  
888 adjacent to such ways and bridges, bikeways and other projects eligible for funding as



889 a transportation enhancement project as described in the Intermodal Surface  
890 Transportation Efficiency Act of 1991, P.L. 102-240, salt storage sheds, bikeways  
891 and public use off-street parking facilities related to mass transportation, for  
892 engineering services and expenses related to highway transportation enhancement and  
893 mass transportation purposes, for care, repair, storage, replacement, purchase and  
894 long-term leasing of road building machinery, equipment and tools, for the erection  
895 and maintenance of direction signs and warning signs and for necessary or beneficial  
896 improvements to unpaved municipal and county ways together with any money  
897 which any municipality or county may appropriate for such purposes to be used on  
898 the same ways, sheds, bikeways, bridges, machinery, equipment, tools and facilities.  
899 Such engineering services, including surveying services, shall be performed by only  
900 architectural, engineering or surveying firms prequalified by the authority; provided,  
901 however, that a municipality may seek a waiver of this requirement from the authority  
902 if the municipality demonstrates to the satisfaction of the authority that it is cost  
903 prohibitive to use a prequalified firm. Such ways, sheds, bikeways, bridges,  
904 machinery, equipment, tools and facilities shall remain town or county ways, sheds,  
905 bikeways, bridges, machinery, equipment, tools and facilities. No revenue credited to  
906 the fund shall be transferred from the fund to any other fund of the commonwealth for  
907 any other purpose. The authority shall withhold or withdraw the unexpended balance  
908 of any funds assigned by it under this subdivision if the municipality fails to comply  
909 with the official standards for traffic control established by the authority or with any  
910 provision of a traffic control agreement negotiated between the authority and a

911 municipality, as required by the United States Secretary of Commerce under section  
912 109 of Title 23 of the United States Code.

913 (b) for expenditure, under the direction of the authority, for maintaining, repairing and  
914 improving state highways and bridges, including highways and bridges managed until July 1,  
915 2009 by the department of conservation and recreation, the turnpike and the metropolitan  
916 highway system, all as defined in chapter 81B;

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

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

924 (e) to meet interest, sinking fund and serial payments on all debts paid from highway  
925 fund receipts before July 1, 2009, including those paid in accordance with section 20 of chapter  
926 29.

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

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

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

931 (j) for expenditures to meet any remaining assistance requirements from the  
932 commonwealth to the Route 3 North Transportation Improvements Association outstanding as of

933 July 1, 2009; provided that no new pledges of additional assistance to said Association shall be  
934 incurred after July 1, 2009.

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

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

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

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

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

949 **SECTION 10A.** Sections, 4C, 4D, 4E, 4F, and 4G of said chapter 16, inserted by section  
950 6 of chapter 303 of the acts of 2008 are hereby repealed.

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

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

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

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

961           **SECTION 14 1/2.** Subsection (a) of section 39M1/2 of chapter 30 of the General Laws,  
962 inserted by section 12 of chapter 303 of the acts of 2008, is hereby amended by striking out the  
963 definition of “Major contract” and inserting in place thereof the following definition:-

964           “Major contract”, a contract by which the commonwealth or any of its public agencies or  
965 authorities is to procure the construction, repair or rehabilitation of a publicly-owned highway,  
966 railway, bridge, tunnel, building platform or any component thereof and for which the certified  
967 estimate of cost exceeds \$50,000,000 , or a contract or lease by which the commonwealth or any  
968 of its public agencies or authorities is to procure, directly or indirectly the construction, repair or  
969 rehabilitation of a privately-owned, publicly-used highway, railway, bridge, tunnel, building  
970 platform or any component thereof.

971           **SECTION 14A.** Section 1 of chapter 30B of the General Laws is hereby amended by  
972 striking out, in line 45, as appearing in the 2006 Official Edition the word ", designers".

973           **SECTION 14B.** Subsection (b) of said section 1 of said chapter 30B is hereby amended  
974 by inserting after clause (32), as so appearing, the following clause:-

975           (32A) contracts with architects, engineers and related professionals;

976           **SECTION 14C.** Section 2 of said chapter 30B, as so appearing, is hereby amended by  
977 inserting before the definition of “Bid” the following definition:-

978           "Architect and engineers, a person performing professional services of an architectural or  
979 engineering nature, as defined by law, which are required to be performed or approved by a  
980 person licensed, registered or certified to provide such services as described herein; professional  
981 services of an architectural or engineering nature performed by contract that are associated with  
982 research, planning, development, design, investigations, inspections, tests, evaluations,  
983 consultations, program management, value engineering, construction, alteration, or repair of real  
984 property and such other professional services of an architectural or engineering nature, or  
985 incidental services, which members of the architectural and engineering professions and  
986 individuals in their employ may logically or justifiably perform, including studies;  
987 investigations; surveying and mapping; soil tests; construction phase services; drawing reviews;  
988 evaluations; consultations; comprehensive planning; program management; conceptual designs,  
989 plans and specifications; soils engineering; cost estimates or programs; preparation of drawings,  
990 plans, or specifications; supervision or administration of a construction contract; construction  
991 management or scheduling; preparation of operation and maintenance manuals and other related  
992 services.

993           **SECTION 14D.** Said section 2 of said chapter 30B, as so appearing, is hereby further  
994 amended by striking out the definition of “Designer”.

995           **SECTION 14E.** Said section 2 of said chapter 30B, as so appearing, is hereby further  
996 amended by inserting after the definition of “Purchase description” the following definition:-

997 "Related professionals", professionals engaged in professional services, including land  
998 surveying, landscape architecture, environmental science, planning, and licensed site  
999 professionals, which are required to be performed or approved by a person licensed, registered,  
1000 or certified to provide such services as described herein, including professional services  
1001 performed by contract that are associated with research, planning, development, design,  
1002 investigations, inspections, surveying and mapping, tests, evaluations, consultations,  
1003 comprehensive planning, program management, value engineering, construction, alteration, or  
1004 repair of real property and such other professional services or incidental services which members  
1005 of the related professions and individuals in their employ may logically or justifiably perform,  
1006 including master plans, studies, surveys, soil tests, cost estimates or programs; preparation of  
1007 drawings, plans, or specifications; supervision or administration of a construction contract;  
1008 construction management or scheduling; conceptual designs, plans and specifications;  
1009 construction phase services, soils engineering, drawing reviews, cost estimating, preparation of  
1010 operation and maintenance manuals and other related services; provided, however, that nothing  
1011 herein shall be construed to constitute regulation or oversight of any designated firms or  
1012 identified professional services.

1013 **SECTION 14F.** Said chapter 30B is hereby further amended by adding the following  
1014 section:-

1015 Section 21. (a) For the purposes of this section the following terms shall have the  
1016 following meanings:

1017 “Agency”, a department, commission, council, board, bureau, committee, institution, agency,  
1018 state college or university, government corporation, authority or other establishment or  
1019 procurement office of the commonwealth.

1020 “Architectural and engineering services”, (i) professional services of an architectural or  
1021 engineering nature, as defined by state law, which are required to be performed or approved by a  
1022 person licensed, registered or certified to provide those services as described herein; (ii)  
1023 professional services of an architectural or engineering nature performed by contract that are  
1024 associated with research planning, development, design, investigations, inspections, tests,  
1025 evaluations, consultations, program management, value engineering, construction, alteration, or  
1026 repair of real property; and (iii) such other professional services of an architectural or  
1027 engineering nature, or incidental services, which members of the architectural and engineering  
1028 professions and individuals in their employ may logically or justifiably perform, including  
1029 studies; investigations; surveying and mapping; soil tests; construction phase services; drawing  
1030 reviews; evaluations; consultations; comprehensive planning; program management; conceptual  
1031 designs, plan and specifications; soils engineering; cost estimates or programs; preparation of  
1032 drawings, plans, or specifications; supervision or administration of a construction contract;  
1033 construction management or scheduling; preparation of operation and maintenance manuals and  
1034 other related services.

1035 “Firm”, an individual, firm, partnership, corporation, association, or other legal entity  
1036 permitted by law to practice the professions of architecture, engineering, land surveying,  
1037 landscape architecture, environmental science, planning or program management. “Project”, a  
1038 capital improvement project or a design, study, plan, survey or new or existing program activity  
1039 of a state agency, including the development of new or existing programs that require

1040 architectural, engineering or related professional services, but shall not include a public building  
1041 construction project undertaken under section 149 or 149A of chapter 7.

1042 “Related Professional Services”, (i) professional services, including land surveying,  
1043 landscape architecture, environmental science and planning, which are required to be performed  
1044 or approved by a person licensed, registered, or certified to provide such services as described  
1045 herein; (ii) professional services performed by contract that are associated with research,  
1046 planning, development, design, investigations, inspections, surveying and mapping, tests,  
1047 evaluations, consultations, comprehensive planning program management, value engineering,  
1048 construction, alteration or repair of real property; and (iii) such other professional services, or  
1049 incidental services, which members of the related professions as described herein and individuals  
1050 in their employ may logically or justifiably perform, including master plans, studies, surveys,  
1051 soil tests, cost estimates or programs; preparation of drawings, plans or specifications  
1052 supervision or administration of a construction contract; construction management or scheduling;  
1053 conceptual designs, plans and specifications; construction phase services, soils engineering,  
1054 drawing reviews, cost estimating, preparation of operation and maintenance manuals, and other  
1055 related services; provided, however, that nothing herein shall be construed to constitute a  
1056 regulation or oversight of any designated firms or identified professionals’ services.

1057 (b) For those agencies that prequalify architectural, engineering, and related services, the  
1058 agency head shall encourage firms engaged in the lawful practice of their profession to submit  
1059 annually a statement of qualifications and performance data.

1060 (c) Whenever a project requiring architectural, engineering, or related professional  
1061 services is proposed for a state agency, the agency shall provide no less than 14 days advance



1062 notice published in a professional services bulletin or advertised on the official state agency  
1063 website setting forth the projects and services to be procured. The professional services bulletin  
1064 shall be made available to each firm that requests the information. The professional services  
1065 bulletin shall include a description of each project and shall state the time and place for an  
1066 interested firm to submit a letter of interest and, if required by the public notice, a statement of  
1067 qualifications. If the agency determines that a sole source selection of a qualified firm is in the  
1068 best interest of the agency, then the public notice provisions of this subsection shall not apply.

1069 (d) An agency shall evaluate the firms' submitting letters of interest and other  
1070 prequalified firms, taking into account qualifications, and the agency may consider, but shall not  
1071 be limited to considering, ability of professional personnel, past record and experience,  
1072 performance data on file, willingness to meet time requirements, location, workload of the firm  
1073 and any other qualifications based on factors that the agency may determine in writing are  
1074 applicable. The agency may conduct discussions with and require presentations by firms deemed  
1075 to be the most qualified regarding their qualifications, approach to the project and ability to  
1076 furnish the required services. In no case shall an agency, prior to selecting a firm for negotiation  
1077 seek formal or informal submission of verbal or written estimates of costs or proposals in terms  
1078 of dollars, hours required, percentage of construction cost, or any other measure of  
1079 compensation.

1080 (e) (1) An agency shall select architects, engineers and related professional firms on the  
1081 basis of qualifications for the type of professional services required. An agency may  
1082 solicit or use pricing policies and proposals or other pricing information to determine consultant  
1083 compensation only after the agency has selected a firm and initiated negotiations with the  
1084 selected firm.

1085 (2) The procedures that an agency creates for the screening and selection of firms shall be  
1086 within the sole discretion of the agency and may be adjusted to accommodate the agency's scope,  
1087 schedule and budget objectives for a particular project. Adjustments to accommodate an agency's  
1088 objectives may include provision for the direct appointment of a firm if the value of the project  
1089 does not exceed \$25,000, or if the agency determines that a sole source selection of a qualified  
1090 firm is in the best interest of the agency and the project is not publicly advertised.

1091 (3) The decision of an agency that has complied with this chapter shall be final and  
1092 binding.

1093 (f) (1) The agency and the selected firm shall discuss and refine the scope of services for  
1094 the project and shall negotiate conditions including, but not limited to, compensation level and  
1095 performance schedule based on scope of services. The compensation level paid shall be  
1096 reasonable and fair to the agency as determined solely by the agency. In making such  
1097 determination, the agency shall take into account the estimated value of the services to be  
1098 rendered, the scope, complexity, and professional nature thereof.

1099 (2) If the agency and the selected firm are unable for any reason to negotiate a contract at  
1100 a compensation level that is reasonable and fair to the agency, the agency shall, in writing,  
1101 formally terminate negotiations with the selected firm. The agency shall then negotiate with the  
1102 second ranked most qualified firm. The negotiation process shall continue in this manner through  
1103 successive ranked firms until an agreement is reached or the agency terminates the consultant  
1104 contracting process.

1105 (g) This chapter shall not apply to architectural, engineering and related professional  
1106 services contracts of less than \$25,000 or sole source contracts that are awarded to a qualified

1107 firm as determined to be in the best interest of the agency, where only 1 firm has been solicited  
1108 regarding the project and the project is not publicly advertised.

1109 (h) This chapter shall not apply to the procurement of architectural, engineering, and  
1110 related professional services by agencies: (i) when an agency determines in writing that it is in  
1111 the best interest of the state to proceed with the immediate selection of a firm: or (ii) in  
1112 emergencies when immediate services are necessary to protect the public health and safety  
1113 including, but not limited to, earthquake, tornado, storm, or natural or man-made disaster.

1114 (i) Each agency shall evaluate the performance of each firm upon completion of a  
1115 contract. That evaluation shall be made available to the firm which may submit a written  
1116 response, with the evaluation and response retained solely by the agency. The evaluation and  
1117 response shall not be made available to any other person or firm shall be exempt from disclosure  
1118 under section 10 of chapter 66.

1119 (j) Each contract for architectural, engineering, and related professional services by an  
1120 agency shall contain a certificate signed by a representative of the agency and the firm that each  
1121 has complied with this chapter.

1122 **SECTION 15.** Chapter 64A of the General Laws is hereby amended by striking out  
1123 section 13, as appearing in section 4 of chapter 233 of the acts of 2008, and inserting in place  
1124 thereof the following section:-

1125 Section 13. All sums received from the excise imposed on aviation fuel, and related  
1126 penalties, forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under  
1127 sections 7 and 7A, shall be credited to the Surface Transportation Trust Fund, established in  
1128 section 35LL of chapter 10, and may be used for airport development projects approved and

1129 carried out at airports and landing facilities under 49 U.S.C. App. s 2210; and all other sums  
1130 received under the excise imposed in section 4, and relative penalties, forfeitures, interest, costs  
1131 of suits and fines, less all amounts for reimbursement under said sections 7 and 7A, shall be  
1132 credited to the Surface Transportation Trust Fund to be used for transportation-related purposes.

1133 **SECTION 16.** Chapter 64E of the General Laws is hereby amended by striking out  
1134 Section 13, as appearing in the 2006 Official Edition, and inserting in place thereof the  
1135 following section:-

1136 Section 13. All sums received under this chapter as excises, penalties, forfeitures,  
1137 interest, costs of suits and fines shall be credited to the Surface Transportation Trust Fund,  
1138 established in section 35KK of chapter 10, to be used for transportation-related purposes.

1139 **SECTION 17.** Chapter 64F is hereby amended by striking out section 14, as appearing  
1140 in the 2006 Official Edition, and inserting in place thereof the following section:-

1141 Section 14. All sums received under this chapter as excises, penalties, forfeitures,  
1142 interest, costs of suits and fines shall be credited to the Surface Transportation Trust Fund,  
1143 established in section 35KK of chapter 10, to be used for transportation-related purposes.

1144 **SECTION 18.** Chapter 81 of the General Laws is hereby repealed.

1145 **SECTION 19.** Chapter 81A of the General Laws is hereby repealed.

1146 **SECTION 20.** The General Laws are hereby amended by inserting after chapter 81A the  
1147 following 2 chapters:-

1148 Chapter 81B

1149 THE MASSACHUSETTS SURFACE TRANSPORTATION AUTHORITY

1150 Section 1. There is hereby created a body politic and corporate to be known as the  
1151 Massachusetts Surface Transportation Authority which, shall be within the executive office of

1152 transportation, but not under the supervision and regulation of said executive office or any other  
1153 department, commission, board, bureau or agency, except as specifically provided in any general  
1154 or special law to the contrary. The authority may subject to the provisions of this chapter, to  
1155 own, construct, maintain, repair, reconstruct, improve, rehabilitate, finance, refinance, use,  
1156 police, administer, control and operate the state highway system and the turnpike.

1157         The authority is hereby constituted a public instrumentality. The exercise by the  
1158 authority of the powers conferred by this chapter shall be deemed and held to be the performance  
1159 of an essential governmental function. Section 3 of chapter 12 shall apply to the authority.

1160         Section 2. The authority shall be managed by a board of 11 directors, 1 of whom shall be  
1161 the secretary of transportation who shall serve as chairman of the board and 10 of whom shall be  
1162 appointed by the governor. No director shall be additionally compensated for such service.  
1163 None, except for the foregoing appointment, shall be members of the general court or employees  
1164 of the executive branch or employees of the legislature. One director shall be selected by the  
1165 governor from a list of 3 candidates proposed by the Massachusetts Association of Regional  
1166 Transit Authorities; 1 shall be a representative of the service area of the Massachusetts Bay  
1167 Transportation Authority, or any successor agency thereof; 1 shall be an expert in the field of  
1168 construction of transportation projects; 2 shall be experts in the field of public or private finance  
1169 or accounting; 1 shall be a representative of an environmental organization or environmental  
1170 public interest group; 1 shall be shall a member of a national or international labor organization;  
1171 and 1 shall be an expert in the field of transportation law or organizational change. Not more  
1172 than 6 of the 11 directors shall be members of the same political party. Directors shall reside in  
1173 different geographic regions of the commonwealth such that at least: 1 director shall reside in  
1174 Berkshire, Franklin or Hampshire county; 1 director shall reside in Hampden county; 1 director

1175 shall reside in Worcester county; 1 director shall reside in Middlesex county; 1 director shall  
1176 reside in Essex county; 1 director shall reside in Plymouth, Barnstable, Dukes or Nantucket  
1177 county; and 1 director shall reside within the turnpike corridor between exits 11A east, at the  
1178 interchange with Route 495, and exit 14 at the interchange with Route 128. No director shall have  
1179 been a registered legislative agent, as defined in section 39 of chapter 3 of the General Laws for a period  
1180 of at least 5 years prior to his appointment, no director shall have been a member of the general court or  
1181 employee of the executive branch or of the general court for a period of 2 years prior to his appointment,  
1182 and no director shall have been employed by an organization that has business before the authority, or any  
1183 predecessor agency or authority, for a period of at least 2 years prior to his appointment.

1184         Before entering upon the duties of his office, each member of the authority shall take an  
1185 oath before the governor to administer the duties of his office faithfully and impartially and a  
1186 record of such oath shall be filed in the office of the state secretary.

1187         Except for the chairperson, directors appointed after January 31, 2009 shall serve until  
1188 June 30, 2011. After June 30, 2011, 6 directors shall serve a term of 2 years and 5 directors shall  
1189 serve a term of 3 years. Any director, except the chairman, may be removed for cause by the  
1190 governor. In the event of a vacancy, a successor shall be named in the same manner as the  
1191 vacated director and such successor shall serve for the remained of the unexpired term. A  
1192 majority of the directors shall constitute a quorum but a majority vote of the entire membership  
1193 shall be required to take any particular action. The directors shall meet monthly. The directors  
1194 shall serve without pay but each director shall be reimbursed for his actual expenses necessarily  
1195 incurred in the performance of his duties.

1196         Section 3 of chapter 12 shall apply to the board of directors. The authority may  
1197 indemnify any member, officer or employee from personal expenses or damages incurred,  
1198 arising out of any claim, suit, demand or judgment which arose out of any act or omission of

1199 such member, officer or employee, including the violation of the civil rights of any person under  
1200 any federal law if, at the time of such act or omission such member, officer or employee was  
1201 acting within the scope of his official duties or employment.

1202 Notwithstanding any other provision of this chapter, as soon as a quorum of the board of  
1203 directors is appointed, the authority shall undertake the following: (i) appointment of a chief  
1204 executive officer whose term of employment shall not extend beyond 5 years at a time; (ii), in  
1205 coordination with the secretary of transportation, development of rules and regulations for the  
1206 implementation of this chapter; (iii) implement any powers or enact any rule and regulations to  
1207 affect the implementation of this chapter. Until the appointment and qualification of the board of  
1208 directors of the authority constituting a quorum of the board is achieved, the secretary of  
1209 transportation, may assume such rights and powers authorized by this section, with approval of  
1210 the Governor, for a period not to exceed 90 days.

1211 Section 3. As used in this chapter, chapter 81C and 81D, the following words shall,  
1212 unless the context clearly requires otherwise, have the following meanings:-

1213 “Authority”, the Massachusetts Surface Transportation Authority established by section  
1214 1.

1215 “Boston extension”, all roadways and tunnels for vehicular traffic that constitute that  
1216 portion of interstate highway route 90 beginning at, and including, the interchange of interstate  
1217 highway route 90 and state highway route 128 in the town of Weston and ending in the city of  
1218 Boston at the interchange of interstate highway route 90 and interstate highway route 93 and  
1219 such additional highway and bridge components as the general court may, from time to time,  
1220 determine and including such real property and any improvements thereon, personal property,  
1221 equipment, licenses, appurtenances and interests in land acquired or leased in connection with or

1222 incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement,  
1223 repair, maintenance or administration of such roadways and tunnels as are necessary for the safe  
1224 and efficient operation and maintenance thereof or which are otherwise convenient or desirable  
1225 to carry out the purposes of this chapter.

1226 “Callahan tunnel”, the tunnel for vehicular traffic constructed under the provisions of  
1227 chapter 598 of the acts of 1958 between the North End section of the city of Boston and the East  
1228 Boston section of said city and including such real property and any improvements thereon,  
1229 personal property, equipment, licenses, appurtenances and interests in land acquired or leased in  
1230 connection with or incident to the construction, ownership, operation, rehabilitation,  
1231 reconstruction, improvement, repair, maintenance or administration of such tunnel as are  
1232 necessary for the safe and efficient operation and maintenance thereof or which are otherwise  
1233 convenient or desirable to carry out the purposes of this chapter.

1234 “Central artery”, all roadways and tunnels for vehicular traffic constructed by the  
1235 highway department that constitute that portion of interstate highway route 93 beginning at a  
1236 point immediately south of the Southampton street interchange, and continuing to and including  
1237 the interchange of interstate highway route 93 and Massachusetts avenue in the South End  
1238 section of the city of Boston and continuing to and including the interchange of interstate  
1239 highway route 90 and interstate highway route 93 in the South Bay section of the city of Boston,  
1240 and continuing to and including the interchange of state highway route 1 and interstate highway  
1241 route 93 in the Charlestown section of the city of Boston including, but not limited to the Charles  
1242 river crossing portion of interstate highway route 93 and such additional highway and bridge  
1243 components as the general court may, from time to time, determine, but excluding the central  
1244 artery north area. “Central artery” shall also include such real property and any improvements



1245 thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or  
1246 leased in connection with or incident to the construction, ownership, operation, rehabilitation,  
1247 reconstruction, improvement, repair, maintenance or administration of such roadways and  
1248 tunnels as are necessary for their safe and efficient operation and maintenance thereof or which  
1249 are otherwise convenient or desirable to carry out the purposes of this chapter.

1250 “Central artery north area”, all roadways and tunnels for vehicular traffic constructed by  
1251 the highway department consisting of a portion of state highway route 1 beginning at, but not  
1252 including, the southern boundary of the Tobin memorial bridge and continuing to the interchange  
1253 of interstate highway route 93 and state highway route 1, including such real property and any  
1254 improvements thereon, personal property, equipment, licenses, appurtenances and interests in  
1255 land acquired or leased in connection with or incident to the construction, ownership, operation,  
1256 rehabilitation, reconstruction, improvement, repair, maintenance or administration of such  
1257 roadways and tunnels as are necessary for their safe and efficient operation and maintenance  
1258 thereof or which are otherwise convenient or desirable to carry out the purposes of this chapter.

1259 “Chief executive officer”, the chief executive officer of the authority, appointed by the  
1260 board pursuant to section 4.

1261 "Cost", as applied to any project of the authority any or all costs, whenever incurred, of  
1262 carrying out and placing such projects in operation including, without limiting the generality of  
1263 the foregoing, amounts for the following: acquisition, construction expansion improvement and  
1264 rehabilitation of facilities; acquisition of real or personal property; demolitions and relocations;  
1265 labor, materials, machinery and equipment; services of architects, engineers and environmental  
1266 and financial experts and other consultants; feasibility studies, plans, specifications and surveys;  
1267 interest prior to and during the carrying out of any project and for a reasonable period thereafter;

1268 reserves for debt service or other capital or current expenses; costs of issuance; and working  
1269 capital, administrative expenses; legal expenses and other expenses necessary or incidental to the  
1270 aforesaid, to the financing thereof and to the issuance therefor of bonds under this chapter.

1271 "Costs of issuance", any amounts payable or reimbursable directly or indirectly by the  
1272 authority and related to the sale and issuance of bonds and the investment of the proceeds thereof  
1273 and of revenues securing the same including, without limiting the generality of the foregoing,  
1274 printing costs, filing and recording fees, fees and charges of trustees, depositories, authenticating  
1275 agents and paying agents, legal and auditing fees and charges, financial consultant fees, costs of  
1276 credit ratings, premiums for insurance of the payment of bonds and fees payable for letters or  
1277 lines of credit or other credit facilities securing bonds, underwriting or placement costs, fees and  
1278 charges for execution, transportation and safekeeping of bonds, costs and expenses of refunding  
1279 and other costs, fees and charges in connection with the foregoing.

1280 "Current expenses", the authority's current expenses, whether or not annually recurring,  
1281 of maintaining, repairing and operating the assets under the possession, custody and control of  
1282 the authority and engaging in other activities authorized by this chapter including, without  
1283 limiting the generality of the foregoing, amounts for administrative expenses of the authority  
1284 including costs of salaries and benefits, as provided in this chapter, cost of insurance, payments  
1285 for engineering, financial, accounting, legal and other services rendered to the authority, taxes  
1286 upon the authority or its income, operations or property and payments in lieu of such taxes, costs  
1287 incurred or payable by the authority with respect to the assets under the possession, custody and  
1288 control of the authority, costs of issuance not financed in the cost of a project, and other current  
1289 expenses required or permitted by law to be paid by the authority including the funding of

1290 reasonable reserves for upgrading, maintenance, repair, replacements, insurance, emergency  
1291 contingencies or operations.

1292 “Division of roads and bridges”, the division of roads and bridges within the authority  
1293 established pursuant to chapter 81C.

1294 “Division of public transit”, the division of public transit within the authority established  
1295 pursuant to chapter 81D.

1296 “Metropolitan highway system”, the integrated system of roadways, bridges, tunnels,  
1297 overpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways,  
1298 service stations, restaurants, tourist information centers and administration, storage, maintenance  
1299 and other buildings that the authority owns, constructs or operates and maintains pursuant to this  
1300 chapter which consists of the Boston extension, the Callahan tunnel, the central artery, the  
1301 central artery north area, the Tobin memorial bridge, the Sumner tunnel and the Ted Williams  
1302 tunnel and any additional highway, tunnel and bridge components as the general court may, from  
1303 time to time, determine.

1304 “Metropolitan highway system revenues”, (i) all rates, fees, tolls, rentals or other charges  
1305 and other earned income and receipts as derived from or with respect to the ownership,  
1306 operation, lease, rent or other use or disposition of the metropolitan highway system or any part  
1307 thereof; and (ii) all other funds received by the authority, from whatever source, relating to the  
1308 metropolitan highway system.

1309 “Notes or bonds”, the notes, bonds or other evidences of indebtedness of the authority  
1310 issued pursuant to this chapter.

1311 “Massachusetts Port Authority”, the Massachusetts Port Authority established pursuant to  
1312 chapter 465 of the acts of 1956.

1313 "Revenues", all charges and other receipts derived by the authority from operation of the  
1314 assets under the possession, custody and control of the authority and all other activities or  
1315 properties of the authority including, without limiting the generality of the foregoing, proceeds of  
1316 grants, gifts or appropriations to the authority, investment earnings and proceeds of insurance or  
1317 condemnation, and the sale or other disposition of real or personal property.

1318 "State highway system", all roadways, bridges, tunnels, overpasses, interchanges, parking  
1319 facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist  
1320 information centers and administration, storage, maintenance and other buildings that the  
1321 authority owns, constructs or operates and maintains pursuant to this chapter and any additional  
1322 highway, tunnel and bridge components as the general court may from time to time determine.  
1323 The term "state highway system" shall include the turnpike.

1324 "State public transit system", all publicly funded modes of transportation, but not  
1325 including roads and bridges.

1326 "Sumner tunnel", the vehicular tunnel under Boston harbor, heretofore constructed and  
1327 financed by the city of Boston under chapter 297 of the acts of 1929, including such real property  
1328 and any improvements thereon, personal property, equipment, licenses, appurtenances and  
1329 interests in land acquired or leased in connection with or incident to the construction, ownership,  
1330 operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of  
1331 such tunnel as are necessary for the safe and efficient operation and maintenance thereof or  
1332 which are otherwise convenient or desirable to carry out the purposes of this chapter.

1333 "Ted Williams tunnel", all or any segments of the roadways, bridges, viaducts and  
1334 tunnels for vehicular traffic constructed by the highway department that constitute the interstate  
1335 highway route 90 extension and its connecting roadways and tunnels, including: (i) the harbor

1336 tunnel crossing beneath Boston harbor, beginning at and including the interchanges of state  
1337 highway route 1A and the Logan airport access and egress roadways with interstate highway  
1338 route 90 and continuing beneath Boston harbor to and including the interchange of interstate  
1339 highway route 90 and South Boston Bypass road, but excluding the Logan airport access and  
1340 egress roadways owned by the Massachusetts Port Authority on March 1, 1997 and any  
1341 additional access and egress roadways acquired by the Massachusetts Port Authority after March  
1342 1, 1997; (ii) the seaport access highway beginning at the interchange of interstate highway routes  
1343 90 and 93 and continuing to the interchange of interstate highway route 90 and South Boston  
1344 Bypass road; and (iii) South Boston Bypass road, a portion of which is also known as South  
1345 Boston Haul road, beginning at the interchange of interstate highway route 93 and South Boston  
1346 Bypass road and continuing to the interchange of the seaport access highway in the South Boston  
1347 section of the city of Boston, including such real property and any improvements thereon,  
1348 personal property, equipment, licenses, appurtenances and interests in land acquired or leased by  
1349 the highway department in connection with or incident to the construction, ownership, operation,  
1350 rehabilitation, reconstruction, improvement, repair, maintenance or administration of such  
1351 roadways and tunnels as are necessary for the safe and efficient operation and maintenance  
1352 thereof or which are otherwise convenient or desirable to carry out the purposes of this chapter.

1353 "Tobin memorial bridge", the bridge formerly known as the Mystic river bridge in the  
1354 city of Chelsea.

1355 "Turnpike", the limited access express toll highway, designated as interstate highway  
1356 route 90, and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities,  
1357 entrance plazas, approaches, connecting highways, service stations, restaurants, tourist  
1358 information centers and administration, storage, maintenance and other buildings that the

1359 authority may own, construct or operate and maintain pursuant to this chapter and any additional  
1360 highway, tunnel or bridge components as the general court may, from time to time, determine,  
1361 shall be included within the turnpike, extending from the town of West Stockbridge on the  
1362 commonwealth's border with New York state to, but not including, the interchange of interstate  
1363 highway route 90 and state highway route 128 in the town of Weston.

1364 "Turnpike corridor", the cities and towns of the commonwealth from the New York state  
1365 border to state highway route 128 through which the turnpike runs and municipalities contiguous  
1366 to such cities and towns.

1367 "Turnpike revenues", (i) all rates, fees, tolls, rentals or other charges and other earned  
1368 income and receipts derived from or with respect to the ownership, operation, lease, rent or other  
1369 use or disposition of the turnpike or any part thereof; and (ii) all other funds received by the  
1370 authority, from whatever source, relating to the turnpike.

1371 Section 4. The authority may:

1372 (a) make, and from time to time, revise and repeal by-laws, rules, regulations and  
1373 resolutions for the regulation of its affairs and the conduct of its business;

1374 (b) adopt an official seal and alter the same at its pleasure;

1375 (c) maintain offices at such places within the commonwealth as it may determine and to  
1376 conduct meetings of the authority in accordance with the by-laws of the authority and the  
1377 provisions of the second paragraph of section 59 of chapter 156B;

1378 (d) sue and be sued in its own name, plead and be impleaded;

1379 (e) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,  
1380 administer, control and operate the state highway system or any part thereof and, consistent with  
1381 agreements entered into with the authority to the extent applicable, as it may determine;

1382 provided, however, that chapter 91 shall not apply to the authority, except for any parts or areas  
1383 thereof subject to said chapter 91 on March 1, 1997;

1384 (f) acquire sites abutting the state highway system and construct or contract for the  
1385 construction of buildings and appurtenances for gasoline stations, restaurants, parking facilities,  
1386 tourist information centers and other services and lease such facilities in such manner and under  
1387 such terms as it may determine;

1388 (g) issue notes or bonds for any of its corporate purposes related to the turnpike payable  
1389 solely from turnpike revenues or portions thereof pledged for the payment thereof and to refund  
1390 its notes or bonds pertaining to the turnpike or any part thereof or payable from such revenues, as  
1391 provided in this chapter;

1392 (h) issue notes or bonds for any of its corporate purposes related to the metropolitan  
1393 highway system payable solely from the metropolitan highway system revenues or portions  
1394 thereof pledged for the payment thereof and refund notes or bonds thereof pertaining to the  
1395 metropolitan highway system or any part thereof or payable from such revenues, as provided in  
1396 this chapter;

1397 (i) issue bonds, notes and other evidences of indebtedness as provided in this chapter;

1398 (j) fix and revise, from time to time, and charge and collect tolls for transit over the  
1399 turnpike; provided, however, that it shall furnish upon request to a user of the turnpike a toll  
1400 receipt showing the amount of toll paid, the classification of the vehicle, the date of payment and  
1401 place of exit from the turnpike; provided further, that the authority shall convene at least 2 public  
1402 hearings, each to be held in a community within the turnpike corridor, at least 30 days prior to  
1403 the effective date of any proposed change in toll structure on the turnpike and shall allow for a 1

1404 week comment period after each such hearing, during which written testimony and comments  
1405 shall be accepted;

1406 (k) [no section k.]

1407 (l) adopt such rules and regulations pursuant to chapter 30A and not repugnant to the  
1408 provisions of the General Laws made applicable to the authority, as the authority determines  
1409 necessary or appropriate to provide for or govern the construction or reconstruction, including  
1410 contractor qualification, operation, maintenance, repair, rehabilitation, improvement, use,  
1411 policing, control or administration of the state highway system or the authority's business or  
1412 property; provided, however, such regulations may include the authority to grant easements,  
1413 permits or other forms of authorization for the installation, construction, maintenance, repair,  
1414 renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits, cables, wires,  
1415 towers, poles and other equipment and appliances of any public utility, private entity or  
1416 corporation or person owning or operating such facilities in, on, along, over or under the state  
1417 highway system; provided, further, that such regulations may impose penalties for violations  
1418 thereof which, in the case of civil penalties, may be recovered only after notice and hearing  
1419 conducted by the authority or its designee and subject to judicial review and enforcement  
1420 pursuant to said chapter 30A or such other civil proceedings under the laws of the  
1421 commonwealth or the United States as the law may provide and, in the case of criminal penalties,  
1422 may be recovered in a proceeding in a trial court of the commonwealth by indictment or  
1423 complaint; provided, further, that the amount of any such civil or criminal penalty shall not  
1424 exceed \$500 for each offense, unless the law otherwise provides; provided, further, that the full  
1425 amount of a civil penalty shall be paid to the authority and 80 per cent of any penalty recovered  
1426 in a criminal proceeding shall be accounted for and paid to the authority; provided, further, that



1427 the authority may provide in such regulations for adjudicatory proceedings that it or its designee  
1428 conducts which are subject to judicial review and enforcement according to said chapter 30A;

1429 (m) acquire, lease, hold and dispose of real and personal property or any interest therein  
1430 in the exercise of its powers and the performance of its duties pursuant to this chapter; provided,  
1431 however, that the authority shall issue semi-annual reports to the secretary of administration and  
1432 finance, the house and senate committees on ways and means, the joint committee on  
1433 transportation and the house and senate committees on bonding, capital expenditures and state  
1434 assets, detailing the financial transactions and revenues associated with the sale, concession or  
1435 lease of real property held in the name of or under the control of the authority, whether by  
1436 purchase or otherwise, and any transactions relating to real property currently pending; and  
1437 provided further, that the semi-annual report shall include the current market values of the real  
1438 properties related to the transactions;

1439 (n) place and maintain or grant permission by easement or otherwise to any public utility,  
1440 corporation or person to place and maintain on or under or within the turnpike or the  
1441 metropolitan highway system or any part thereof, ducts, pipes, pipelines, mains, conduits, cables,  
1442 wires, towers, poles or other structures to be so located as not to interfere with the safe and  
1443 convenient operation and maintenance of the state highway system and to contract with any such  
1444 public utility, corporation or person for such permission on such terms and conditions as may be  
1445 fixed by the authority; provided, however, that the construction, maintenance and repair of any  
1446 such ducts, pipes, pipelines, mains, conduits, cable, wires, towers, poles or other structures shall  
1447 be subject to such directions and regulations as the authority may impose.

1448 Whenever the authority shall determine that it is necessary that any such ducts, pipes,  
1449 pipelines, mains, conduits, cable, wires, towers, poles or other structures which are now or

1450 hereafter may be located in, on, along, over or under the state highway system be relocated or  
1451 removed, the public utility, corporation or person owning or operating such facilities shall  
1452 relocate or remove the same in accordance with the order of the authority; provided, however,  
1453 that in case of any such relocation or removal of facilities, the public utility, corporation or  
1454 person owning or operating the same, its successors or assigns may maintain and operate such  
1455 facilities, with the necessary appurtenances, in the new location for as long a period and upon the  
1456 same terms and conditions as it had the right to maintain and operate such facilities in their  
1457 former location; and provided further, that otherwise, the authority shall have the power to grant  
1458 such easements over any real property held by the authority as will not in the judgment of the  
1459 authority unduly interfere with the operation of any of its mass transportation facilities;

1460 (o) acquire in the name of the authority by purchase or otherwise, on such terms and  
1461 conditions and in such manner as it may deem proper or by the exercise of the power of eminent  
1462 domain in accordance with chapter 79 or any alternative method now or hereafter provided by  
1463 law, such public lands and any fee simple absolute or lesser interest in private property, or part  
1464 thereof or rights therein as it may deem necessary for carrying out this chapter;

1465 (p) designate the locations and establish, limit and control such points of ingress to and  
1466 egress from the state highway system as may be necessary, convenient or desirable in the  
1467 judgment of the authority to insure the proper operation and maintenance of the state highway  
1468 system and to prohibit entrance to the state highway system from any point or points not so  
1469 designated;

1470 (q) (i) construct grade separations at locations where the state highway system intersects  
1471 with or abuts public highways or rail lines and to change and adjust the lines and grades of such  
1472 highways or rail lines so as to accommodate the same to the design of such grade separation; and

1473 (ii) change the location of any portion of any public highway or rail line which intersects or abuts  
1474 the state highway system in order to improve the safety or efficiency of the state highway  
1475 system; provided, however, that if the authority shall find it necessary to change the location of a  
1476 public highway, it shall reconstruct such highway in as good a condition as the original highway  
1477 and at such location as the authority deems most favorable and, provided further, that all costs  
1478 incident to construction, realignment or reconstruction conducted pursuant to this clause shall be  
1479 borne by the authority;

1480 (r) enter upon any lands, waters and premises in the commonwealth, after 30 days notice  
1481 by registered or certified mail and without the necessity of any judicial orders or other legal  
1482 proceedings, for the purpose of making surveys, soundings, drillings and examinations as the  
1483 authority may deem necessary, convenient or desirable for carrying out the purposes of this  
1484 chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be  
1485 deemed an entry under any condemnation proceedings which may be then pending; provided,  
1486 however, that the authority shall provide reimbursement for any actual damage resulting to such  
1487 lands, waters and premises as a result of such activities; and provided further, that the  
1488 commonwealth hereby consents to the use of all lands owned by it, including lands lying  
1489 underwater, which are deemed by the authority to be necessary, convenient or desirable for the  
1490 construction, operation or maintenance of the state highway system;

1491 (s) make and enter into all contracts and agreements necessary, convenient or desirable in  
1492 the performance of its duties and the execution of its powers under this chapter; provided,  
1493 however, that sections 26 to 29, inclusive, and sections 44A to 44 J, inclusive, of chapter 149 and  
1494 sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of the authority to the same  
1495 extent and in the same manner as they are applicable to the commonwealth; provided further,

1496 that notwithstanding this clause, the authority may, with the approval of the secretary of the  
1497 executive office of transportation, without competitive bids and notwithstanding any general or  
1498 special law to the contrary, award a contract, otherwise subject to this section, limited to the  
1499 performance of emergency repairs necessary to preserve the safety of persons or property;

1500 (t) appoint and employ officers and employees to serve at the pleasure of the directors,  
1501 except as may otherwise be provided in collective bargaining agreements, and to fix the  
1502 compensation and conditions of employment thereof, employ personnel as hereinafter provided  
1503 and to engage architectural, engineering, accounting, management, legal, financial and  
1504 environmental consulting and other professional services; provided, however, that the authority  
1505 shall engage consultants to perform only those services for the authority which regular  
1506 employees of the Authority are unable to perform owing to lack of special expertise or other  
1507 inability to perform such services on the schedule or in the manner required by the authority;

1508 (u) accept gifts, grants and loans from agencies of local, state and federal governments, or  
1509 from private agencies or persons, and to accede to such conditions and obligations as may be  
1510 imposed as a prerequisite to any such gift, grant or loan;

1511 (v) adopt a fiscal year to conform with the fiscal year of the commonwealth;

1512 (w) receive and apply its revenues to the purposes of the authority without appropriation  
1513 or allotment by the commonwealth or any political subdivision thereof;

1514 (x) enter into agreements with other parties including, without limiting the generality of  
1515 the foregoing, government agencies, municipalities, authorities, private transportation  
1516 companies, railroads and other concerns, providing: (i) for construction, operation and use of any  
1517 mass transportation facility and equipment held or later acquired by the authority; provided,  
1518 however, that any agreement entered into by the authority for the construction or acquisition of

1519 mass transportation facilities or equipment of more than \$1,000,000, which is financed in whole  
1520 or in part from the proceeds of bonds, the debt service payments on which are assisted by the  
1521 commonwealth or made from the dedicated revenue source, shall not become effective until  
1522 approved by the secretary of transportation; and provided further, that said secretary shall notify  
1523 the secretary of administration and finance of any such approval; (ii) for joint or cooperative  
1524 operation of any mass transportation facility and equipment with another party; (iii) for operation  
1525 and use of any mass transportation facility and equipment for the account of the authority, for the  
1526 account of another party or for their joint account; or (iv) for the acquisition of any mass  
1527 transportation facility and equipment of another party if the whole or any part of the operations  
1528 of such other party takes place within the area constituting the authority; provided, however, that  
1529 any such other party is hereby given power and authority to enter into any such agreements,  
1530 subject to applicable laws ; provided further, that any agreement with a private company under  
1531 this chapter which is to be financed from the proceeds of bonds or bond anticipation notes and  
1532 which provides for the rendering of transportation service by such company and for financial  
1533 assistance to such company by subsidy, lease or otherwise shall include such service quality  
1534 standards for such service as the authority may deem appropriate and shall not bind the authority  
1535 for a period of longer than 1 year from its effective date, but this shall not prohibit agreements  
1536 for longer than 1 year if the authority's obligations thereunder are subject to annual renewal or  
1537 annual cancellation by the board's authority; and provided further, that such agreements may  
1538 provide for cash payments for services rendered, but not more than permits any private company  
1539 a reasonable return;

1540 (y) establish transit facilities and related infrastructure, including terminals, stations,  
1541 access roads, parking, pedestrian access facilities, bicycle parking and access facilities as may be

1542 deemed necessary and desirable; provided, however, that the authority may charge reasonable  
1543 fees for the use of such facilities as it may deem desirable, or it may allow the use of such  
1544 facilities free of charge;

1545 (z) to employ a private project ombudsman who shall, in consultation with the secretary  
1546 of transportation, assist municipalities and private entities to develop and advance projects  
1547 critical to the economic development of a community and connecting to the state transportation  
1548 system, and to ensure regional equity in the transportation system. The administrator is  
1549 authorized to establish guidelines outlining the responsibilities and obligations of the private  
1550 project ombudsman, who shall be experienced in the field of real estate development and  
1551 economic development. Those responsibilities and obligations shall include, but not be limited  
1552 to, sufficient authority to supervise, assist, and provide necessary guidance for municipal or  
1553 private entity projects and the authority, subject to the administrator's approval, to review project  
1554 proposals and expedite project development where possible.

1555 The division shall establish and charge a reasonable fee to cover the costs of processing,  
1556 reviewing, and approving a project proposal submitted to the private project ombudsman by a  
1557 municipality or private entity.

1558 (aa) do all acts and things necessary, convenient or desirable to carry out the powers  
1559 expressly granted in this chapter.

1560 Section 5. The authority shall develop and implement a single integrated asset  
1561 management system to oversee and coordinate the maintenance, preservation, reconstruction and  
1562 investment of all of the assets in its possession, custody and control. The authority may use  
1563 programs and services offered by the division of capital asset management and maintenance and  
1564 the information technology division to aid in its development of an integrated asset management

1565 system as long as, in the judgment of the authority, such programs and services compare  
1566 favorably with those available from private vendors and are offered at competitive prices.

1567 Section 6. (a) The chief executive officer shall operate and administer an office of performance  
1568 management and innovation within the authority that shall, among other things, administer this section.  
1569 The authority and its divisions shall report to the office of performance management and innovation with  
1570 regard to setting goals and establishing performance measures to improve the authority and divisions'  
1571 operations and the delivery of transportation services and projects in the commonwealth.

1572 The office of performance management and innovation shall be charged with evaluating the goals  
1573 and measures established by the authority and its divisions and monitoring the results reported. The  
1574 office shall recommend changes to proposed goals and measures as are appropriate to align goals and  
1575 measures with the strategic priorities of the chief executive officer and the secretary of transportation. The  
1576 office shall report regularly to the public on the progress the authority and its divisions are making at  
1577 achieving stated goals. The office shall be responsible for the establishment and, in cooperation with each  
1578 of the divisions, operation of an asset management system for all departments and shall report regularly  
1579 on the condition of assets and infrastructure. Reports on performance shall include measures of: (i)  
1580 maintenance activity and results; (ii) usage on all modes of transportation; (iii) operational performance;  
1581 and (iv) planning, design and construction, including on-time and on-budget project delivery.

1582 The office shall annually publish a "Scorecard" identifying the number of projects actively under  
1583 construction and those completed in the previous year by type, value and location, and those planned for  
1584 the following year. Notwithstanding any other provision of law, the office shall determine the appropriate  
1585 measures and standards of performance in all categories and reporting on performance trends.

1586 The office will be responsible to report publicly and transparently and to make all reports  
1587 available through an on-line system.

1588 (b) The chief executive officer shall establish a performance measurement system for the  
1589 divisions of the authority, which shall establish program goals, measure program  
1590 performance against those goals and report publicly on progress to improve the  
1591 effectiveness of transportation design and construction, service delivery and policy  
1592 decision-making. Performance measurements shall include, for at least the then  
1593 current fiscal year and the previous 5 fiscal years, all modes of transportation.  
1594 Performance measurements shall include the number of projects completed, the  
1595 percentage of projects completed early or on time, the percentage of projects  
1596 completed under budget or on-budget, the number of projects in construction phase  
1597 and the percentage of projects advertised early or on time. Performance  
1598 measurements shall include usage information for all modes of transportation,  
1599 including measures of throughput, utilization and ridership. This information shall be  
1600 presented with measurements of congestion, on-time performance, if appropriate, and  
1601 incidents that have caused delays or closures. Performance measurements shall  
1602 include assessments of maintenance performance by asset class, mode and region,  
1603 including a breakdown of highway pavement, bridge and track, for subway,  
1604 commuter and commonwealth-owned freight rail, by condition level, with an  
1605 explanation of current year and future year planned maintenance expenditures and  
1606 their expected result. Reporting on planned maintenance programming shall include  
1607 an assessment of the categories of maintenance-related activity as described in the  
1608 American Association of Highway and Transportation Officials' Maintenance Manual  
1609 for Roadways and Bridges. The division of roads and bridges shall expand and  
1610 enhance its project information system and shall develop additional means to



1611 establish a centralized system, available on the internet, to document performance  
1612 measurements and the progress and status of all planning, design, construction and  
1613 maintenance projects undertaken by the authority, and all road and bridge projects of  
1614 any city or town that are funded, in whole or in part, by the commonwealth. A  
1615 municipality shall have access to the system at no cost, shall enter such information  
1616 into the system as may be required by the division of roads and bridges and shall  
1617 otherwise fully participate in the system as a condition of receiving financial  
1618 assistance from the commonwealth. All information in the project information  
1619 system shall be a public record unless otherwise exempted by law. A report of the  
1620 project information system and performance measurements shall be published  
1621 annually and made available to the public not later than December 31. The report  
1622 shall also be filed annually with the clerks of the senate and house of representatives,  
1623 the chairs of the house and senate committees on ways and means and the senate and  
1624 house chairs of the joint committee on transportation. The performance measurement  
1625 system shall require each division to develop a strategic plan for program activities  
1626 and performance goals. The system shall require annual program performance  
1627 reports which shall be submitted to the house and senate committees on ways and  
1628 means and the joint committee on transportation.

1629 (c) The chief executive officer shall use the performance criteria established in this  
1630 section to determine the quality of service of all private entities, including commuter  
1631 rail providers, that perform transportation services on behalf of the authority. The  
1632 results of such performance measures shall be criteria used in negotiating any  
1633 contracts.

1634           Section 7. Unless otherwise required under section 6A of chapter 31 or any other general  
1635 or special law the chief executive officer shall design and implement a program for performance  
1636 evaluation of employees. The sole purpose of the program shall be the improvement of the  
1637 performance of individual employees and the authority and, notwithstanding any general or  
1638 special law to the contrary, all information compiled by said program shall be confidential shall  
1639 not be public records under section 10 of chapter 66 or clause Twenty-sixth of section 7 of  
1640 chapter 4. The authority may consult with individuals and organizations and may contract for  
1641 technical assistance for the purpose of the program to the extent it deems necessary.

1642           Section 8. (a) The chief executive officer of the authority shall, notwithstanding any  
1643 general or special law to the contrary, identify administrative activities and functions common to  
1644 the separate offices, divisions and commissions within the authority and may designate such  
1645 functions as "core administrative functions" to improve administrative efficiency and preserve  
1646 fiscal resources. Common functions that may be designated core administrative functions  
1647 include, but shall not be limited to, human resources, financial management, information  
1648 technology, legal, procurement, workers' compensation insurance pursuant to chapter 152 and  
1649 asset management. All employees performing functions so designated shall be employed  
1650 directly by the chief executive officer. The authority may make such services available to the  
1651 agencies, offices, divisions and commissions within the executive office of transportation  
1652 through a written interagency service agreement; provided, however, that a copy of such  
1653 agreement shall be provided to the house and senate committees on ways and means and the joint  
1654 committee on transportation before such services are provided. The authority shall charge the  
1655 agencies, departments, offices, divisions and commissions of the executive office of  
1656 transportation for such services, subject to appropriation.

1657 (b) The authority may enter into agreements under section 22A and 22B of chapter 7 and,  
1658 in all respects not governed by general or special laws expressly made applicable to the  
1659 authority, shall adhere to good business practices to be determined by the authority in its  
1660 procurement of equipment, materials, property, supplies and services.

1661 (c) The authority shall use the state accounting system, the state payroll system and the  
1662 state-supported internet application for procurement. The authority shall, to the maximum extent  
1663 feasible, prioritize the elimination of redundant systems for asset management and information  
1664 technology.

1665 (d) On December 15 and at 6-month intervals thereafter, the chief executive officer of the  
1666 authority shall report to the joint committee on transportation, the joint committee on bonding,  
1667 capital expenditures and state assets and the house and senate committees on ways and means on  
1668 the authority's progress in implementing the requirements of this section, the capital  
1669 expenditures made by the authority in implementing the requirements of this section and on the  
1670 administrative savings that have been achieved through the implementation of the requirements  
1671 of this section.

1672 (e) The chief executive officer of the authority shall appoint a manager to serve as  
1673 director of system integration, whose primary responsibility shall be to develop a plan and  
1674 oversee the implementation of the merger and integration of the organizations and assets  
1675 comprising the highway division.

1676 Section 9. The exercise of the powers granted by this chapter shall be in all respects for  
1677 the benefit of the people of the commonwealth, for the increase of their commerce and prosperity  
1678 and for the improvement of their health and living conditions and, as the operation and

1679 maintenance of the state highway system or state public transit system by the authority shall  
1680 constitute the performance of essential governmental functions, the authority shall not be  
1681 required to pay any taxes or assessments upon the state highway system or state public transit  
1682 system or any property acquired or used by the authority this chapter or upon the income  
1683 therefrom, except as may be otherwise provided by this chapter, and the notes or bonds issued  
1684 under this chapter, the transfer and the income therefrom, including any profit made on the sale  
1685 thereof, shall at all times be free from taxation by and within the commonwealth.

1686         Section 10. The authority may charge and collect and, from time to time, fix and revise  
1687 tolls for transit over the turnpike and the different parts or sections thereof, subject to such  
1688 classifications of vehicles and manners of collection as the authority determines desirable and  
1689 subject to clause (j) of section 4. Such tolls shall be so fixed and adjusted as to provide, at a  
1690 minimum, a fund sufficient with other revenues, if any, to pay: (1) costs incurred in furtherance  
1691 of this chapter related to the turnpike including, but not limited to, the cost of owning,  
1692 maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering,  
1693 controlling and operating the turnpike; provided, however, that the authority may not charge or  
1694 collect a toll for transit through the Callahan tunnel, the Sumner tunnel or the Third Harbor  
1695 tunnel by official emergency vehicles of the commonwealth or any municipality, political  
1696 subdivision or instrumentality thereof; provided further, that the authority may not charge and  
1697 collect tolls for transit through the Callahan tunnel, the Sumner tunnel or the Third Harbor tunnel  
1698 by private passenger vehicles registered in the East Boston section of the city of Boston or the  
1699 South Boston section of the city of Boston, as the Boston transportation department has  
1700 determined the geographical boundaries of said sections of Boston, that are greater than the tolls  
1701 in effect for vehicles registered in said East Boston section at existing tunnel toll facilities on the

1702 effective date of section 14 of chapter 102 of the acts of 1995; and provided further, that the  
1703 authority may not charge and collect tolls for transit through the Callahan or Sumner tunnels to  
1704 private passenger vehicles registered in the North End section of the city of Boston, as the  
1705 Boston transportation department has determined the geographical boundaries of such section,  
1706 that are greater than the tolls in effect for such transit through either the Sumner tunnel or  
1707 Callahan tunnel for vehicles on the effective date of section 14 of chapter 102 of the acts of  
1708 1995; provided further, that the authority shall continue operation of the 50 per cent toll discount  
1709 program approved by the Massachusetts Turnpike Authority board of directors in open meeting  
1710 on June 28, 2002 for account holders who participate in the authority's electronic toll collection  
1711 system; and (2) the principal of, redemption premium, if any, and the interest on notes or bonds  
1712 relating to the turnpike as the same shall become due and payable and to create and maintain  
1713 reserves established for any of the authority's corporate purposes. Such tolls shall not be subject  
1714 to supervision, regulation, approval or disapproval by any department, division, commission,  
1715 board, bureau or agency of the commonwealth or any political subdivision thereof. The authority  
1716 shall maintain the confidentiality of all information including, but not limited to, photographs or  
1717 other recorded images and credit and account data, relative to account holders who participate in  
1718 its electronic toll collection system. Such information shall not be a public record and shall be  
1719 used for enforcement purposes only with respect to toll collection regulations. An account holder  
1720 may, upon written request to the authority, have access to all information pertaining solely to the  
1721 account holder. For each violation of applicable authority regulations related to electronic toll  
1722 collection, a violation notice shall be sent to the registered owner of the vehicle in violation. The  
1723 notice shall include the registration number of the vehicle, the state of issuance of such  
1724 registration and the date, time and place of the violation. The notice may be based in whole or in

1725 part upon inspection of any photographic or other recorded image of a vehicle and the written  
1726 certification by a state police officer or other person employed by or under contract with the  
1727 authority or its electronic toll collection system contractor that it is so based shall be prima facie  
1728 evidence of the facts contained therein and shall be admissible in any administrative or judicial  
1729 proceeding to adjudicate the liability for such violation.

1730           Section 11. The authority may take by eminent domain in accordance with chapter 79 or  
1731 any alternative method now or hereafter provided by general law, any public land and any fee  
1732 simple absolute or lesser interest in private property or part thereof or rights therein as it may  
1733 deem necessary for carrying out this chapter.

1734           Whenever a parcel of private property so taken is used in whole or in part for residential  
1735 purposes, the owner of such parcel may, within 30 days of the date of the authority's notice to  
1736 vacate such parcel, appeal to the authority for a postponement of the date set for such vacating,  
1737 whereupon the authority shall grant to the owner a postponement of 3 months from the date of  
1738 such appeal; provided, however, that the appeal for such postponement shall be in the form of a  
1739 written request to the authority sent by registered mail, return receipt requested; and provided  
1740 further, that the provisions of section 40 of said chapter 79 shall govern the rights of the authority  
1741 and of any person whose property shall be so taken.

1742           The authority shall have the power, in the process of constructing, reconstructing,  
1743 repairing, rehabilitating, improving, policing, using or administering all or any part of the  
1744 turnpike or metropolitan highway system to take by eminent domain pursuant to chapter 79, such  
1745 land abutting the turnpike or metropolitan highway system as it deems necessary or desirable for  
1746 the purposes of removing or relocating all or any part of the facilities of any public utility,  
1747 including rail lines, and may thereafter lease the same or convey an easement or any other

1748 interest therein to such utility company upon such terms as it, in its sole discretion, may  
1749 determine. Notwithstanding any general or special law to the contrary, the relocation of the  
1750 facilities of any public utility, including rail lines, in accordance with this section shall be valid  
1751 upon the filing of the plans thereof with the department of telecommunications and energy, if  
1752 applicable.

1753         Except as otherwise provided by law, any sale of real property shall be awarded, after  
1754 advertisement for bids, to the bidder who is the highest responsible bidder. The authority shall  
1755 have the right to reject all bids and to readvertise for bids. Before any real property shall be so  
1756 sold or conveyed, notice that such real property is for sale shall be publicly advertised in 2 daily  
1757 newspapers of general circulation published in the city of Boston, and, if such real property is  
1758 located in any other city or town, in a newspaper of general circulation published in such other  
1759 city or town, once a week for 3 successive weeks. Such advertisements shall state the time and  
1760 place where all pertinent information relative to the real property to be sold or conveyed may be  
1761 obtained and the time and place of opening the bids in answer to such advertisements and that  
1762 the authority reserves the right to reject any or all such bids. All bids in response to  
1763 advertisements shall be sealed and shall be publicly opened by the authority. The authority may  
1764 require, as evidence of good faith, that a deposit of a reasonable sum, to be fixed by the  
1765 authority, accompany the proposals. This paragraph shall not be applicable to any sale of real  
1766 property by the authority to the commonwealth or any city, town or public instrumentality nor to  
1767 a sale of real property which is determined by the authority to have a fair market value of \$5,000  
1768 or less.

1769         The authority may sell the buildings or other structures upon any lands taken by it or may  
1770 remove the same and shall sell, if a sale is practicable or, if not, shall lease, if a lease is

1771 practicable, any lands or rights or interest in lands or other property taken or purchased for the  
1772 purposes of this chapter, whenever the same shall, in the opinion of the authority, cease to be  
1773 needed for such purpose.

1774           Notwithstanding any general or special law to the contrary, all counties, cities, towns and  
1775 other political subdivisions and all public agencies, authorities and commissions of the  
1776 commonwealth may lease, lend, grant or convey to the authority, at its request, upon such terms  
1777 and conditions as the proper authorities of such counties, cities, towns, political subdivisions,  
1778 agencies, authorities and commissions may deem reasonable and fair and without the necessity  
1779 for any advertisement, order of court or other action or formality, other than the regular and  
1780 formal action of the authorities concerned, any real property, improvements or personal property  
1781 which may be necessary or convenient to the effectuation of the authorized purposes of the  
1782 authority, including public roads, bridges and other real property, improvements or personal  
1783 property already devoted to public use.

1784           Section 12. Notwithstanding chapters 134 and 147, if money, goods or other property  
1785 which has been abandoned, mislaid or lost on the premises of the authority comes into the  
1786 possession of the authority and remains unclaimed for a period of 120 days, the authority may  
1787 sell the same, excepting money so unclaimed, at public auction after notice of such sale has been  
1788 published for 3 successive weeks in a newspaper published in the city or town wherein such sale  
1789 shall occur. The net proceeds of such sale, after deducting the cost of storage and the expenses of  
1790 the sale, and all money so unclaimed, shall be paid into and become the property of the authority  
1791 and may be applied by the authority to any of its corporate purposes. If such property is in the  
1792 possession of the authority and remains unclaimed for a period of 120 and is of the value of \$3 or  
1793 less, the authority may donate the same to a charitable organization.



1794           Section 13. The authority and its employees shall be subject chapter 150E and, for  
1795 purposes of said chapter 150E, the authority shall be deemed to be an employer or public  
1796 employer and a legislative body. The authority may designate a representative to act in its  
1797 interest in labor relations matters with its employees. Rights and obligations under the most  
1798 recent existing or expired collective bargaining agreements with respect to employees transferred  
1799 to the authority and with respect to all employee organizations representing such employees at  
1800 the time of transfer, except to the extent expressly inconsistent with this chapter, shall be  
1801 assumed by, and imposed upon, the authority and employees transferred to the authority who are  
1802 subject to such agreements shall continue to be represented by the employee organizations that  
1803 are parties to such agreements until such time as they elect to be otherwise represented in  
1804 accordance with said chapter 150E. Existing bargaining units shall remain in full force and effect  
1805 for those employees transferred to the authority until the expiration of the collective bargaining  
1806 units covering those employees. Collective bargaining agreements in effect at the time of transfer  
1807 shall continue in effect until their stated expiration date and successor negotiations shall be  
1808 conducted and resolved between the authority and the employee organizations representing  
1809 employees covered by such collective bargaining agreements in accordance with the chapter  
1810 150E and this chapter. The terms and conditions of expired collective bargaining agreements  
1811 under renegotiation at the time of transfer shall be observed by the authority and the authority  
1812 shall conclude and resolve negotiations for successor agreements with the employee  
1813 organizations representing employees covered by such collective bargaining agreements in  
1814 accordance with the said chapter 150E and this chapter.

1815            Nothing in this section shall be construed as conferring upon the employees of the  
1816 authority the right to strike, nor as detracting from the obligations of the authority and the  
1817 employees to submit all grievances and other disputes to arbitration.

1818            Section 14. Whenever any employee or former employee of the authority dies, and the  
1819 authority owes his estate any sum or sums by reason of services rendered by him for wages  
1820 vacation allowances, and neither a duly appointed executor or administrator nor an administrator  
1821 has made written demand for payment upon the treasurer of the authority and treasurer shall not  
1822 otherwise have actual notice that proceedings relative to the formal probate or settlement of such  
1823 estate have been commenced in any probate court, such sum or sums may, in the discretion of  
1824 the authority, be paid after the expiration of 30 days from the death of such employee to such  
1825 person as may have been nominated as beneficiary, on a form approved by the directors and filed  
1826 with the treasurer by such employee during his lifetime or, if there is no such beneficiary, to the  
1827 surviving spouse or next of kin of such employee. Payments made as provided in this section  
1828 shall discharge all liability of the authority to all persons with respect to such sum or sums.

1829            Section 15. Notwithstanding section 13, the authority or any organizations representing  
1830 employees of the authority shall not be permitted to submit any dispute over the terms of a  
1831 collective bargaining agreement to arbitration except in accordance with sections 15 through 19,  
1832 inclusive; provided, however, that this section shall not limit the rights of organizations  
1833 representing employees of the authority to submit grievances to arbitration in accordance with  
1834 the collective bargaining agreement between the parties.

1835            Section 16. In the event the directors and any organizations representing employees of  
1836 the authority have not reached an agreement within 90 days from the date of the expiration of the  
1837 agreement, either party may notify the other that it desires mediation. The parties may agree

1838 upon a person to serve as a mediator or, if unable to agree on said mediator, either party or the  
1839 parties acting jointly may petition the board of conciliation and arbitration to appoint a mediator  
1840 from a list of qualified persons maintained by the board.

1841           After a reasonable period of mediation, not to exceed 45 days from the date of  
1842 appointment, said mediator shall issue a report indicating the results of his services in resolving  
1843 the impasse. If at the conclusion of mediation the impasse still exists, the mediator shall so  
1844 certify. In the event, the mediator shall certify in his report the last best offer of each party on  
1845 each unresolved issue which has been submitted to mediation and shall also certify the  
1846 agreement of the parties on each issue on which agreement has been reached and shall submit  
1847 such certifications to the arbitrator selected by the parties. In such event, so long as the mediator  
1848 shall also certify that the parties have bargained in good faith, either party may notify the other  
1849 that it desires arbitration of the dispute. Within 10 days of said notice, the parties shall meet to  
1850 select a single neutral arbitrator. If, within 15 days, the parties fail to select such single arbitrator,  
1851 either party may forthwith petition the board of conciliation and arbitration to request a list of 5  
1852 arbitrators from the American Arbitration Association and said Association shall certify to the  
1853 board that such arbitrators on the list it provides possess the qualifications as provided in section  
1854 30. The parties shall thereupon meet to select such arbitrator by striking 1 name each until 1  
1855 name remains and that person shall serve as the neutral arbitrator. If, after 10 days, one of the  
1856 parties declines to strike their names, the other party shall strike 2 names and the board shall  
1857 forthwith select the arbitrator from the remaining 3 names.

1858           Section 17. The single arbitrator, whether agreed upon by the parties or selected by the  
1859 board of conciliation and arbitration, shall be a legal resident of the commonwealth and shall be  
1860 experienced in state and local finance.

1861           Section 18. The arbitrator shall rely primarily on the following factors in determining the  
1862 basis for an award:

1863           (a) the financial ability of the authority to meet additional costs, which shall include, but  
1864 not be limited to: (i) the statutory requirement that the authority produce revenues in excess of  
1865 expenses; (ii) the financial ability of the individual communities and the commonwealth to meet  
1866 additional costs; (iii) the average per capita tax burden, average annual income and sources of  
1867 revenue within the commonwealth, and the effect of any arbitration award on the respective  
1868 property tax rates of the cities and towns within the authority's district;

1869           (b) the overall compensation presently received by the employees, having regard not only  
1870 for wages for time actually worked but also for wages for time not worked, including vacations,  
1871 holidays and other excused time;

1872           (c) all benefits received by the employees, including insurance, pension, as well as the  
1873 continuity and stability of employment;

1874           (d) the hazards of employment, physical, educational and mental qualifications, job  
1875 training and skills involved;

1876           (e) a comparison of wages, hours, and conditions of employment of the employees  
1877 involved in the arbitration proceedings with the wages, hours and conditions of employment of  
1878 other employees performing similar services within the commonwealth and with other  
1879 employees generally in public and private employment within the commonwealth;

1880           (f) the average consumer price for goods and services, commonly known as the cost of  
1881 living;

1882           (g) changes in any of the foregoing circumstances during the pendency of the arbitration  
1883 proceedings;

1884 (h) such other factors, not confined to the foregoing, which are normally or traditionally  
1885 taken into consideration in the determination of wages, hours and conditions of employment  
1886 through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise  
1887 between parties, in the public service of the commonwealth, and which are not precluded from  
1888 bargaining under section 13; and

1889 (i) The stipulation of the parties.

1890 Section 19. The arbitrator shall be limited in making his award to choosing between the  
1891 last best offers of the parties on each issue as certified in the mediator's report or any award in  
1892 the range between the last best offers of the parties. The arbitrator shall make no award on any  
1893 issue found by him to be not authorized by law to be submitted to arbitration, but shall state such  
1894 finding in his written opinion. Within 30 calendar days of an award, the arbitrator shall issue a  
1895 written opinion inclusive of an analysis of all statutory factors applicable to the proceedings. Any  
1896 determination by the arbitrator, if supported by material and substantial evidence on the record,  
1897 shall be binding upon the parties and upon the appropriate legislative or appropriating body and  
1898 may be enforced at the insistence of either party or by the arbitrator in the superior court. The  
1899 scope of arbitration shall be limited to wages, hours and conditions of employment and shall not  
1900 include any provisions for any cost of living adjustment which are based on changes in the  
1901 consumer price index after the expiration of the contract period covered by the award. In  
1902 addition, any wage or salary adjustments shall be expressed in per cent or dollar amounts, and in  
1903 no case shall there be any provision for salary adjustments to occur after the expiration of the  
1904 contract period covered by the award.

1905 The cost, if any, of the mediation and of arbitration proceedings exclusive of the expenses  
1906 of the individual parties provided for under sections 15 to 19, inclusive, shall be divided equally

1907 by the parties and shall be in accordance with a schedule of payments established by the  
1908 American Arbitration Association.

1909           Section 20. All sums of money payable under sections 31, 34, 34A, 35 and 35A of  
1910 chapter 152 directly to a retired member of the Massachusetts Bay Transportation Authority  
1911 retirement system or to the legal representative or dependents of a deceased member on account  
1912 of his death, including so much of the amount of any lump sum settlement payable under such  
1913 sections directly to any such persons as is allocable to the period following the retirement or  
1914 death of such member, but excluding any payments for or amounts allocable to any period to the  
1915 date his retirement allowance became effective, shall be offset against and payable in lieu of any  
1916 pension payable on his account by reason of the same injury, but not against his accumulated  
1917 total deductions or any annuity derived therefrom. If any such pension exceeds the compensation  
1918 payable on account of such member under said chapter 152 when both are reduced to the same  
1919 periodical basis, the excess only shall be paid as a pension so long as such compensation  
1920 continues. If any such pension is less than or equal to such compensation, no pension shall be  
1921 paid so long as such compensation continues to be equal to or greater than such pension.

1922           In all cases in which a member or a beneficiary receives delayed compensation payments  
1923 or an amount of any lump sum settlement payable directly to him under sections 31, 34, 34A, 35  
1924 or 35A of chapter 152 subsequent to his receipt of payments under any pension granted under the  
1925 Massachusetts Bay Transportation Authority retirement system by reason of the same injury, no  
1926 further pension payments shall be made unless and until such time as the total amounts which by  
1927 then would have been payable as compensation and pension together, if there had been no delay  
1928 in making such compensation payments, shall exceed the total amounts of compensation and

1929 pension actually paid by them after due allowance in either case for the allocation of any such  
1930 lump sum settlement.

1931           If a member or a beneficiary entitled to a pension under the Massachusetts Bay  
1932 Transportation Authority retirement system, and also having a right to compensation under said  
1933 chapter 152 by reason of the same injury or death of such member, as the case may be, neglects  
1934 or fails to prosecute fully such right or to cooperate with the Massachusetts Bay Transportation  
1935 Authority retirement system in its prosecution thereof, as provided for by section 73 of said  
1936 chapter 152, the Massachusetts Bay Transportation Authority retirement board may, during the  
1937 period of such neglect or failure, suspend such member's or beneficiary's right to further  
1938 payment. Under the circumstances set forth in the said section 73, the duty of said board to  
1939 prosecute shall be mandatory.

1940           Section 21. The authority shall adopt an annual budget for its current expenses which  
1941 budget the authority shall have submitted for comment and recommendation to the road and  
1942 bridge advisory board established under section 58 of chapter 81C and the Massachusetts transit  
1943 advisory board established under section 5 of chapter 81D not less than 60 days prior to the  
1944 adoption thereof. Except in case of an emergency, no current expenses may be incurred in  
1945 excess of those shown in the annual current expense budget. The authority may from time to  
1946 time adopt amendments to current expense budgets which the authority shall have submitted for  
1947 comment and recommendation to the advisory board for each division not less than 30 days prior  
1948 to the adoption thereof. The authority periodically shall also adopt and revise capital expenditure  
1949 budgets for the capital facility programs developed by the executive office of transportation. The  
1950 current expense and capital expenditure budgets of the authority shall be deemed not to be  
1951 regulations or adjudications for purposes of chapter 30A. Proposed capital expenditure budgets

1952 shall be submitted to the advisory board for each division for such consultation not less than 60  
1953 days prior to adoption or revision by the authority. The authority shall prepare a written response  
1954 to reports relative to its finances submitted to it by the advisory board for each division which  
1955 response shall state the basis for any substantial divergence between the actions of the authority  
1956 and the recommendations contained in such reports of the advisory board. The authority shall be  
1957 deemed to be a public agency subject to the recordkeeping and reporting requirements of  
1958 paragraph (4) of section 40A of chapter 7.

1959           The authority shall establish a Stabilization Fund into which it shall deposit revenues in  
1960 excess of expenses pursuant to section 30 until the fund balance is equal to or greater than 5 per  
1961 cent of total revenues of the fiscal year most recently ended. The authority may draw funds from  
1962 the Stabilization Fund only in the event that, after implementing all efficiencies and savings  
1963 possible, annual revenues are projected to be less than annual expenses, or if it has insufficient  
1964 funds on-hand to pay current expenses. The authority may not assume draws from the  
1965 Stabilization Fund in preparing its budget pursuant to this section. In the event the authority  
1966 draws funds from the Stabilization Fund, it shall file with the secretary of administration and  
1967 finance, the secretary of transportation and construction, the joint committee on transportation  
1968 and the house and senate committees on ways and means a financial plan that projects to produce  
1969 in the following fiscal year an excess of revenues over expenses.

1970           The authority shall also establish a Toll and Fare Stability Fund, into which it shall  
1971 deposit revenues in excess of expenses pursuant to section 30. The authority may assume draws  
1972 from the Fare Stability Fund in preparing its budget pursuant to this section. Funds in said Fare  
1973 Stability Fund shall be utilized within 5 fiscal years after being deposited.



1974           Section 22. (a) The authority may provide, by resolution of the board of directors, for the  
1975 issuance, from time to time, of bonds of the authority for any of its corporate purposes or for the  
1976 borrowing of money in anticipation of the issuance of such bonds. Bonds issued by the authority  
1977 may be issued as general obligations of the authority or as special obligations payable solely for  
1978 particular revenues or funds as may be provided for in any bond resolution, trust agreement or  
1979 other agreement securing bonds. The authority may also provide, by resolution of the board of  
1980 directors, for the issuance, from time to time, of temporary notes in anticipation of the revenues  
1981 to be collected or received by the authority, or in anticipation of the receipt' of other grants or  
1982 aid. The issue of such notes shall be governed by this chapter relating to the issue of bonds of the  
1983 authority other than such temporary notes as the same may be applicable; provided, however,  
1984 that notes issued in anticipation of revenues shall mature not later than 1 year from the respective  
1985 dates thereof and notes issued in anticipation of grants, or other aid and renewals thereof, shall  
1986 mature not later than 6 months after the expected date of receipt of such grant or aid. The  
1987 aggregate principal amount of all bonds issued under this chapter shall not exceed  
1988 \$10,000,000,000 outstanding at any one time; provided, however, that bonds for the payment or  
1989 redemption, of which, either at or prior to maturity, refunding bonds shall have been issued, shall  
1990 be excluded in the computation of outstanding bonds.

1991           (b) Bonds of each issue shall be dated, may bear interest at such rate or rates, including  
1992 rates variable from time to time as determined by an index, banker's loan rate or other method  
1993 determined by the authority, and shall mature or otherwise be payable at such time or times, as  
1994 may be determined by the authority, and may be made redeemable before maturity at the option  
1995 of the authority or the holder thereof at such price or prices and under such terms and conditions  
1996 as may be fixed by the authority. Prior to the initial issuance of each series of bonds, the

1997 authority shall advise the advisory boards established by chapter 81C and 81D, the finance  
1998 advisory board established in section 97 of chapter 6 and the executive office for administration  
1999 and finance of the timing and terms thereof. The authority shall determine the form of bonds,  
2000 including interest coupons, if any, to be attached thereto, and the manner of execution of such  
2001 bonds, and shall fix the denomination or denominations of such bonds and the place or places of  
2002 payment of principal, redemption premium, if any, and interest, which may be at any bank or  
2003 trust company within or without the commonwealth. In case any officer whose signature or a  
2004 facsimile of whose signature shall appear on any bonds or coupons shall cease to hold such  
2005 office before the delivery thereof, such signature or facsimile shall nevertheless be valid and  
2006 sufficient for all purposes as if such officer had remained in office until delivery. The authority  
2007 may provide for authentication of bonds by a trustee, fiscal agent, registrar or transfer agent.  
2008 Bonds may be issued in bearer or in registered form, or both, and, if notes, may be made payable  
2009 to bearer or to order, as the authority may determine, and provision may be made for the  
2010 registration of any coupon bonds as to principal alone and also as to both principal and interest,  
2011 for the reconversion into coupon bonds of bonds registered as to both principal and interest and  
2012 for the interchange of bonds registered as to both principal and interest and for the interchange of  
2013 registered and coupon bonds. The authority may also establish and maintain a system of  
2014 registration for any bonds whereby the name of the registered owner, the rights evidenced by the  
2015 bonds, the transfer of the bonds and such rights and other similar matters are recorded in books  
2016 or other records maintained by or on behalf of the authority, and no instrument evidencing such  
2017 bond or rights need be delivered to the registered owner by the Authority. A copy of the books or  
2018 other records of the authority pertaining to any bond registered under such registration system  
2019 certified by an authorized officer of the authority or by the agent of the authority maintaining

2020 such system shall be admissible in any proceeding without further authentication. The authority  
2021 may adopt regulations with respect to the operation of such system. The board of directors may  
2022 by resolution delegate to any director or directors or officer or officers of the authority or any  
2023 combination thereof the power to determine any of the matters set forth in this section. In the  
2024 discretion of the authority, bonds of the authority may be issued with such terms as will cause the  
2025 interest thereon to be subject to federal income taxation. The authority may sell its bonds in the  
2026 manner, either at public or private sale, for the price, at the rate or rates of interest, or at discount  
2027 in lieu of interest, as it may determine will best effect the purposes of this chapter.

2028 (c) Said authority may issue interim receipts or temporary bonds, with or without  
2029 coupons, exchangeable for definitive bonds when the bonds shall have been executed and are  
2030 available for delivery. The authority may also provide for replacement of any bonds which shall  
2031 have become mutilated or shall have been destroyed or lost. The authority, by itself or through  
2032 such agent as it may select, may purchase and invite offers to tender for the purchase of any  
2033 bonds of the authority at any time outstanding; provided, however, that no such purchase by the  
2034 Authority shall be made at a price, exclusive of accrued interest, if any, exceeding the principal  
2035 amount thereof or, if greater, the redemption price of such bonds when next redeemable at the  
2036 option of the authority, and may resell any bonds it determines will best effect the purposes of  
2037 this chapter.

2038 (d) In the discretion of the board of directors, any bonds issued hereunder may be secured  
2039 by a bond resolution or trust agreement or other agreement in such form and executed in such  
2040 manner as may be determined by the board of directors between the authority and the purchasers  
2041 or holders of such bonds or between the authority and a corporate trustee which may be any trust  
2042 company or bank having the powers of a trust company within or without the commonwealth. A

2043 trust agreement may pledge or assign, in whole or in part, any receipts, fees, revenues or other  
2044 payments received or to be received by the authority, including without limitation amounts  
2045 provided to the trust in accordance with section 35LL of chapter 10, grants, appropriations or  
2046 other assistance from the commonwealth or the United States or any political subdivision or  
2047 instrumentality of either, investment earnings on its funds and accounts and any other fees,  
2048 charges or other income received or receivable by the authority and any contract or other rights  
2049 to receive the same, whether then existing or thereafter coming into existence, and whether then  
2050 held or thereafter acquired by the trust, and the proceeds thereof. A trust agreement may contain,  
2051 without limitation, provisions for protecting and enforcing the rights, security and remedies of  
2052 the bondholders, provisions defining defaults and establishing remedies, which may include  
2053 acceleration and may also contain restrictions on remedies by individual bondholders. A trust  
2054 agreement may also contain covenants of the trust concerning the custody, investment and  
2055 application of moneys, the issuance of additional or refunding bonds, the use of any surplus bond  
2056 proceeds, the establishment of reserves and the regulation of other matters customarily treated in  
2057 trust agreements. At the request of the authority, the state treasurer shall join in any trust  
2058 agreement or to otherwise agree with the authority, any lender or any trustee for bondholders to  
2059 hold the Surface Transportation Trust Fund, established pursuant to said section 35LL of said  
2060 chapter 10, in compliance with any covenants and provisions relating thereto in any trust  
2061 agreement. In no circumstances shall the authority mortgage its real property or fixed assets to  
2062 secure its bonds.

2063 (e) (1) Bonds may be issued by the authority in the form of lines of credit or other  
2064 banking arrangements under terms and conditions determined by the authority. In addition to  
2065 other lawful security, bonds may be secured, in whole or in part, by financial guaranties, by

2066 insurance, by letters or lines of credit or by other credit enhancement issued to the authority or to  
2067 a trustee or other person, by any bank, trust company, insurance or surety company or other  
2068 financial institution, within or without the commonwealth. The authority may pledge or assign,  
2069 in whole or in part, revenues, funds or other assets or property held or to be received by the  
2070 authority, and any contract or other rights to receive the same, whether then existing or thereafter  
2071 coming into existence and whether then held or thereafter acquired by the authority, and the  
2072 proceeds thereof, as security for any such guaranties or insurance or for the reimbursement to  
2073 any issuer of a line or letter of credit.

2074 (2) The authority shall comply with all regulations and guidelines promulgated by the  
2075 finance advisory board established in section 97 of chapter 6. At least 10 business days before  
2076 entering into any security transaction involving a derivative financial product, the authority shall  
2077 notify the finance advisory board of its intent to enter into such a transaction. For purposes of the  
2078 preceding sentence, “derivative financial product” shall mean financial instruments with values  
2079 derived from or based upon the value of other assets or on the level of an interest rate index  
2080 including, but not limited to, a call option on a bond, an interest rate swaptions, caps, floors,  
2081 collars, inverse floaters, auction rate securities or any other financial transaction other than fixed-  
2082 rate, long-term borrowing.

2083 (f) It shall be lawful for any bank or trust company to act as a depository or trustee of the  
2084 proceeds of bonds, revenues or other moneys under a bond resolution, trust agreement or other  
2085 agreement of the authority and to furnish indemnification and to provide security as may be  
2086 required by the authority. Any pledge of revenues and other funds made by the authority under  
2087 this chapter shall be valid and binding and shall be deemed continuously perfected for the  
2088 purposes of the uniform commercial code and other laws when such pledge is made. The

2089 revenues and funds, rights therein and thereto and proceeds so pledged and then held or  
2090 thereafter acquired or received by the authority shall immediately be subject to the lien of such  
2091 pledge without any physical delivery or segregation thereof or further act, and the lien of any  
2092 such pledge shall be valid and binding against all parties having claims of any kind in tort,  
2093 contract or otherwise against the authority, whether or not such parties have notice thereof. The  
2094 bond resolution, trust agreement or any other agreement by which a pledge is created need not be  
2095 filed or recorded to perfect such pledge except in the records of the authority and no filing need  
2096 be made under the uniform commercial code. Any pledge or assignment made under the  
2097 authority of this chapter is an exercise of the political and governmental powers of the Authority,  
2098 and revenues or funds, contract or other rights to receive the same and the proceeds thereof  
2099 which are subject to the lien of a pledge or assignment created under this chapter shall not be  
2100 applied to any purposes not permitted by such pledge or assignment.

2101 (g) Any holder of a bond issued by the authority under this chapter or of any of the  
2102 coupons appertaining thereto and any trustee or other representative under a bond resolution,  
2103 trust agreement or other agreement securing the same, except to the extent the rights herein given  
2104 may be restricted by the resolution, trust agreement or other agreement, may bring suit upon the  
2105 bonds or coupons and may, either at law or in equity, by suit, action, mandamus, or other  
2106 proceeding for legal or equitable relief, including proceedings for the appointment of a receiver  
2107 to take possession and control of the business and properties of the authority, to operate and  
2108 maintain the same, to make any necessary repairs, renewals and replacements in respect thereof  
2109 and to fix, revise and collect charges, protect and enforce any and all rights under the laws of the  
2110 commonwealth or granted hereunder or under such bond resolution, trust agreement or other  
2111 agreement, and may enforce and compel performance of all duties required by this chapter or by

2112 such bond resolution, trust agreement or other agreement, to be performed by the authority or by  
2113 any officer thereof.

2114 (h) Before the issuance of any bonds of the authority, each member of the board of  
2115 directors and each officer of the authority charged with responsibility for the issuance thereof  
2116 shall execute a surety bond conditioned on the faithful performance of the duties of the office of  
2117 each such director and officer, in the sum of \$100,000 payable to the authority, or, in lieu  
2118 thereof, the authority shall obtain a blanket bond in the same amount covering all such persons,  
2119 and such bonds or bonds shall be filed in the office of the state secretary.

2120 Section 23. The authority may issue refunding bonds for the purpose of paying any of its  
2121 bonds issued pursuant to this chapter at or prior to maturity or upon acceleration or redemption  
2122 or purchase and retirement. Refunding bonds may be issued at such times at or prior to the  
2123 maturity, redemption or purchase and retirement of the refunded bonds as the board of directors  
2124 deems to be in the interest of the authority. Refunding bonds may be issued in sufficient amounts  
2125 to pay or provide for payment of the principal of the bonds being refunded, together with any  
2126 redemption premium thereon, any interest or discount accrued or to accrue to the date of  
2127 payment of such bonds, the costs of issuance of the refunding bonds, the expenses of paying,  
2128 redeeming or purchasing the bonds being refunded, the costs of holding and investing proceeds  
2129 of refunding bonds pending such payment, redemption or purchase and such reserves for debt  
2130 service or other capital or current expenses from the proceeds of such refunding bonds as may be  
2131 required by a bond resolution, trust agreement or other agreement securing bonds. The issue and  
2132 sale of refunding bonds, the maturities and other details thereof, the security therefor, the rights  
2133 of the holders thereof, and the rights, duties and obligations of the authority in respect of the

2134 same shall be governed by this chapter relating to the issue of bonds other than refunding bonds  
2135 insofar as the same may be applicable.

2136           Section 24. Bonds issued by the authority are hereby made securities in which all public  
2137 officers and agencies of the commonwealth and its political subdivisions, all insurance  
2138 companies, trust companies in their commercial departments, savings banks, cooperative banks,  
2139 banking associations, investment companies, executors, administrators, trustees and other  
2140 fiduciaries may properly invest funds, including capital in their control or belonging to them.  
2141 Such bonds are hereby made securities which may properly be deposited with and received by  
2142 any state or municipal officer of any agency or political subdivision of the commonwealth for  
2143 any purpose for which the deposit of bonds or obligations of the commonwealth or any political  
2144 subdivision is now or may hereafter be authorized by law.

2145           Section 25. Bonds may be issued under this chapter without obtaining the consent of any  
2146 executive office, department, division, commission, board, bureau or agency of the  
2147 commonwealth or any political subdivision thereof, and without any other proceedings or the  
2148 happening of any condition or acts other than those proceedings, conditions or acts which are  
2149 specifically required therefor, and the validity of and security for any bonds issued by the  
2150 authority pursuant to this chapter shall not be affected by the existence or nonexistence of any  
2151 such consent or other proceedings, conditions or acts. Provisions of this chapter relating to the  
2152 preparation, adoption or approval of programs and budgets shall not affect the issue of bonds and  
2153 bonds may be issued either before or after such preparation, adoption or approval.

2154           Section 26. Bonds issued under the provisions of this chapter shall not be deemed to be a  
2155 debt or a pledge of the faith and credit of the commonwealth or of any of its political  
2156 subdivisions, but shall be payable solely from the funds of the authority from which they are



2157 made payable pursuant to this chapter. Bonds issued under this chapter shall recite that neither  
2158 the commonwealth nor any political subdivisions thereof shall be obligated to pay the same and  
2159 that neither the faith and credit nor the taxing power of the commonwealth or of any political  
2160 subdivision thereof is pledged to the payment of the principal of or interest on such bonds.  
2161 Further, every bond shall recite whether it is a general obligation of the authority or a special  
2162 obligation thereof payable solely from particular revenues or funds pledged to its payment. The  
2163 aggregate principal amount of all bonds issued under this chapter shall not exceed  
2164 \$10,000,000,000 outstanding at any one time; provided, however, that bonds for the payment of  
2165 redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall  
2166 be excluded in the computation of outstanding bonds.

2167         Section 27. Notwithstanding any of the provisions of this chapter or any recitals in any  
2168 bonds issued hereunder, all such bonds shall be deemed to be investment securities under the  
2169 uniform commercial code.

2170         Section 28. All moneys received pursuant this chapter, whether as proceeds from the  
2171 issue of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and  
2172 applied solely as provided in this chapter. The resolution authorizing the notes or bonds or the  
2173 trust agreement securing such notes or bonds shall provide that any officer with whom, or any  
2174 bank or trust company with which, such moneys shall be deposited shall act as trustee of such  
2175 moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as  
2176 this chapter and such resolution or trust agreement may provide.

2177         Section 29. (a) The authority shall, at all times, keep full and accurate accounts of its  
2178 receipts, expenditures, disbursements, assets and liabilities which shall be open to inspection by  
2179 any officer or duly appointed agent of the commonwealth. The authority shall submit an annual

2180 report, in writing, to the governor, the president of the senate, the speaker of the house of  
2181 representatives, the chairman of the senate committee on ways and means, the chairman of the  
2182 house committee on ways and means and the chairmen of the joint committee on transportation.  
2183 The report shall include audited financial statements by an independent accounting firm relating  
2184 to the operations, properties, and capital facility expenditures, including costs of land  
2185 acquisitions, of the authority maintained in accordance with generally accepted accounting  
2186 principles so far as applicable, and audited by an independent certified public accountant firm.

2187 (b) Not later than December 31, 2011 and every 5 years thereafter, the authority shall  
2188 submit to the governor, the president of the senate, the speaker of the house of representatives,  
2189 the chairman of the senate committee on ways and means, the chairman of the house committee  
2190 on ways and means and the chairmen of the joint committee on transportation a progress report  
2191 on the authority's attainment of its statutory purposes. Each such 5-year progress report shall be  
2192 prepared by the authority with the assistance of an independent citizen panel which shall include  
2193 persons selected by the authority and approved by the regional transit advisory board established  
2194 by section 27 of chapter 161B, the parkways advisory board established by section 60 of chapter  
2195 81C, the road and bridge advisory board established in section 58 of chapter 81C and the mass  
2196 transit advisory board established by section 5 who are experienced in environmental protection,  
2197 civil engineering and public management and finance. The report shall include recommendations  
2198 concerning the future activities of the authority including, but not limited to, changes in this  
2199 chapter, chapter 81C, chapter 81D and chapter 161B or the authority's administrative procedures  
2200 necessary or desirable for improving the delivery of services. The costs of preparing the report  
2201 shall be provided for in the current expense budgets of the Authority.

2202           Section 30. Annual revenues in excess of expenses shall be allocated in the following  
2203 order:

2204           (1) to fully fund all debt service reserves required under the trust agreements of any  
2205 bonds of the authority then outstanding, and to fund in advance the debt service reserve  
2206 requirements of any bond issuances planned for the upcoming fiscal year, in each case to the  
2207 extent required by an applicable bond resolution or trust agreement securing bonds of the  
2208 authority;

2209           (2) to fund the Stabilization Fund established pursuant to the second paragraph of section  
2210 21;

2211           (3) 50 per cent of any revenues in excess of expenses remaining after all debt service  
2212 reserve requirement and the Stabilization Fund are fully funded shall be deposited in the Toll and  
2213 Fare Stability Fund established pursuant to the third paragraph of said section 21;

2214           (4) 50 per cent of any revenues in excess of expenses remaining after all debt service  
2215 reserve requirement and the Stabilization Fund are fully funded shall pay for capital  
2216 improvements in lieu of bond proceeds or be applied to the retirement of outstanding bonds.

2217           Section 32. The authority shall be a public employer as defined in section 1 of chapter  
2218 258.

2219           Section 33. The authority shall be deemed to be a public agency for purposes of, and  
2220 shall be subject to, sections 44A to 44H, inclusive, of chapter 149, and section 39M of chapter  
2221 30, and shall comply with requirements applicable to an independent public authority for  
2222 publication of contract information in the central register established under section 20A of  
2223 chapter 9 . The authority shall not be subject to supervision under section 22 of chapter 7, but  
2224 may enter into agreements under section 22A and 22B of chapter 7 and, in all respects not

2225 governed by general or special laws expressly made applicable to the authority, shall adhere to  
2226 good business practices to be determined by the authority in its procurement of equipment,  
2227 materials, property, supplies and services.

2228         Section 34. (a) All local bodies and all public agencies, instrumentalities, commissions  
2229 and authorities of the commonwealth are hereby authorized and empowered to undertake  
2230 activities, programs and projects in conjunction with the authority in furtherance of the purposes  
2231 of this chapter including, without limiting the generality of the foregoing, to join in  
2232 investigations and studies, and to grant applications and applications for project approvals.

2233         (b) Except with respect to real property acquired or held for purposes described in Article  
2234 XCVII of the amendments to the constitution of the commonwealth, all local bodies and all  
2235 public agencies, instrumentalities, commissions and authorities of the commonwealth, may lease,  
2236 lend, grant or convey to the authority, upon such terms and conditions as the proper authorities of  
2237 such public bodies, public agencies, instrumentalities, commissions and authorities of the  
2238 commonwealth may deem appropriate and without the necessity of any action or formality other  
2239 than the regular and formal action of such public bodies, agencies, instrumentalities,  
2240 commissions and authorities of the commonwealth, any interest in any real or personal property  
2241 which may be necessary or convenient to effect the purposes of the authority.

2242         Section 35. Under this chapter, chapter 81C and chapter 81D: (i) no lands or easements  
2243 taken or acquired for the purposes authorized by article XCVII of the amendments to the  
2244 constitution of the commonwealth shall be used for other purposes or disposed of; and (ii) no  
2245 lands devoted to the public use shall be diverted to another inconsistent public use, except in all  
2246 instances in accordance with the laws and the constitution of the commonwealth.

2247 Section 36. The superior court department of the trial court shall have jurisdiction to  
2248 enforce rights and duties created by this chapter, and on complaint of the authority may restrain  
2249 violations of the authority's regulations and otherwise enforce by any appropriate remedy,  
2250 including without limiting the generality of the foregoing, injunctive relief, the regulations,  
2251 licenses, permits, orders, penalties and charges of the authority. Penalties and charges established  
2252 by or under authorization of this chapter shall be collected for the account of the authority and  
2253 paid over to the authority. Except for rights of action expressly conferred upon the Authority, no  
2254 provision of this chapter shall create private rights of action in enforcement proceedings.

2255 Section 37. Notwithstanding any general or special law or this chapter to the contrary, no  
2256 officer of the authority shall enter into any consent decree in any court of any jurisdiction  
2257 without prior approval of the governor.

2258 Section 38. The authority and its corporate existence shall continue until terminated by  
2259 law; provided, however, that no such law shall take effect so long as the authority shall have  
2260 bonds outstanding without adequate provision for the complete payment or satisfaction thereof.  
2261 Upon termination of the authority, the title to all funds and other properties owned by it which  
2262 remain after the payment or satisfaction of all bonds of the authority shall vest in the  
2263 commonwealth. The obligations, debts and liabilities of the authority shall be assumed by and  
2264 imposed upon the commonwealth.

2265 Section 39. Chapter 12A shall apply to the authority.

2266 Section 40. There shall be an internal special audit unit within the authority which shall  
2267 monitor the quality, efficiency and integrity of the authority's operating and capital programs and  
2268 seek to prevent, detect and correct fraud, waste and abuse in the expenditure of public or private  
2269 transportation funds. The unit shall be headed by a director, who shall be appointed by the

2270 inspector general council, established in section 3 of chapter 12A.. Employees of the internal special  
2271 audit unit shall have experience in accounting, auditing, financial analysis, applicable law,  
2272 business management, and public administration, shall devote their full-time efforts to the unit  
2273 and shall not be assigned direct operating responsibilities.

2274 At any time, the director may report and refer his findings to the inspector general so that  
2275 the inspector general may conduct an investigation as defined in chapter 12A and the results of  
2276 such investigation may be referred to the attorney general for appropriate action.

2277 Section 41. Notwithstanding any general or special law to the contrary, the authority  
2278 shall not seek federal approval for, nor undertake the design, installation and construction of,  
2279 new toll facilities on the state highway system.

2280 Section 42. The authority shall be subject to section 8 of chapter 268A of the General  
2281 Laws and thereby shall be prohibited from implementing competitively procured owner-  
2282 controlled insurance programs.

2283 Section 43. The authority shall adopt and implement: (i) a buy green initiative for  
2284 authority projects in furtherance of the greenhouse gas emission limits established in chapter  
2285 21N; and (ii) a build green initiative for the construction of new transportation facilities over  
2286 10,000 square feet in accordance with applicable law.

2287

2288

## CHAPTER 81C

2289

### THE DIVISION OF ROADS AND BRIDGES

2290 Section 1. (a) Without limiting the generality of the powers granted to the authority  
2291 under the provisions of chapter 81B or other provisions of this chapter, the following provisions  
2292 are made for the operation, improvement and construction of the state highway system.

2293 (b) There is hereby established a division of roads and bridges within the authority. The  
2294 division shall consist of the following bureaus: administrative services; parkway maintenance;  
2295 trails and bikeways; highway engineering; highway construction; and highway maintenance. Each  
2296 such bureau shall be under the direction, control and supervision of the administrator of the  
2297 division of roads and bridges, as defined in section 2. The administrator shall assign to all  
2298 officials, agents and employees of the bureaus their respective duties.

2299 Section 2. The division shall be under the direction of an administrator, who shall be  
2300 appointed by the chief executive officer of the authority and who shall serve at his pleasure. The  
2301 administrator shall be responsible for administering and enforcing this chapter relative to the  
2302 administration of each bureau or other section thereof under his control and supervision unless  
2303 otherwise provided herein, subject to the supervision of the chief executive officer of the  
2304 authority.

2305 The administrator shall be exempt from chapter 31 and the position of administrator shall  
2306 be classified in accordance with section 45 of chapter 30 and the salary shall be determined in  
2307 accordance with section 46C of said chapter 30. The administrator shall be appointed with due  
2308 regard to his fitness, by reason of his experience in matters relating to transportation  
2309 infrastructure, including roads and bridges, such as the construction, operations or financing  
2310 thereof or other relevant experience relative to the efficient exercise of his powers and duties.  
2311 The commissioner shall administer this section and the General Laws, rules and regulations that  
2312 grant powers to or impose duties upon the division , subject to the supervision of the chief  
2313 executive officer.

2314 (a) The administrator shall establish a procedure for recommending to the chief executive  
2315 officer approval or disapproval of all contracts, including specifications, made by the division,

2316 and any changes, alterations, amendments or modifications thereof and for contract appeals of all  
2317 claims made under any contract with the division with the exception of claims subject to section  
2318 39Q of chapter 30. Any person aggrieved by a decision of the chief executive officer acting in  
2319 regard to contract appeals may bring suit against the authority for recovery of damages based on  
2320 such claim under chapter 258.

2321 To assist the chief executive officer and administrator in performing this function, the  
2322 chief executive officer may appoint and remove a person of legal training and experience, who  
2323 shall be a member of the bar of the commonwealth, to the position of hearing examiner. The  
2324 hearing examiner shall devote full-time during business hours to the duties of his position. The  
2325 position shall be classified in accordance with section 45 of chapter 30 and the salary shall be  
2326 determined in accordance with section 46C of said chapter 30. The chief executive officer may  
2327 refer any dispute concerning contracts, contract specifications or the execution of contracts not  
2328 subject to the said section 39Q of said chapter 30 to the hearing examiner for a report on the  
2329 matter including a recommendation as to the disposition of the dispute.

2330 The hearing examiner shall hear all claims by contractors from determinations of the  
2331 department with the exception of claims subject to said section 39Q of said chapter 30 and shall,  
2332 after hearing, render to the chief executive officer a report of the matter including a  
2333 recommendation as to the disposition of the claim. The examiner shall, at the request of the  
2334 contractor or of the division or on his own motion, summon witnesses and require the production  
2335 of books and records and take testimony under oath. Such report shall be maintained as public  
2336 records in a place and form fully accessible to the public.

2337 (b) The administrator shall appoint and may remove all employees in the division, subject  
2338 to the approval of the chief executive officer of the authority. Except as provided in this chapter



2339 or as otherwise provided by law, all such appointments and removals shall be made in  
2340 accordance with chapter 31. From time to time, the administrator may, subject to appropriation  
2341 and regulation, employ such consultants as he may consider necessary; provided, however, that  
2342 such consultants shall be engaged to perform only those services for the division which regular  
2343 employees of the division are unable to perform owing to lack of special expertise or other  
2344 inability to perform such services on the schedule or in the manner required by the division.

2345         The administrator may appoint and remove, without regard to chapter 31 but with the  
2346 approval of the chief executive officer: a chief engineer; 5 deputy chief engineers; an assistant  
2347 chief engineer; a highway and structures engineer; a bridge engineer; highway engineers;  
2348 parkway engineers; district highway engineers; a director to serve in the division of  
2349 administrative services; 4 executive assistants to the administrator; a director of the right of way  
2350 bureau; and a director of public information. The total number of appointments to be made by  
2351 the administrator under this paragraph shall not exceed 35. No person holding an appointment  
2352 under this paragraph shall be subject to chapter 31 or section 9A of chapter 30. Nothing in this  
2353 section shall be deemed to exempt the positions named herein from sections 45 to 50, inclusive,  
2354 of said chapter 30. So far as practicable in the judgment of the administrator, appointments to  
2355 said positions not classified under said chapter 31 shall be made by promoting employees of the  
2356 division serving in positions so classified. Any person appointed to the position of chief  
2357 engineer, deputy chief engineer, assistant chief engineer, highway and structures engineer, bridge  
2358 engineer, parkway engineer, highway engineer or district highway engineer, shall be a person of  
2359 experience and skill as an engineer and shall be: (i) an employee of the bureau holding an office  
2360 or position classified under said chapter 31 with permanent status of senior civil engineer or  
2361 higher; (ii) a registered professional engineer; or (iii) a person who has received the degree of

2362 bachelor of science in an appropriate engineering discipline from an accredited college or  
2363 university. If an employee of the division having permanent status in a position classified under  
2364 or having tenure by reason of section 9A of said chapter 30 is so promoted to such unclassified  
2365 position, upon termination of service in such unclassified position the employee shall be restored  
2366 to the position from which he was promoted; or to a position equivalent thereto in the salary  
2367 grade in the same state agency; or if he had been promoted in accordance with said chapter 31  
2368 during promotion in the unclassified position, to the position to which he was so promoted or to a  
2369 position equivalent thereto in salary grade in the same state agency. In cases of restoration under  
2370 said chapter 31, or under said section 9A of said chapter 30, such restoration shall be without  
2371 impairment of civil service status or tenure under said section 9A, and without loss of the  
2372 seniority, retirement and other rights to which uninterrupted service in the position would have  
2373 entitled the employee; provided, however, that if his service in such unclassified position has  
2374 been terminated for cause, the employee's right to be restored shall be determined by section 43  
2375 of said chapter 31. During the period of such appointment the person so appointed shall be  
2376 eligible to take any competitive promotional examination for which he or she would otherwise  
2377 have been eligible.

2378 (c) The administrator shall, from time to time, establish such bureaus, section, and district  
2379 and other offices as shall be necessary for the efficient and economical administration of the  
2380 division and, if necessary for such purpose, may, from time to time, with the approval of the  
2381 chief executive officer, consolidate or abolish the same. The administrator shall prepare and keep  
2382 current a general statement of the organization of the division, of the assignment of functions to  
2383 its various administrative units, officials and employees, and of the established places at which  
2384 and the methods whereby the public may secure information or make requests, such statement to

2385 be known as the division's "description of organization". The administrator shall file with the  
2386 state secretary an attested copy of such description and of each amendment thereto.

2387 (d) With the approval of the personnel director, the chief executive officer may establish  
2388 in the division of roads and bridges a program of engineering internship and, may recruit  
2389 qualified persons to serve in the division as highway engineer interns.

2390 The number of persons employed in the division as highway engineer interns shall at no  
2391 time exceed 7, nor may such highway engineer interns employed by the division be placed in a  
2392 salary grade higher than that of a junior civil engineer in the division.

2393 No person shall be appointed or employed as a highway engineer intern except upon  
2394 requisition made by the administrator and upon certification by the personnel director from an  
2395 eligible list prepared in accordance with the provisions of chapter 31 and the rules made  
2396 thereunder; provided, however, that the personnel director shall establish such eligible list before  
2397 June 1 in each calendar year by holding a competitive examination which shall be open only to  
2398 persons who, as candidates for the degree of bachelor of science in engineering are enrolled in at  
2399 least the junior year as students in any college of the commonwealth, or are Massachusetts  
2400 residents attending a college of recognized standing outside the commonwealth, and to persons  
2401 who, within the 4 years next preceding, have been awarded the degree of bachelor of science in  
2402 engineering from a college of recognized standing. The eligible list established each year shall  
2403 expire upon the establishment of the eligible list in the following year. No person shall be  
2404 certified for appointment as a highway engineer intern unless he has been awarded the degree of  
2405 bachelor of science in engineering.

2406 Upon appointment as a highway engineer intern, made in accordance with chapter 31 and  
2407 the rules made thereunder, the appointee shall sign an agreement binding him to serve as

2408 highway engineer intern for a minimum of 2 years unless his employment is sooner terminated  
2409 by the administrator. It shall be the duty of the administrator to rotate the assignments of each  
2410 intern during his period of employment in order that he may acquire diversified experience in the  
2411 engineering programs of the division.

2412           The names of persons appointed as highway engineer interns shall be entered in order of  
2413 date of appointment on a list to be known as “highway engineer intern list” in the division of  
2414 civil service.

2415           Upon completion of 2 years of employment as interns under agreements provided for in  
2416 this section, persons shall be eligible without further examination for appointment as junior civil  
2417 engineers providing a vacancy exists in said title in the division and, upon requisition of the  
2418 administrator, the names of such persons shall be certified for appointment by the personnel  
2419 director from the highway engineer intern list, in accordance with the rules of the civil service  
2420 commission, except that the basis of certification shall be the order of appointment to such  
2421 highway engineer intern list.

2422           (e) The administrator may establish a co-operative engineer program and may enter into  
2423 agreements with colleges of recognized standing within the commonwealth, including colleges  
2424 which have summer programs, which have established a curriculum leading to a degree of  
2425 bachelor of science in engineering on a co-operative basis, contemplating regularly rotating work  
2426 activity in the field of engineering and an equal period of classroom training. He may employ  
2427 persons enrolled as candidates for the degree of bachelor of science in engineering in any such  
2428 colleges to serve in the division in the position of student engineer; provided, however, that the  
2429 position of student engineer shall be in a grade lower than that of junior civil engineer in the  
2430 division, and provided that at no time shall the number of persons employed in the division as

2431 student engineers exceed 8. Upon completion of not less than 2 years of employment as student  
2432 engineer, a person shall be eligible to apply for the examination for highway engineer intern. No  
2433 person shall be employed as a student engineer for more than 6 years.

2434 (f) The administrator may promulgate rules and regulations to effectuate the purposes of  
2435 this chapter.

2436 (g) There shall be an office of outdoor advertising within the division, for the purpose of  
2437 regulating and controlling, in the public interest, the erection and maintenance of billboards,  
2438 signs, or other advertising devices in accordance with state and federal law. The office shall be  
2439 under the administration and supervision of an executive officer who shall be an employee of the  
2440 division. The executive officer shall arrange for the cooperation of district engineers of the  
2441 division of roads and bridges and other field employees of the division in reporting the location  
2442 of billboards, signs or other advertising devices along state highways, and in enforcing the rules  
2443 and regulations of the office. Whenever any action by the office is required to be in writing,  
2444 such writing shall be sufficient when signed by the executive officer. The executive officer shall  
2445 make an annual report for the preceding calendar year setting forth the number of permits  
2446 granted, the number of permits refused, the number of hearings held, the number of illegal signs  
2447 removed, and other relevant matters to the general court and to the administrator of the division  
2448 of roads and bridges in January of each year.

2449 Section 2A. Unless otherwise required under section 6A of chapter 31 or any other  
2450 general or special law to the contrary, the administrator shall design and implement a program  
2451 for performance evaluation of employees. The sole purpose of the program shall be the  
2452 improvement of the performance of individual employees and the division and, notwithstanding  
2453 any general or special law to the contrary, all information compiled by said program shall be

2454 confidential and exempt from clause Twenty-sixth of section 7 of chapter 4 and section 10 of  
2455 chapter 66. The division may consult with individuals and organizations and may contract for  
2456 technical assistance for the purpose of the program to the extent it deems necessary.

2457 Section 3. The division may:

2458 (a) administer the design, construction, operation and maintenance of the roads and  
2459 bridges of the commonwealth;

2460 (b) enter into any contracts and agreements necessary or desirable to carry out its  
2461 purposes;

2462 (c) make and, from time to time revise, regulations for the conduct of the business of the  
2463 division, and all regulations otherwise required by law;

2464 (d) collaborate with other agencies and authorities, in consultation with the chief  
2465 executive officer, as may be appropriate in fields related to transportation, development, public  
2466 safety and security;

2467 (e) prepare and submit to the chief executive officer an annual report containing, in  
2468 substance, the description of the organization of the bureau, reviewing the work of the division,  
2469 recommending legislation and other action by the chief executive officer, and containing such  
2470 information relating to the state highway system as appropriate, including information required  
2471 by the chief executive officer;

2472 (f) submit such other reports as the chief executive officer requires;

2473 (g) compile statistics relative to the public ways of counties, cities and towns, and make  
2474 such investigations relative thereto as it considers expedient;

2475 (h) be consulted by, and shall without charge advise, officers of counties, cities or towns  
2476 having the care of and authority over public ways as to the construction, maintenance, alteration

2477 or repair thereof but such advice shall not impair the legal duties and obligations of any county,  
2478 city or town;

2479 (i) prepare maps of the commonwealth on which shall be shown county, city and town  
2480 boundaries, the public ways and the state highway system, with the names thereof if practicable,  
2481 and may sell such maps or other maps prepared by it, from time to time, in connection with the  
2482 work under its charge relative to the state highway system, at such prices and on such conditions  
2483 as it may determine;

2484 (j) collect, collate and make available, geoscience data of the commonwealth for the  
2485 purpose of aiding in the search for and evaluation of reserve sources of water, gas, materials  
2486 suitable for road building and all other minerals within the land and water boundaries of the  
2487 commonwealth, the location of which it shall, so far as practicable, designate on maps which  
2488 shall be open to inspection by the public;

2489 (k) give public notice of and hold at least 1 public meeting annually in each county for  
2490 the open discussion of questions relative to the public ways;

2491 (l) maintain offices at such places within the commonwealth as it may determine and  
2492 conduct meetings of the division in accordance with the by-laws of the authority and the  
2493 division;

2494 (m) construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer,  
2495 control and operate the state highway system or any part thereof as it may determine; provided,  
2496 however, that chapter 91 shall not apply to the division, except for any parts or areas thereof  
2497 subject to said chapter 91 on March 1, 1997;

2498 (n) acquire sites abutting the state highway system and to construct or contract for the  
2499 construction of buildings and appurtenances for gasoline stations, restaurants, parking facilities,

2500 tourist information centers and other services and to lease such facilities in such manner and  
2501 under such terms as it may determine;

2502 (o) adopt such rules and regulations pursuant to chapter 30A and not repugnant to the  
2503 provisions of the General Laws made applicable to the authority, as the division determines  
2504 necessary or appropriate to provide for or govern the construction or reconstruction, including  
2505 contractor qualification, operation, maintenance, repair, rehabilitation, improvement, use,  
2506 policing, control or administration of the state highway system or the division's business or  
2507 property. Such regulations may include the division to grant easements, permits or other forms of  
2508 authorization for the installation, construction, maintenance, repair, renewal, relocation and  
2509 removal of tracks, pipes, pipelines, mains, conduits, cables, wires, towers, poles and other  
2510 equipment and appliances of any public utility, private entity or corporation or person owning or  
2511 operating such facilities in, on, along, over or under the state highway system.

2512 Such regulations may impose penalties for violations thereof which, in the case of civil  
2513 penalties, may be recovered only after notice and hearing conducted by the division or its  
2514 designee and subject to judicial review and enforcement pursuant to said chapter 30A or such  
2515 other civil proceedings under the laws of the commonwealth or the United States as the law may  
2516 provide and, in the case of criminal penalties, may be recovered in a proceeding in a trial court of  
2517 the commonwealth by indictment or complaint. The amount of any such civil or criminal  
2518 penalty, with the exception of penalties imposed under section 19, shall not exceed \$500 for each  
2519 offense, unless the law otherwise provides. The full amount of a civil penalty shall be paid to the  
2520 authority and 80 per cent of a penalty recovered in a criminal proceeding shall be accounted for  
2521 and paid to the authority. The division may further provide in such regulations for adjudicatory



2522 proceedings that it or its designee conducts which are subject to judicial review and enforcement  
2523 according to said chapter 30A;

2524 (p) place and maintain or grant permission by easement or otherwise to any public utility,  
2525 corporation or person to place and maintain on or under or within the state highway system or  
2526 any part thereof, ducts, pipes, pipelines, mains, conduits, cables, wires, towers, poles or other  
2527 structures to be so located as not to interfere with the safe and convenient operation and  
2528 maintenance of the state highway system and to contract with any such public utility, corporation  
2529 or person for such permission on such terms and conditions as may be fixed by the division. The  
2530 construction, maintenance and repair of any such ducts, pipes, pipelines, mains, conduits, cable,  
2531 wires, towers, poles or other structures shall be subject to such directions and regulations as the  
2532 division may impose.

2533 Whenever the division shall determine that it is necessary that any such ducts, pipes,  
2534 pipelines, mains, conduits, cable, wires, towers, poles or other structures which are now or  
2535 hereafter may be located in, on, along, over or under the state highway system be relocated or  
2536 removed, the public utility, corporation or person owning or operating such facilities shall  
2537 relocate or remove the same in accordance with the order of the division. In case of any such  
2538 relocation or removal of facilities, the public utility, corporation or person owning or operating  
2539 the same, its successors or assigns may maintain and operate such facilities, with the necessary  
2540 appurtenances, in the new location for as long a period and upon the same terms and conditions  
2541 as it had the right to maintain and operate such facilities in their former location;

2542 (q) acquire in the name of the authority by purchase or otherwise, on such terms and  
2543 conditions and in such manner as it may deem proper or by the exercise of the power of eminent  
2544 domain in accordance with the provisions of chapter 79 or any alternative method now or

2545 hereafter provided by law, such public lands and any fee simple absolute or lesser interest in  
2546 such private property, or part thereof or rights therein as it may deem necessary for carrying out  
2547 this chapter;

2548 (r) designate the locations and establish, limit and control such points of ingress to and  
2549 egress from the state highway system as may be necessary, convenient or desirable in the  
2550 judgment of the authority to insure the proper operation and maintenance of the state highway  
2551 system and to prohibit entrance to the state highway system from any point or points not so  
2552 designated;

2553 (s) to: (1) construct grade separations at locations where the state highway system  
2554 intersects with or abuts public highways or rail lines and to change and adjust the lines and  
2555 grades of such highways or rail lines so as to accommodate the same to the design of such grade  
2556 separation; and (2) change the location of any portion of any public highway or rail line which  
2557 intersects or abuts the state highway system in order to improve the safety or efficiency of the  
2558 state highway system; provided, however, that if the division shall find it necessary to change the  
2559 location of a public highway, it shall reconstruct the same in as good a condition as the original  
2560 highway and at such location as the division deems most favorable. All costs incident to  
2561 construction, realignment or reconstruction conducted pursuant to this clause shall be borne by  
2562 the authority;

2563 (t) to enter upon any lands, waters and premises in the commonwealth, after 30 days  
2564 notice by registered or certified mail and without the necessity of any judicial orders or other  
2565 legal proceedings, for the purpose of making surveys, soundings, drillings and examinations as  
2566 the division deems necessary, convenient or desirable for carrying out the purposes of this  
2567 chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be

2568 deemed an entry under any condemnation proceedings which may be then pending. The  
2569 authority shall provide reimbursement for any actual damage resulting to such lands, waters and  
2570 premises as a result of such activities. The commonwealth hereby consents to the use of all lands  
2571 owned by it, including lands lying underwater, which are deemed by the authority to be  
2572 necessary, convenient or desirable for the construction, operation or maintenance of the state  
2573 highway system;

2574 (u) make and enter into all contracts and agreements necessary, convenient or desirable in  
2575 the performance of its duties and the execution of its powers under this chapter including, but not  
2576 limited to, contracts or agreements with state, local or regional public agencies and authorities  
2577 which the division deems necessary, convenient or desirable for the ownership, construction,  
2578 operation, maintenance, repair, reconstruction, improvement, rehabilitation, use, control,  
2579 administration or policing of the state highway system, or any part thereof, and agreements with  
2580 the Federal Highway Administration with respect to compliance with the provisions of Titles 23  
2581 and 49 of the United States Code as they may apply to the state highway system; provided,  
2582 however, that sections 26 to 29, inclusive, and sections 44A to 44J, inclusive, of chapter 149 and  
2583 sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of the division to the same  
2584 extent and in the same manner as they are applicable to the commonwealth. Notwithstanding this  
2585 clause, the division may, with approval of the authority, without competitive bids and  
2586 notwithstanding any general or special law to the contrary, award a contract, otherwise subject to  
2587 this section, limited to the performance of emergency repairs necessary to preserve the safety of  
2588 persons or property;

2589 (u 1/2) administer the design and construction of all recreational trails and bikeways of  
2590 the commonwealth;

2591 (v) accept gifts, grants and loans from agencies of local, state and federal governments, or  
2592 from private agencies or persons, and to accede to such conditions and obligations as may be  
2593 imposed as a prerequisite to any such gift, grant or loan; and

2594 (w) do all acts and things necessary, convenient or desirable to carry out the powers  
2595 expressly granted in this chapter.

2596

2597 Section 4. Real property of the division other than property leased pursuant to sections 5  
2598 and 6, if leased, used or occupied in connection with a business conducted for profit shall, at the  
2599 discretion of the municipality for the privilege of such lease, use or occupancy be valued,  
2600 classified, assessed and taxed annually as of January 1 to the lessee, user or occupant in the same  
2601 manner and to the extent as if such lessee, user or occupant were the owner thereof in fee. No tax  
2602 assessed under this section shall be a lien upon the real estate to which it is assessed nor shall any  
2603 tax be enforced by any sale or taking of such real estate but the interest of any lessee therein may  
2604 be sold or taken by the collector of the city or town in which the real estate lies for the  
2605 nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for  
2606 nonpayment of annual taxes. Such collector shall have for the collection of taxes under this  
2607 section all other remedies provided by chapter 60 for the collection of annual taxes upon real  
2608 estate.

2609 Section 5. In addition to any other power the division may have to make leases, the  
2610 division may lease at 1 time or from time to time for terms not to exceed 99 years, upon such  
2611 terms and conditions as the authority in its discretion deems advisable, air rights over land owned  
2612 or held by the authority in connection with the state highway system, including rights for  
2613 support, access, utilities, light and air, for such purposes as, in the opinion of the authority, shall

2614 not impair the construction, full use, safety, maintenance, repair, operation or revenues of the  
2615 state highway system; provided, however, that any such lease for a period of 40 years or more  
2616 shall be subject to the approval of the governor. Any lease granted under this section may, with  
2617 the consent of the authority, be assigned, pledged or mortgaged and the lien of such pledge or  
2618 mortgage may be foreclosed by appropriate action. The proceeds from any such lease shall be  
2619 paid into the treasury of the commonwealth for credit to the surface transportation trust fund.

2620           Use of air rights leased under this section respecting land within the territorial limits of  
2621 the city of Boston and the construction and occupancy of buildings or other things erected or  
2622 affixed pursuant to any such lease shall be made in accordance with the provisions of the state  
2623 building code enacted pursuant to chapter 143 and such other requirements as the authority  
2624 deems necessary or advisable to promote the public health, convenience and safety of persons  
2625 and property but shall not be subject to any other building, fire, garage, health or zoning law or  
2626 any building, fire, garage, health or zoning ordinance, rule or regulation applicable in the city of  
2627 Boston.

2628           The division shall not lease any air rights in a particular location unless it shall find that  
2629 the construction and use of buildings or other things to be erected or affixed pursuant to any such  
2630 lease shall be in no way detrimental to the maintenance, use and operation of the state highway  
2631 system and, in the city of Boston, unless the division shall also find, after consultation with the  
2632 mayor that the construction and use of such buildings or other things shall preserve and increase  
2633 the amenities of the community.

2634           The construction or occupancy of any building or other thing erected or affixed under any  
2635 lease under this section of air rights respecting land outside the territorial limits of the city of  
2636 Boston shall be subject to the building, fire, garage, health and zoning laws and the building, fire,

2637 garage, health and zoning ordinances, by-laws, rules and regulations applicable in the city or  
2638 town in which such building or other thing is located.

2639 A copy of all leases granted by the division under this section shall be filed by the  
2640 authority with the governor and with the mayor or chairperson of the board of selectmen of the  
2641 respective city or town and such leases shall be deemed to be public records within the meaning  
2642 of chapter 66.

2643 Neither such air rights nor any buildings or other things erected or affixed pursuant to any  
2644 such lease nor the proceeds from any such lease shall be taxed or assessed to the division under  
2645 any general or special law; provided, however, that buildings and other things erected or affixed  
2646 pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same manner  
2647 and to the same extent as if such lessee or his assigns were the owners of the land in fee;  
2648 provided, further, that no part of the value of the land shall be included in any such assessment;  
2649 and provided further, that payment of any such taxes shall not be enforced by a lien upon or sale  
2650 or taking of such land except that the leasehold estate may be sold or taken by the collector of  
2651 taxes of the city or town wherein such real estate is situated for the nonpayment of any tax  
2652 assessed as aforesaid in the manner provided by law for the sale or taking of real estate for  
2653 nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under  
2654 this section all other remedies provided by the General Laws for the collection of taxes by  
2655 collectors of cities and towns.

2656 The division shall include in any lease of such air rights a provision whereby the lessee  
2657 agrees, in the event that the foregoing tax provision is determined by any court of competent  
2658 jurisdiction to be inapplicable, to pay annually to the city or town wherein such building or other

2659 thing leased is located, a sum of money in lieu of taxes which would otherwise be assessed for  
2660 such year.

2661 Each lease made pursuant to this section shall require that the lessee file with the division  
2662 a statement under oath containing the names and addresses of the officers and directors, in the  
2663 case of a corporation, and in the case of a partnership or other voluntary association, the name  
2664 and address of all persons having a financial or beneficial interest in said lease. The lessee shall,  
2665 within 30 days after any change in the said officers or directors, or of persons holding any such  
2666 interest, file a corrected statement under oath with the division.

2667 No billboards shall be erected under this section.

2668 Section 6. In addition to any other power the division may have to make leases, the  
2669 division may lease at one time or from time to time for terms not to exceed 99 years, upon such  
2670 terms and conditions as the authority in its discretion deems advisable, land owned by the  
2671 division and no longer required for the maintenance, repair, reconstruction, improvement, use,  
2672 administration or operation of the state highway system; provided, however, that any such lease  
2673 for a period of 40 years or more shall be subject to the approval of the governor. A lease granted  
2674 under this section may, with the consent of the authority, be assigned, pledged or mortgaged and  
2675 the lien of such pledge or mortgage may be foreclosed by appropriate action.

2676 The construction or occupancy of any building or other thing erected or affixed under any  
2677 lease of land under this section shall be subject to the building, fire and zoning laws, ordinances  
2678 or by-laws applicable in the city or town wherein such building or other thing is located.

2679 A copy of all leases granted by the division under this section shall be filed by the authority with  
2680 the governor and with the mayor or chairman of the board of selectmen of the respective city or  
2681 town and such leases shall be deemed to be public records within the meaning of chapter 66.

2682         Neither such land nor any buildings or other things erected or affixed pursuant to any  
2683 such lease nor the proceeds from any such lease shall be taxed or assessed to the authority under  
2684 any general or special law; provided, however, that such land and buildings and other things  
2685 erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in  
2686 the same manner and to the same extent as if such lessee or his assigns were the owners of the  
2687 land in fee; provided further, that payment of any such taxes shall not be enforced by a lien upon  
2688 or sale or taking of such land except that the leasehold estate may be sold or taken by the  
2689 collector of taxes of the city or town wherein such land is situated for the nonpayment of any tax  
2690 assessed as aforesaid in the manner provided by law for the sale or taking of real estate for  
2691 nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under  
2692 this section all other remedies provided by the General Laws for the collection of taxes by  
2693 collectors of cities and towns.

2694         The division shall include in any lease of such land a provision whereby the lessee  
2695 agrees, in the event that the foregoing tax provision is determined by any court of competent  
2696 jurisdiction to be inapplicable, to pay annually to the city or town in which such leased land is  
2697 located a sum of money in lieu of taxes which would otherwise be assessed for such year.

2698         Section 7. County commissioners and city and town officers who have the care of and  
2699 authority over public ways shall, on request, furnish the division with any information required  
2700 by it concerning such ways.



2701           Section 8. Steam road rollers and other road machinery, purchased by the division and  
2702 owned by the authority shall be managed and maintained under the direction of the division,  
2703 which may engage competent engineers and mechanics to operate and keep said machines in  
2704 repair, may purchase all needed materials and supplies, and may incur such other expenses as  
2705 may be necessary to operate, maintain and transport said machines. Upon the application of the  
2706 selectmen or road commissioners of a town of not more than 12,000 inhabitants, the division  
2707 may furnish such road machinery for use by the town in building or repairing ways therein. The  
2708 expenses incurred under this section shall be paid by the towns using said machines, as  
2709 apportioned and directed by the division. For the purpose of providing suitable quarters for the  
2710 storage of supplies, the storage and repair of road rollers and other road machinery and tools and  
2711 other equipment owned by the authority and for the construction, operation and maintenance of  
2712 inter-departmental communications systems, the division may take by eminent domain or acquire  
2713 by purchase or gift land and buildings and construct or alter buildings or other structures on any  
2714 land so acquired. Any person whose property has been taken or injured by any action of the  
2715 division under authority of this section may recover compensation therefor from the authority  
2716 under chapter 79.

2717           Section 9. If county commissioners, aldermen or selectmen adjudge that public necessity  
2718 and convenience require that the division lay out and take charge of a new or existing way as part  
2719 of the state highway system in whole or in part, in their county, city or town, they may apply, by  
2720 a written petition, to the division, requesting that said way be laid out and taken charge of by the  
2721 division.

2722           Section 10. If the division determines, after public notice and a hearing of all parties  
2723 interested, that public necessity and convenience require that a way should be laid out or be  
2724 taken charge of by the authority, it shall file in the office of the county commissioners for the  
2725 county where the way is situated a certified copy of a plan thereof and a certified copy of a  
2726 certificate that it has laid out and taken charge of said way in accordance with said plan, and  
2727 shall file in the office of the clerk of each town where the way is situated a copy of the plan  
2728 showing the location of the portion lying therein and a copy of the certificate that it has laid out  
2729 and taken charge of said highway in accordance with said plan, and thereafter said way shall be a  
2730 state highway, and shall be constructed by the division at the expense of the authority; but any  
2731 state highway so laid out and constructed may be abandoned or discontinued as provided in  
2732 section 18. The width of a state highway shall be such as the division deems necessary. If the  
2733 width of a state highway be less than that of the way previously existing, that portion of the way  
2734 which lies between the boundary or location lines of the state highway and the boundary lines of  
2735 the way previously existing shall remain a public way unless the division determines that it  
2736 should be abandoned, or the county commissioners of the county, or the city or town in which  
2737 the way is situated, having jurisdiction of the way, abandon at any time said portion in the  
2738 manner provided by law for the alteration, relocation or discontinuance of public ways.

2739           Section 11. The division may alter the location of a state highway in a city or town by  
2740 filing a plan thereof and a certificate that the division has laid out and taken charge of said state  
2741 highway, as altered in accordance with said plan, in the office of the county commissioners for  
2742 the county where said highway is situated, and by filing a copy of the plan or location as altered  
2743 in the office of the clerk of such city or town.

2744           Section 12. If it is necessary to acquire land for the purposes of a state highway outside  
2745 the limits of an existing public way, the division may take the same by eminent domain on behalf  
2746 of the authority under chapter 79. When injury has been caused to the real estate of any person  
2747 by the laying out or alteration of a state highway, he may recover compensation therefor from the  
2748 authority under said chapter 79. The mayor, if so authorized by the aldermen, or the selectmen, if  
2749 so authorized by the town, may stipulate in writing in behalf of the city or town to indemnify and  
2750 save harmless the authority against all claims and demands for damages which may be sustained  
2751 by any persons whose property has been taken for, or has been injured by the laying out or  
2752 alteration of, any highway which the division proposes to lay out and construct or alter as a state  
2753 highway, and thereupon such city or town shall be liable ultimately for the amount of any verdict  
2754 against the authority for such damages, and for costs, and the amount thereof may be recovered  
2755 by the authority in contract.

2756           Section 13. In connection with the laying out, alteration or reconstruction of a state  
2757 highway, the division may alter or relocate connecting ways as may be necessary. Land or rights  
2758 in land may be acquired for this purpose by eminent domain under chapter 79 by the division on  
2759 behalf of the city or town in which the land lies, or on behalf of the authority, at the option of the  
2760 division. The division may take or acquire by eminent domain under said chapter 79, easements  
2761 in land outside the location of limited access state highways, said easements to be taken on  
2762 behalf of those owners of land abutting said highways, whose rights of access to and egress from  
2763 their land, and any other rights necessary to make the same available for use, shall become  
2764 inoperative due to the construction of said highway. Control of the land or rights in the land  
2765 acquired under this section shall not vest in the city or town until such time as the work for  
2766 which the land or rights in land have been acquired has been completed by said division, except

2767 that the city or town shall be responsible for snow and ice control on such portions of the  
2768 highway as may be opened to traffic prior to final completion or acceptance of the project. Any  
2769 person whose property has been taken or injured by any action of said division under authority of  
2770 this section may recover from the authority under said chapter 79 such damages therefor as he  
2771 may be entitled to.

2772         Section 14. Wherever in this chapter the division is authorized to take land by eminent  
2773 domain under chapter 79, in connection with the laying out, widening or relocating of a public  
2774 way, the division may take, or institute proceedings for the taking of, an easement in land  
2775 adjoining the location of the public way consisting of the right to have the land of the location  
2776 protected by having the surface of the adjoining land slope from the boundary of the location.

2777         Section 15. If the division determines that public necessity and convenience require that  
2778 a limited access way shall be laid out, it shall lay out such way in the same manner as state  
2779 highways. A limited access way is hereby defined to be a highway over which the easement of  
2780 access in favor of abutting land exists only at such points and in such manner as is designated in  
2781 the order of laying out. All laws in regard to the laying out, relocation, alteration or  
2782 discontinuance of state highways and to damages therefor shall apply to limited access ways. If a  
2783 limited access way is laid out in whole or in part in the location of an existing public way, the  
2784 owners of land abutting upon such existing public way shall be entitled to recover damages  
2785 under chapter 79 for the taking of or injury to their easements of access to such public way. No  
2786 highway, town way or private way shall be laid out by county commissioners, by the selectmen  
2787 of a town or by the appropriate officer or board of a city which crosses, enters upon or unites  
2788 with a limited access way, without the consent in writing of the division. In connection with the  
2789 laying out or alteration of a limited access highway, the division may take in fee or otherwise, by

2790 purchase, gift, devise, or by eminent domain under said chapter 79, land or rights in land  
2791 adjoining the highway location whose right of access has been acquired and may provide for  
2792 abutting motorist information service facilities and comfort stations.

2793         The division may provide information services which may include indoor commercial  
2794 and non-commercial advertising displays, directories, bulletin boards, wall maps, and the  
2795 building wherein such services are provided shall be staffed with attendants for the convenience,  
2796 necessity and safety of the traveling public on limited access highways. The building within  
2797 which such information services are provided shall be operated, and maintained internally, by a  
2798 person, firm, corporation, county, municipality or other state department or agency. In the event  
2799 that an information center is to be operated and maintained by a person, firm, corporation,  
2800 county, municipality or other state department or agency, the division, subject to rules,  
2801 regulations and standards determined by the division and the department of economic  
2802 development and with the approval of the Federal Highway Administration, may enter into a  
2803 lease or memorandum of understanding for a term of years or on terms which the division deems  
2804 appropriate regarding the operation and maintenance of such information centers and the  
2805 operation and maintenance of adjacent sanitary facilities.

2806         All income due the division from leases authorized by this section shall be paid to the  
2807 state treasurer and credited to the surface transportation trust fund.

2808         The office of travel and tourism shall be designated by the division as the agent to  
2809 participate with the division in the selection of lessees and to oversee the operation of  
2810 information centers and control advertising in accordance with lease agreements, subject to  
2811 approval by the Federal Highway Administration.

2812           Section 16. The division may grant easements within state highway locations for wires,  
2813 pipes, poles, conduits and cattle passes.

2814           Section 17. The division may sell at public or private sale any land, or rights in land, the  
2815 title to which has been acquired by the division, upon determination by the board of directors of  
2816 the authority established by section 2 of chapter 81B that such land or rights in land are no longer  
2817 necessary for the division's purposes. In the event of such public or private sale, the division  
2818 shall execute a deed thereof, with or without covenants of title and warranty, in the name and on  
2819 behalf of the authority, to the purchaser, his heirs and assigns, and deposit the deed with the state  
2820 treasurer, together with a certificate of the terms of the sale and the price paid or agreed to be  
2821 paid at such sale. Upon receipt of the payment, and upon the terms agreed to in the deed, the  
2822 treasurer shall deliver the deed to the purchaser. The state treasurer may, through the attorney  
2823 general, file suit and collect the payment and otherwise enforce the terms of any such sale.

2824           The division may, with the approval of the authority, transfer to another division, or to a  
2825 city, town, or public authority or agency, any land the title to which has been acquired by it and  
2826 which the board of commissioners determines is no longer necessary for the division's purposes.

2827           The division may also, with the approval of the authority, lease or rent any land, or rights  
2828 in land, the title to which has been acquired by it, and which land, or rights therein, said board of  
2829 directors determines are not presently needed for the division's purposes.

2830           The provisions of this section with reference to the sale, leasing or renting of land  
2831 acquired by the division, shall also apply to land, or rights in land, acquired by the division for  
2832 maintenance sites.

2833           The division may also transfer to another state agency, land acquired from such state  
2834 agency, which is no longer needed for the purposes for which it was acquired. Such land shall be  
2835 subject to such restrictions as may be imposed by the division for the use thereof.

2836           Section 18. Whenever the division deems it necessary to make surveys, soundings,  
2837 drillings or examinations to obtain information for or to expedite the construction of state  
2838 highways or other projects under its jurisdiction, the division, its authorized agents or employees  
2839 may, after due notice by registered or certified mail, enter upon any lands, waters and premises,  
2840 not including buildings, in the commonwealth for the purpose of making surveys, soundings,  
2841 drillings and examinations as they may deem necessary or convenient for the purposes of this  
2842 chapter, and such entry shall not be deemed a trespass nor shall an entry for such purposes be  
2843 deemed an entry under any condemnation proceedings which may be then pending. The division  
2844 shall make reimbursement for any injury or actual damage resulting to such lands, waters and  
2845 premises caused by any act of its authorized agents or employees and shall so far as possible  
2846 restore such lands to the same condition as prior to the making of such surveys, soundings,  
2847 drillings or examinations.

2848           Section 19. Whenever, in connection with the laying out, widening, relocating,  
2849 constructing or altering of a public way by the division, land or an easement therein owned by a  
2850 public utility company is taken by the division by eminent domain under chapter 79, thereby  
2851 necessitating the relocation of the facilities of such company, the division shall acquire by  
2852 purchase or otherwise or take by eminent domain under said chapter 79 such land or easements  
2853 therein as such company may designate for the relocation of such facilities, and convey the same  
2854 to such company. Such conveyance shall be in lieu of any damages for the value of the land or

2855 easements therein of such company so taken by the division, not including, however, any  
2856 damages for the cost of such relocation for which the authority shall be liable.

2857         Section 20. Notwithstanding any general or special law to the contrary, the division  
2858 may, with the approval of the chief executive officer of the authority, lease land adjacent to, over  
2859 or under a state highway for use as a public parking facility; provided, however, that: (1) the  
2860 term of any such lease shall not exceed 5 years (2) section 8A of chapter 29 relative to notice of  
2861 and proposals for any contract in excess of \$5,000 for work under the supervision or control of  
2862 the division shall apply to such leases; (3) the lessee has filed with the division a statement under  
2863 oath containing the names and addresses of the officers and directors in the case of a corporation,  
2864 or of the person or persons in the case of a partnership or other voluntary association, or of any  
2865 other person or persons, having any financial or beneficial interest in such lease; (4) the lessee  
2866 shall within 30 days after any change in the stockholders or persons holding any such interest file  
2867 a statement thereof under oath with the division; and (5) no such lease shall be renewed or  
2868 extended except in accordance with this section applicable to a new lease.

2869         Whoever wilfully violates any provision of this section shall be punished by a fine of not  
2870 more than \$1,000.

2871         Section 21. The division may enter into agreements with railroad corporations, transit  
2872 authorities or other public authorities or municipalities for the purpose of performing any work  
2873 which may be necessary in connection with the construction of highways, roads, bridges and  
2874 other public works undertaken by said division whenever such construction or work entails  
2875 relocation, alteration or other work on the tracks, bridges, roads, pipes, sewers, conduits, wires,  
2876 or other property of such railroad corporation, transit authority or other public authority or  
2877 municipality and which may disrupt the free flow of public transportation. Whenever any such



2878 agreement provides that a railroad corporation, transit authority or other public authority, and  
2879 municipality perform such construction or work for which the authority is obligated to assume a  
2880 part of the cost, the agreement may provide for the monthly advancement by the division to such  
2881 railroad corporation transit authority or other public authority or municipality of funds covering  
2882 the estimated cost of such construction or work then in progress.

2883           Section 22. In any federally aided program, the division of roads and bridges, in this  
2884 section referred to as the division, shall do all things necessary to comply with the Uniform  
2885 Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646),  
2886 as amended and supplemented, or with any other federal act relating to relocation assistance or  
2887 acquisition, insofar as the federal government requires compliance with said Public Law 91-646  
2888 or such other federal acts in order to receive such federal aid. Under a federally aided program,  
2889 in relation to any person whose real property is acquired, in whole or in part, by the division for a  
2890 highway purpose, or any person lawfully occupying real property acquired by the division for  
2891 highway purposes, or any person who vacated real property at the written request of the division  
2892 because of a proposed acquisition for highway purposes, the division is hereby authorized and  
2893 directed to make such payments, provide such assistance and do such other things as are  
2894 necessary for the division to comply with the Federal Uniform Relocation Assistance and Real  
2895 Property Acquisition Policies Act of 1970. If a highway project is not federally aided, then in  
2896 relation to any person whose real property is acquired, in whole or in part, by the division for  
2897 highway purposes, or any person lawfully occupying real property acquired by the division for  
2898 highway purposes, or any person who vacates real property at the written request of the division  
2899 because of a proposed acquisition for highway purposes, the division shall make the same  
2900 payments, provide the same assistance and do the same things as the division would be required

2901 to pay to, provide or do for such persons under a federally aided program. This section shall not  
2902 affect the obligations of the division under chapter 79A.

2903           Section 23. Whenever land or an easement therein is taken by the division by eminent  
2904 domain for the purpose of relocating certain facilities of a public utility company, as authorized  
2905 by section 19, the said public utility company, its authorized agents or employees, after due  
2906 notice by registered mail to the persons in possession of land so taken, may enter upon any such  
2907 lands, waters and premises, not including buildings, as said company may deem necessary or  
2908 convenient for the purpose of relocating its facilities, and such entry shall not be deemed a  
2909 trespass, nor an entry under any condemnation proceedings which may then be pending.

2910           Section 24. Whenever a federal-aid highway program or project requires the use of any  
2911 land which is part of a public park, recreation area or wildlife and waterfowl refuge of national,  
2912 state or local significance as determined by the federal, state or local officials having jurisdiction  
2913 thereof, or any land which is part of an historic site of national, state or local significance, as so  
2914 determined by such officials, and there is no feasible and prudent alternative to the use of such  
2915 land, the division, in order to minimize harm to such park, recreational area, wildlife and  
2916 waterfowl refuge or historic site, may acquire by eminent domain under chapter 79, purchase or  
2917 otherwise on behalf of the authority or on behalf of any division, department, public body,  
2918 agency or instrumentality of the commonwealth or on behalf of any political subdivision thereof,  
2919 land to replace that which was required for use in the highway program. The division shall  
2920 convey such replacement land or transfer the custody, care and control of such replacement land  
2921 to the owner of the public park, recreational area, wildlife and waterfowl refuge or historic site  
2922 required for highway use, including private owners or any department, public body, agency of

2923 the commonwealth or to any political subdivision thereof and such conveyance or transfer may  
2924 be partially or entirely in lieu of damages for the land acquired from such owners; provided,  
2925 however, that in the case of private owners such conveyance may be made only with the consent  
2926 of such owner. The words "historic site" as used in this section shall include archeological sites  
2927 as defined and regulated by sections 26A to 27C of chapter nine.

2928         Section 25. The division, when about to construct a state highway, shall advertise in 2 or  
2929 more newspapers published in each county in which the highway lies, and in 3 or more daily  
2930 newspapers published in Boston, for sealed proposals for the construction of such highway,  
2931 stating the time and place for opening such proposals, and reserving the right to reject any and all  
2932 proposals. If a proposal is satisfactory, the division, with the approval of the authority, shall  
2933 make a contract in writing on behalf of the authority for such construction. After the proposals  
2934 have been accepted or rejected they shall be kept by the division, and shall be open to public  
2935 inspection for 3 years, and may then be destroyed by the division. The division may, in the same  
2936 manner and under the same conditions, contract for the grading of a state highway or for  
2937 furnishing labor, materials or any other element in its construction. The construction of all state  
2938 highways shall be under the supervision and subject to the approval of the division and in  
2939 accordance with plans and specifications furnished by it, and shall be fairly apportioned by the  
2940 division among the different counties.

2941         Section 26. Every contract for engineering survey services awarded by the division shall  
2942 be awarded to the lowest responsible and eligible bidder on the basis of competitive sealed bids  
2943 publicly opened and read forthwith upon expiration of the time for filing thereof; provided,  
2944 however, that the division may reject any and all bids if it is in the public interest to do so.

2945 For purposes of this section, the term “lowest responsible and eligible bidder” shall have  
2946 the same meaning as is set forth in paragraph (c) of section 39M of chapter 30.

2947 Section 27. The mayor, selectmen or road commissioners or the board or officer having  
2948 charge of the maintenance and care of highways, if so authorized by the city council or by the  
2949 town, may agree in writing, in behalf of such city or town, to contribute money, labor or  
2950 materials toward the cost of any state highway which the division proposes to lay out and  
2951 construct within such city or town.

2952 Section 28. The division shall have the same power as aldermen, selectmen or road  
2953 commissioners in relation to the purchase or taking of land to furnish materials for the  
2954 construction, repair or improvement of public ways in the manner provided in section 38 of  
2955 chapter 82; provided, however, that all contracts for such purchase and all takings by the division  
2956 shall first be approved by the authority. Such purchases or taking shall not operate in any way to  
2957 interfere with the control of the police departments of the various municipalities within the land  
2958 so taken. Land taken under this section shall be held and used for no other purpose than as  
2959 specified herein; provided, however, that the division may allow county, city or town officers to  
2960 use materials from such land for the above specified purposes upon such terms as may be agreed  
2961 upon. For this purpose the division may expend not more than \$5,000 in any year. Any person  
2962 sustaining injury or damage by any taking of land or rights in land under this section may  
2963 recover compensation therefor from the authority under chapter 79.

2964 Section 29. The division, with the concurrence of the county commissioners, may  
2965 discontinue as a state highway any way or section of way laid out and constructed under section  
2966 5 by filing in the office of the county commissioners for the county and in the office of the clerk  
2967 of the town in which such way is situated a certified copy of a plan showing the way so

2968 discontinued and a certificate that it has discontinued such way and thereafter the way or section  
2969 of way so discontinued shall be a town way. The division may also abandon any land or rights in  
2970 land which may have been taken or acquired by it by filing in the office of the county  
2971 commissioners for the county and in the office of the clerk of the town in which such land is  
2972 situated a certified copy of a plan showing the land so abandoned and a certificate that it has  
2973 abandoned such land, and by filing for record in the registry of deeds for the county or district in  
2974 which the land lies a description and plan of the land so abandoned. Such abandonment shall  
2975 re-vest the title to the land or rights abandoned in the persons in whom it was vested at the time of  
2976 the taking, or their heirs and assigns.

2977       Section 30. State highways shall be maintained and kept in good repair and condition by  
2978 the division at the expense of the authority. The division shall keep all state highways reasonably  
2979 clear of brush and shall cause suitable shade trees to be planted thereon if practicable. As used in  
2980 this chapter, the term "state highways" shall include such public roads in state forests, parks and  
2981 reservations outside of the metropolitan parks district, and such public roads within the limits of  
2982 any property under the control of any department, board or commission of the commonwealth, as  
2983 may, from time to time, be designated by the division as roads for general public use and  
2984 approved for such use by the executive head of the department, board or commission controlling  
2985 such property. The division shall, subject to appropriation, construct, improve and maintain all  
2986 roads on such property.

2987       Section 31. The division may accept, on behalf of the authority, from owners of lands  
2988 included in a strip 100 feet deep bordering on a state highway voluntary gifts by deed or will of  
2989 easements in such lands, giving the authority the right to enter thereon at any time and in any  
2990 manner for the purpose of landscaping such land by removing therefrom or rearranging thereon

2991 vegetable growths and surface minerals, by setting out and planting thereon vegetable growths,  
2992 by depositing thereon minerals, by rearranging the contour of the land when deemed advisable,  
2993 or by any or all of the foregoing methods. The division may improve lands in which such  
2994 easements are granted, so as to carry out a comprehensive plan of highway beautification, artistic  
2995 landscaping and scenic development, to the extent that appropriations are available therefor.

2996         Such easements shall be accepted only on the condition that such lands shall remain fully  
2997 subject to local taxation to the owners of the fee.

2998         Section 32. The division may acquire by eminent domain under chapter 79 by purchase  
2999 or otherwise, land and rights in land within or adjacent to federal-aid highways of the  
3000 commonwealth for the purpose of restoring, preserving and enhancing scenic beauty or, with the  
3001 approval of the Massachusetts historical commission and subject to the availability of federal  
3002 reimbursement, historic or archeological sites, and of providing publicly owned and controlled  
3003 rest and recreation areas and sanitary and other facilities to accommodate the traveling public.  
3004 The division may improve such lands, and may expend for the purposes of this section such  
3005 sums as may be appropriated therefor.

3006         Section 33. The division, if it obtains the consent of the owner, shall remove the trees,  
3007 limbs of trees, shrubbery or any structure or other obstacle from lands bordering upon state  
3008 highways, which in its opinion obstruct the view of persons traveling upon the highway or make  
3009 traveling thereon dangerous. If the owner does not desire the material which has been so  
3010 removed, the division may sell or otherwise dispose of it. The division shall cause all debris  
3011 resulting from any cutting or trimming done along the state highway, under authority of this or of  
3012 any other chapter, to be disposed of in such manner that it will not constitute a fire menace to  
3013 adjoining property.

3014           Section 34. The division may contract with the town in which a state highway lies or  
3015 with a private person or may make other provision for the maintenance and repair thereof in  
3016 accordance with the regulations of the division and subject to its supervision and approval. Such  
3017 contracts may be made without previous advertisement.

3018           Section 35. The authority shall be liable for injuries sustained by persons while traveling  
3019 on state highways, if the same are caused by defects within the limits of the constructed traveled  
3020 roadway, in the manner and subject to the limitations, conditions and restrictions specified in  
3021 sections 15, 18 and 19 of chapter 84, except that the authority shall not be liable for injury  
3022 sustained because of the want of a railing in or upon any state highway, or for injury sustained  
3023 upon the sidewalk of a state highway or during the construction, reconstruction or repair of such  
3024 highway. The amount which may be recovered for any such injury shall not exceed one-fifth of 1  
3025 per cent of the valuation of the town in which the injury was received, nor shall it exceed \$4,000.  
3026 Notice of the injury as required by law shall be given to a member of the division.

3027           Section 36. A town shall have police jurisdiction over all state highways within its  
3028 limits. It shall forthwith give written notice to the division or its employees of any defect or want  
3029 of repair in such highways; but it may make necessary temporary repairs of a state highway  
3030 without the approval of the division.

3031           The division shall, at the expense of the authority, keep such state highways or parts  
3032 thereof as it may select sufficiently clear of snow and ice to be reasonably safe for travel. The  
3033 town in which any such state highway or part thereof lies shall forthwith give written notice to  
3034 the division or its employees of any failure to keep such highway or part thereof clear of ice and  
3035 snow as aforesaid.

3036           Section 37. The division shall, from time to time, construct sidewalks along such parts of  
3037 the state highways as it determines public convenience and necessity require. Sidewalks may  
3038 also be constructed along state highways and maintained in accordance with sections 25 and 26  
3039 of chapter 83.

3040           Section 38. The division may illuminate, or cause to be illuminated, by means of  
3041 highway lighting, traffic circles, traffic underpasses, traffic overpasses, traffic islands and other  
3042 locations in the state highways wherever, in its opinion, such illumination is necessary for the  
3043 safety of the travelling public.

3044           Section 39. No state highway shall be dug up, nor opening made therein for any purpose,  
3045 nor access granted thereto for any purpose, nor shall any material be dumped or placed thereon  
3046 or removed therefrom, and no tree shall be planted or removed or obstruction or structure placed  
3047 thereon or removed therefrom or changed without the written permit of the division, and then  
3048 only in accordance with its regulations. Such work shall be done under the supervision of the  
3049 division and to its satisfaction, and the entire expense of replacing and resurfacing the highway at  
3050 the same level and in as good condition as before, with materials equal in specifications to those  
3051 removed, shall be paid by the persons to whom the permit was given or by whom the work was  
3052 done. A town, or a utility, as defined in chapter 164 or chapter 166 may dig up a state highway  
3053 without the approval of the division in case of immediate necessity. In such cases the state  
3054 highway shall forthwith be replaced in as good condition as before at the expense of the town  
3055 and the town shall notify the division by registered mail, return receipt requested, within 7 days  
3056 of the excavation. In the case of a driveway opening on a state highway, the division shall not  
3057 grant a permit for a driveway location or alteration if the board or division in a city or town  
3058 having authority over public ways and highways has notified the division by registered mail,



3059 return receipt requested, of its objection to the driveway; provided, however, that such objection  
3060 shall be based on highway safety and accepted by the division. The division may require a bond  
3061 to guarantee the faithful and satisfactory performance of the work and payment for any damage  
3062 to state highways and facilities caused by or resulting from the operations authorized by such  
3063 permit. The amount of the bond shall be determined by the division not to exceed the estimated  
3064 cost of the work and possible damage; provided, however, that the bond shall be not less than  
3065 \$300,000 unless a lesser amount is approved in writing by a representative of the division.  
3066 Except in case of an emergency, no permit for digging up or opening any state highway shall be  
3067 approved or issued by the division until copies of the notices to public utility companies required  
3068 by section 40 of chapter 82 have been filed with the division by the applicant for such permit.

3069         Any person who builds or expands a business, residential, or other facility intending to  
3070 utilize an existing access or a new access to a state highway so as to generate a substantial  
3071 increase in or impact on traffic shall be required to obtain a permit under this section prior to  
3072 constructing or using such access. Such person may be required by the division to install and pay  
3073 for, pursuant to a permit under this section, standard traffic control devices, pavement markings,  
3074 channelization, or other highway improvements to facilitate safe and efficient traffic flow, or  
3075 such highway improvements may be installed by the division and up to 100 per cent of the cost  
3076 of such improvements may be assessed upon such person.

3077         The division may issue written orders to enforce this section or the provisions of any  
3078 permit, regulation, order or approval issued under this section. Any person who violates this  
3079 section or any permit, regulation, order or approval issued thereunder shall be: (a) punished by a  
3080 fine of not more than \$100,000 per day for each such violation or (b) shall be subject to a civil  
3081 penalty not to exceed \$1,000 per day for each such violation; provided, however, that each day

3082 such violation occurs or continues shall be a separate offense. The superior court shall have  
3083 jurisdiction, upon petition of the administrator of the division, to enforce this section or any  
3084 permit, regulation, order or approval issued thereunder.

3085 The administrator of the division shall adopt regulations to effectuate the purposes of  
3086 this section.

3087 Section 40. No length of possession, or occupancy of land within the limits of a state  
3088 highway by an owner or occupant of adjoining land shall give him any title thereto. Any fence,  
3089 building or other object encroaching upon a state highway shall, upon written notice by the  
3090 division, be removed within 14 days by the owner or occupant of adjoining land and, if not so  
3091 removed, the division may either remove the same to such adjoining land or such encroaching  
3092 object, other than a building used for residential purposes, may be removed by the division  
3093 forces and shall be placed in the nearest maintenance area of the division. Notice by certified  
3094 mail, return receipt requested shall be given to the owner stating where such encroaching object  
3095 is located and further stating that if not claimed within 3 weeks said object may be destroyed.

3096 Section 41. The division may expend construction funds of the authority in constructing  
3097 or improving the whole or such part of said way as it deems best, either upon the location of the  
3098 existing way or upon any new location that may be established by the county commissioners or  
3099 the selectmen, and no part of the way so improved shall thereby become a state highway or be  
3100 maintained as such. The division may, however, lay out the whole or any part of any such way as  
3101 a state highway

3102 Section 42. When any public way has been constructed or improved in whole, or in part,  
3103 with money furnished by the authority, and the way is not laid out as a state highway, the town in  
3104 which the way lies shall thereafter keep and maintain in good repair and condition that part of the

3105 way which has been so constructed or improved; provided, however, that the expense thereof  
3106 shall be borne by the town or county, or both, as may be agreed upon at the time such  
3107 construction or improvement is undertaken, except as otherwise provided in section 43 and in  
3108 paragraph 2(a) of section 34 of chapter 90. If the division shall determine at any time that such  
3109 way is not being maintained in proper condition, it shall so notify the mayor or selectmen having  
3110 charge of the repairs of said way and the county commissioners, and shall specify in such notice  
3111 what repairs and improvements are necessary and the officials in charge of the way shall  
3112 forthwith proceed to make the specified repairs and improvements. If such officials do not make  
3113 such repairs or improvements within 15 days from the receipt of such notice, or within such  
3114 further time as the division may allow, the division may proceed to have the repairs or  
3115 improvements made, and may pay for the same from any money which may be available for the  
3116 repair and maintenance of state highways. The division shall annually, in January, certify to the  
3117 state treasurer the amount of such expenditures during the preceding year. So much of the  
3118 expenditures as by agreement are to be paid by the towns shall be made a part of the state tax for  
3119 such towns; and so much of the expenditures as by agreement are to be paid by the counties shall  
3120 be paid by the county treasurers to the state treasurer. The division may embody the provisions  
3121 of this section in all contracts and agreements for work to be done in the construction or  
3122 improvement of public ways, other than state highways, constructed or improved in whole, or in  
3123 part, with money furnished by the authority.

3124       Section 43. There may be expended for the repair and improvement of public ways,  
3125 other than state highways, in towns having valuations of less than \$5,000,000, as established by  
3126 the valuations made for the purpose of apportioning the state tax as appearing in chapter 559 of  
3127 the acts of 1945 and in which the proportionate amount paid by such towns of every \$1,000,000

3128 of such tax as established and apportioned in said chapter 559, divided by the number of miles of  
3129 such public ways, hereinafter known as the road mileage ratio, is less than \$12, such sums not  
3130 exceeding \$250 per mile as the general court may appropriate therefor; provided, however, that  
3131 such towns shall contribute or make available for use in connection therewith the following  
3132 amounts for each mile of public ways within their respective limits, according to the following  
3133 schedule based on their road mileage ratio:—

- 3134 1. Less than \$1.40, \$15.
- 3135 2. \$1.40 and less than \$2, \$25.
- 3136 3. \$2 and less than \$2.80, \$40.
- 3137 4. \$2.80 and less than \$3.50, \$50.
- 3138 5. \$3.50 and less than \$5.50, \$75.
- 3139 6. \$5.50 and less than \$7, \$100.
- 3140 7. \$7 and less than \$9, \$125.
- 3141 8. \$9 and less than \$12, \$150.

3142 The amounts appropriated pursuant to said schedule and contributed by the towns shall  
3143 be expended under the direction of the division on such ways as said division and the selectmen  
3144 of the towns may agree upon.

3145 The division shall withhold or withdraw the unexpended balance of any funds assigned  
3146 by it under this section or section 25 if the town fails to comply with the official standards for  
3147 traffic control established by the division or with any provision of a traffic control agreement  
3148 negotiated between the division and the town, as required by the United States Secretary of  
3149 Commerce under section 109 of Title 23 of the United States Code.

3150           The cost of snow removal upon such ways in any such town, including amounts paid as  
3151 rental for trucks and other equipment charges for the use of trucks and other equipment owned  
3152 by such town, at hourly rates approved by the division, and the cost of sanding such ways in any  
3153 such town may be paid from the amounts so appropriated and contributed, at the rate of not more  
3154 than \$75 per mile.

3155           Section 44. The county commissioners of the county wherein any public way is to be  
3156 repaired or improved under the preceding section may contribute and expend county funds  
3157 therefor in accordance with such agreements as the commissioners may make with the division  
3158 and the selectmen of the town. Said county funds may be paid to the department or to the town  
3159 from time to time as the work progresses, to the extent that the commissioners are satisfied that  
3160 the work for which agreements have been made is being done in accordance therewith. Such  
3161 contributions or expenditures by a county shall not render it liable for defects in any way or for  
3162 damages to persons traveling thereon, and when the work of repair or maintenance for which  
3163 such contribution or expenditure is made is completed, there shall be no further obligation on the  
3164 part of the county as to the repair and maintenance thereof until a further contribution is made by  
3165 the county commissioners for such purpose.

3166           Section 45. Expenditure of state funds under section 26 shall be made only upon the  
3167 written petition of the selectmen, containing such information as the division may require.

3168           Section 46. Towns may contract with the division for the performance of the work  
3169 authorized by section 43 or, if the selectmen so request, the division may have the work done by  
3170 such persons and in such manner as it may determine, in which event the towns shall pay their  
3171 proportionate part of the expense when and as ordered by the division. The cost of any materials,  
3172 machinery or tools purchased by the division for or on account of the work in any town shall be

3173 considered as a part of the expenditures in such town under section 28; and such machinery or  
3174 tools shall belong to the authority.

3175 Section 47. The division shall determine, as nearly as possible, the number of miles of  
3176 such public ways in towns entitled to the benefits under section 43, and shall inform the  
3177 selectmen of such towns of the contributions required from them under said section 43.

3178 Section 48. The division may lay out or alter ways other than state highways in any  
3179 county, city or town if the county commissioner of the county, or the mayor of the city or the  
3180 board of selectmen of the town consents thereto. Land or rights in land may be acquired for this  
3181 purpose by eminent domain under chapter 79 by the division on behalf of the county, city or  
3182 town in which the land lies. Any person whose property has been taken or injured by any action  
3183 of the division under authority of this section may recover from the authority under chapter 79  
3184 such damages therefor as he may be entitled to. For this purpose the division may use any funds  
3185 which may be available for highway purposes, including federal aid, and may also use any  
3186 money appropriated for a county, or for a city or town, toward the damages sustained, if the  
3187 county commissioners, selectmen or mayor have agreed in writing to pay the money thus  
3188 appropriated upon the order of the division.

3189 Section 49. The division may make all contracts and agreements and do all other things  
3190 necessary to cooperate with the United States in the construction and maintenance of highways,  
3191 under an act of congress approved on July 1, 1916, entitled "An Act to provide that the United  
3192 States shall aid the states in the construction of rural post roads, and for other purposes", as  
3193 amended and supplemented, and submit such plans, estimates and programs for the improvement  
3194 of highways as will meet the requirements of the secretary of commerce under said act, and it

3195 may use therefor any funds which may be available for the construction and maintenance of state  
3196 highways, and may make any agreements or contracts that may be required to secure federal aid  
3197 in the construction of highways under said act of congress, and of all other acts in amendment  
3198 thereof, or in addition thereto, and may, in such agreements or contracts, provide, among other  
3199 things, for such labor preferences to honorably discharged soldiers, sailors and marines as are  
3200 made necessary by federal legislation, and may provide that no other preference or  
3201 discrimination among citizens of the United States shall be made in connection with the  
3202 expenditure of any money received from the federal government by virtue of said legislation and  
3203 any money received from the United States on account of the construction of highways. The  
3204 division may also, for the purpose of securing federal aid, use any money appropriated by a  
3205 county, city or town for the construction of a way or any part thereof for which federal aid may  
3206 be secured, and make contracts or agreements involving the expenditure of such money, if the  
3207 county commissioners or the selectmen or duly authorized officials of the city or town have  
3208 agreed in writing to pay the money thus appropriated upon the order of the division. The division  
3209 may also maintain the roads constructed under this section or said act of congress, from any  
3210 money appropriated by the general court for the maintenance of state highways or for the repair  
3211 or maintenance of other public ways.

3212           Section 50. The portion of the Surface Transportation Trust Fund, established by section  
3213 35LL of chapter 10 allocated for reimbursements to cities and towns for costs actually incurred  
3214 in constructing, maintaining and policing city or town streets or roads shall annually be  
3215 apportioned among the several cities and towns as follows:

3216 (a) The amount apportioned to each city and town in any calendar year shall be the  
3217 amount of the “equalizing municipal highway grant” for such city or town multiplied by the  
3218 number of miles of streets and roads in such city or town. The “equalizing municipal highway  
3219 grant” for such city or town shall be the total of a basic mileage allowance of \$400 plus an  
3220 additional road-use allowance of \$7 per motor vehicle per road mile less an equalizing deduction  
3221 of \$.10 per \$1,000 of equalized valuation per mile.

3222 *[There is no clause (b).]*

3223 For the purposes of this section, the following words shall have the following meanings:—

3224 “Streets and roads in such city or town”, the total mileage, to the nearest one hundredth  
3225 of a mile, of public ways, other than state highway, in such city or town, as determined by the  
3226 most recent mileage survey conducted by the administrator of the division; provided, however,  
3227 that said administrator shall conduct such survey annually.

3228 “Motor vehicles per road-mile”, the total number of motor vehicles registered and  
3229 garaged in such city or town, exclusive of re-issues, as determined annually by the registrar of  
3230 motor vehicles, divided by the total mileage, to the nearest one hundredth of a mile, of public  
3231 ways, other than state highway, in such city or town, as determined by the most recent mileage  
3232 survey conducted by the administrator of the division.

3233 “Equalized valuation per mile”, the equalized valuation of the aggregate property in such  
3234 city or town subject to local taxation, as most recently reported by the commissioner of revenue  
3235 to the general court under the provisions of section 10C of chapter 58, divided by the total



3236 mileage, to the nearest one hundredth of a mile, or public ways, other than state highway, in such  
3237 city or town.

3238           The administrator of the division shall annually notify the commissioner of revenue of  
3239 the amounts apportioned to each city or town under this section; provided, however, that the sum  
3240 payable to each city or town shall be used solely to reimburse such city or town for the costs  
3241 actually incurred during the fiscal year of such city or town in constructing, maintaining and  
3242 policing city or town streets or roads and shall not exceed the amount so incurred by such city or  
3243 town.

3244           The mayor of each city and the selectmen of each town shall notify the administrator of  
3245 the division in writing of the amount that will be incurred during the fiscal year of such city or  
3246 town for constructing, maintaining and policing city or town streets or roads. The administrator  
3247 of the division shall annually, on or before December 1, certify to the commissioner of revenue  
3248 the amounts approved for payment to each city or town under this section in each fiscal year.

3249           Section 51. For the purposes of reimbursing cities and towns for the costs actually  
3250 incurred in constructing, maintaining and policing city or town streets or roads as provided in  
3251 section 50 the following words shall have the following meanings:—

3252           “Constructing”, all operations on the travelled way on new location or where  
3253 considerable reconstruction is to be undertaken, including resurfacing and other work incidental  
3254 thereto, such as shoulders, side road approaches, roadsides, drainage, structures, sidewalks,  
3255 traffic control and service facilities, intersection construction, and unusual or disaster operations

3256 and professional services, or for such other purposes that the commissioner of highways may  
3257 specifically authorize.

3258           “Maintaining”, all operations on the travelled way including scarifying, reshaping,  
3259 applying dust palliatives and restoring material losses; patching, mudjacking, joint filling and  
3260 surface treating, and replacement in kind; other work such as restoration of erosion controls;  
3261 reshaping drainage channels and side slopes; mowing; tree trimming; replacing topsoil, sod,  
3262 shrubs, curbing, gutters, riprap, underdrains and culverts; cleaning and repairing culverts;  
3263 cleaning; painting and repairing of structures; replacement of rail, floors, stringers and beams of  
3264 structures; replacement of walls and the repairing of drawbridges; removal of snow and ice and  
3265 related operations such as sanding and chemical applications; the erection of snow fences and the  
3266 opening of inlets clogged with snow and ice; removal of litter from the roadsides and drainage;  
3267 operation of drawbridges charged to highway traffic; painting, repairing and replacement in kind  
3268 of signs, guardrail, signals and lighting standards; maintenance and replacement in kind of rest  
3269 areas; servicing of and furnishing power and light bulbs for highway lighting and traffic control  
3270 devices; roadside cleaning operations; operation of roadside areas, towing service, information  
3271 booths; or for such other purposes that the administrator of the division may specifically  
3272 authorize.

3273           “Policing”, all operations on the travelled way by city or town law enforcement officials  
3274 having to do with the direction or control of traffic thereon and such other purposes as the  
3275 administrator of the division may specifically authorize.

3276           Section 52. The division may take by eminent domain in accordance chapter 79 or any  
3277 alternative method now or hereafter provided by general law, any public land and any fee simple

3278 absolute or lesser interest in private property, or part thereof or rights therein, as it deems  
3279 necessary for carrying out this chapter.

3280 Whenever a parcel of private property so taken is used in whole or in part for residential  
3281 purposes, the owner of such parcel may, within 30 days of the date of the authority's notice to  
3282 vacate such parcel, appeal to the authority for a postponement of the date set for such vacating,  
3283 whereupon the authority shall grant to the owner a postponement of 3 months from the date of  
3284 such appeal; provided, however, that the appeal for such postponement shall be in the form of a  
3285 written request to the authority sent by registered mail, return receipt requested; and provided,  
3286 further, that section 40 of said chapter 79 shall govern the rights of the authority and of any  
3287 person whose property shall be so taken.

3288 The division shall have power, in the process of constructing, reconstructing, repairing,  
3289 rehabilitating, improving, policing or using or administering all or any part of the state highway  
3290 system to take by eminent domain pursuant to chapter 79, such land abutting the state highway  
3291 system as it may deem necessary or desirable for the purposes of removing or relocating all or  
3292 any part of the facilities of any public utility, including rail lines, and may thereafter lease the  
3293 same or convey an easement or any other interest therein to such utility company upon such  
3294 terms as it, in its sole discretion, may determine. Notwithstanding any general or special law to  
3295 the contrary, the relocation of the facilities of any public utility, including rail lines, in  
3296 accordance with this section shall be valid upon the filing of the plans thereof with the  
3297 department of public utilities, if applicable.

3298 Except as otherwise provided by law, any sale of real property shall be awarded, after  
3299 advertisement for bids, to the bidder who is the highest responsible bidder. The division shall

3300 have the right to reject all bids and to readvertise for bids. Before any real property shall be so  
3301 sold or conveyed, notice that such real property is for sale shall be publicly advertised in 2 daily  
3302 newspapers of general circulation published in the city of Boston or if such real property is  
3303 located in any other city or town, in a newspaper of general circulation published in such other  
3304 city or town, once a week for 3 successive weeks. Such advertisements shall state the time and  
3305 place where all pertinent information relative to the real property to be sold or conveyed may be  
3306 obtained, the time and place of opening the bids in answer to such advertisements and that the  
3307 division reserves the right to reject any or all such bids. All bids in response to advertisements  
3308 shall be sealed and shall be publicly opened by the division. The division may require, as  
3309 evidence of good faith, that a deposit of a reasonable sum, to be fixed by the division,  
3310 accompany the proposals. This paragraph shall not be applicable to any sale of real property by  
3311 the division to the commonwealth or any city, town or public instrumentality nor to a sale of real  
3312 property which is determined by the division to have a fair market value of \$5,000 or less.

3313           The division may sell the buildings or other structures upon any lands taken by it or may  
3314 remove the same and shall sell, if a sale is practicable or, if not, shall lease, if a lease is  
3315 practicable, any lands or rights or interest in lands or other property taken or purchased for the  
3316 purposes of this chapter, whenever the same shall, in the opinion of the division, cease to be  
3317 needed for such purpose.

3318           Notwithstanding any general or special law to the contrary, all counties, cities, towns and  
3319 other political subdivisions and all public agencies, authorities and commissions of the  
3320 commonwealth may lease, lend, grant or convey to the division, at its request, upon such terms  
3321 and conditions as the proper authorities of such counties, cities, towns, political subdivisions,

3322 agencies, authorities and commissions may deem reasonable and fair and without the necessity  
3323 for any advertisement, order of court or other action or formality, other than the regular and  
3324 formal action of the authorities concerned, any real property, improvements or personal property  
3325 which may be necessary or convenient to the effectuation of the authorized purposes of the  
3326 division, including public roads, bridges and other real property, improvements or personal  
3327 property already devoted to public use.

3328

3329           Section 53 ½. (a) The division may establish a small town rural assistance program to  
3330 assist towns with populations of 7,000 or less in undertaking projects to design, construct,  
3331 reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges or for the  
3332 construction of chemical storage facilities. The program shall provide grant funds to towns for  
3333 projects authorized by this section. The amount of each grant shall not exceed \$750,000.

3334           (b) The division shall establish rules and regulations to govern the application and  
3335 distribution of grants under this section. The rules and regulations shall include provisions for  
3336 joint applications by 2 or more eligible towns for a single project serving those towns. Funds so  
3337 distributed may be apportioned to reflect the percentage of the project located in each town.  
3338 Receipt of a grant which is part of a joint application shall not preclude a town from receiving  
3339 additional funds under a separate application; provided, however, that the total amount  
3340 distributed to any 1 town shall not exceed the maximum amount allowed under this section.

3341           (c) A town with a population of 7,000 or less may, by vote at an annual town meeting or  
3342 at a special town meeting called for that purpose or, in a municipality having a town council  
3343 form of government, by the town council, make application to the secretary for financial

3344 assistance in undertaking a project described in this section. The application shall include the  
3345 proposed cost of the project, the proposed location of the project and any other information  
3346 specified by the rules or regulations.

3347 (d) In evaluating the project and the level of funding, the administrator of the division  
3348 shall consider, without limitation, the following: (1) the extent to which the project will have a  
3349 beneficial impact upon the economy and public safety of an applicant town; (2) the availability  
3350 of funds for the project under other state or federal programs; (3) the likelihood of funding under  
3351 other state or federal programs; (4) the financial ability of the town to fund the project from its  
3352 own sources; (5) the ability of the town to enter the capital markets to obtain borrowed funds for  
3353 the project; and (6) the amount of state and federal highway funds expended or to be expended in  
3354 the town.

3355 Section 53 <sup>3</sup>/<sub>4</sub>. (a) The division may establish a program to assist municipalities with non-  
3356 federally reimbursable intermodal transit center economic development projects to design,  
3357 construct, repair and improve roads, roadways, rail lines, and other transit oriented or related  
3358 facilities, as deemed necessary for economic development by the secretary of transportation, in  
3359 consultation with the secretary of economic development upon the petition of an appropriate  
3360 local governmental body in accordance with this section and any rules or regulations  
3361 promulgated by the secretary of transportation in accordance with this section. The rules and  
3362 regulations shall govern the criteria by which the funds shall be distributed and the method by  
3363 which a municipality may apply for such funds.

3364 (b) The administrator may commit the funds pursuant to this section by executing a grant  
3365 or other contractual agreement with a municipality and, upon execution, the funds so committed  
3366 shall be made available as a grant directly to the municipality which has entered into an

3367 agreement without further review or approval of the department. Each agreement shall contain  
3368 assurances satisfactory to the secretary that the municipality shall award a construction contract  
3369 for the project which is the subject of the agreement not later than 180 days after the date of  
3370 execution of the agreement.

3371 (c) In the event that a contract is not awarded by the municipality within the period  
3372 provided in subsection (b), the administrator may require, by written notification to the  
3373 municipality, that the funds paid to it by the authority pursuant to the agreement shall be returned  
3374 forthwith to the authority.

3375 (d) The administrator may, through execution of a grant or other contractual agreement as  
3376 provided in subsection (b), commit an amount of funds up to but not exceeding the aggregate  
3377 amount of funds returned by municipalities under subsection (3) to any other municipality which  
3378 has otherwise complied with the applicable requirements for such projects, including the terms  
3379 and conditions provided in this section.

3380 Section 54. The division may establish a program to provide for the construction and  
3381 reconstruction of town and county ways as described in paragraph (a) of clause (2) of section 34  
3382 of chapter 90 of the General laws.

3383 Section 54 1/2. No motor vehicle, trailer, semi-trailer or semi-trailer unit, hereinafter in  
3384 this section called a motor vehicle, shall be operated on the turnpike or the metropolitan highway  
3385 system nor shall the owner or bailee thereof require or permit such operation when the gross  
3386 weight of such motor vehicle exceeds either the weight provided in the rules and regulations  
3387 adopted by the authority or that specified in a special hauling permit issued by the division for  
3388 such motor vehicle pursuant to such rules and regulations, whichever is greater, nor shall any  
3389 person load or cause to be loaded such motor vehicle in excess of such weights; provided,

3390 however, that the division shall not adopt or enforce any rule or regulation which prohibits a  
3391 motor vehicle from traveling on the turnpike or the metropolitan highway system without a  
3392 permit if such motor vehicle may travel on a public way of the commonwealth without a permit  
3393 under section 19A of chapter 90 or which prohibits the issuance of a permit by the division for  
3394 travel on the turnpike or the metropolitan highway system by a motor vehicle if such motor  
3395 vehicle may travel on a public way of the commonwealth with a permit under section 30A of  
3396 chapter 85.

3397 Enforcement of this section shall be by members of the department of state police who  
3398 have been appointed as weighers and measurers of motor vehicles and of the loads of such motor  
3399 vehicles pursuant to section 87A of chapter 41. In any prosecution for a violation of this section,  
3400 a signed certificate on oath of a member of the department of state police assigned and appointed  
3401 as a weigher and measurer of motor vehicles in accordance with this paragraph shall be  
3402 admissible in evidence without further proof and shall constitute prima facie evidence of the  
3403 weight of the motor vehicle described in such certificate. Such certificate shall be in such form as  
3404 the registrar of motor vehicles shall prescribe pursuant to section 19A of chapter 90 and shall be  
3405 signed and sworn to by a member of the department of state police assigned and appointed as a  
3406 weigher and measurer of motor vehicles in accordance with this paragraph and present at the  
3407 weighing of such motor vehicle and the court shall take judicial notice of the signature of such  
3408 person and that he is so assigned and appointed.

3409 In any claim for bodily injuries including death or damage to property arising out of such  
3410 weighing, a member of the department of state police, assigned and appointed as a weigher and  
3411 measurer of motor vehicles in accordance with the preceding paragraph, to enforce this section  
3412 may file a written request with the authority that it defend him against such claim and the



3413 authority shall indemnify such member of the department of state police from personal expenses  
3414 or damages incurred and arising out of such claim; provided, however, that the defense or  
3415 settlement of such claim shall have been made by the general counsel of the authority, by an  
3416 attorney retained for such purpose by the authority or by an attorney provided by an insurer  
3417 obligated under the terms of a policy of insurance to defend against such claims.

3418         A person convicted of a violation of this section shall be punished by a fine of not less  
3419 than \$30 for each 1,000 of weight or fraction thereof by which the gross weight of the motor  
3420 vehicle as operated exceeds the weight provided in the rules and regulations adopted by the  
3421 authority pursuant to paragraph (k) of section 4 or that specified in a special hauling permit  
3422 issued by the authority for such motor vehicle pursuant to said rules and regulations, whichever  
3423 is greater; provided, however, that if the total of such excess weight is greater than 10,000  
3424 pounds, the fine shall be not less than \$60 for each 1,000 or fraction thereof over such 10,000.

3425         Any person convicted of a violation of the first sentence of section 17 of chapter 90 while  
3426 operating a vehicle which is also in violation of the first paragraph of this section shall be  
3427 punished by a fine of not more than \$50 for a first offense nor less than \$50 nor more than \$75  
3428 for a second offense committed in any 12 month period and not less than \$75 nor more than \$150  
3429 for subsequent offenses committed in any 12 month period . Complaints for such violations shall  
3430 not be placed on file by the court.

3431         Section 55. The state highway system shall each be deemed a way within the meaning  
3432 and purport of chapters 89 and 90 and its use shall be governed by sections 2, 4, 4A, 4B and 5 of  
3433 said chapter 89 and sections 1B, 3, 3A, 3B, 3C, 5A, 6, 7, 7B, 7D, 7D 1/2, 7P, 7Q, 7AA, 8B, 8C,  
3434 9, 9D, 10, 11, 12, 13, 13A, 14, 14A, 14B, 16, the first sentence of section 17, section 20, the first  
3435 sentence of section 21 and sections 22A, 22B, 22E, 23, 24, 24G, 24I, 24L, 25, 26, 29 and 34J of

3436 chapter 90 and such other laws as the authority may determine by regulation necessary for the  
3437 safe and efficient operation of the state highway system.

3438 An operator of a vehicle using the turnpike, the metropolitan highway system or the state  
3439 highway system who refuses to pay the toll prescribed by the authority or who evades or  
3440 attempts to evade payment of the toll prescribed by the authority may be arrested without a  
3441 warrant. Whoever, for the purpose of soliciting a ride on the turnpike, the metropolitan highway  
3442 system or the state highway system, displays a sign, signals a moving vehicle, causes the  
3443 stopping of a vehicle or stands on property of the authority in view of a ramp or roadway of the  
3444 turnpike may be arrested without a warrant and shall be punished by a fine of not more than \$50.  
3445 A person damaged in his property by the exercise of any of the powers granted by this chapter  
3446 may recover his damages from the authority under chapter 79.

3447 Notwithstanding chapters 134 and 147, if money, goods or other property which has been  
3448 abandoned, mislaid or lost on the premises of the division comes into the possession of the  
3449 division and remains unclaimed for a period of 120 days, the division may sell the same,  
3450 excepting money so unclaimed, at public auction after notice of such sale has been published for  
3451 3 successive weeks in a newspaper published in the city or town wherein such sale shall occur.  
3452 The net proceeds of such sale, after deducting the cost of storage and the expenses of the sale,  
3453 and all money so unclaimed, shall be paid into and become the property of the division and may  
3454 be applied by the division to any of its corporate purposes. If such property is in the possession  
3455 of the division and remains unclaimed for a period of 120 days and is of the value of \$3 or less,  
3456 the authority may donate the same to a charitable organization.

3457 Section 56. The turnpike shall thereafter be operated and maintained free of tolls when:  
3458 (i) all notes and bonds issued by the authority relating to the turnpike and payable from turnpike  
3459 revenues have been paid or a sufficient amount for the payment of all such notes or bonds and  
3460 the interest thereon, to the maturity thereof, shall have been set aside in trust for the benefit of the  
3461 holders of such notes or bonds; and (ii) the turnpike is deemed to be in good condition and repair  
3462 to the satisfaction of the division.

3463 Section 57. The division shall submit to the road and bridge advisory board, pursuant to  
3464 section 58, all contracts, plans, agreements and memoranda of understanding relative to land use  
3465 plans, air rights, zoning restrictions and environmental impacts associated with the development  
3466 on any land owned by the division within the state highway system. The road and bridge  
3467 advisory board shall, within 30 days from receipt of all contracts, plans, agreements and  
3468 memoranda of understanding submitted by the division for review, provide comments and  
3469 recommendations to the division. The division shall prepare a written response to the reports of  
3470 the road and bridge advisory board and shall state the basis for any substantial divergence  
3471 between the actions of the division and the recommendations contained in such reports of the  
3472 road and bridge advisory board.

3473 Section 58. (a) There shall be a road and bridge advisory board to the division to consist  
3474 of 13 members, 5 of whom shall be appointed by the governor, 1 of which shall be a resident of a  
3475 municipality within the turnpike corridor from the New York state border east to the junction of  
3476 interchange 8, 1 of which shall be a resident of a municipality within the turnpike corridor from  
3477 the junction of interchange 8 east to the junction of interchange 14, 1 of which shall be a resident  
3478 of Essex or Middlesex county provided that the member does not reside in a municipality that is  
3479 a member of the metropolitan area planning council, 1 of which shall be a resident of Norfolk,

3480 Plymouth or Bristol county provided that the member does not reside in a municipality that is a  
3481 member of the metropolitan area planning council, 2 of whom shall be appointed by the mayor  
3482 of the city of Boston, 1 of whom shall be appointed by the commissioner of the division of  
3483 capital asset management and maintenance, 2 of whom shall be appointed by the metropolitan  
3484 area planning council, 1 of which shall be a resident of Framingham, Natick or Ashland,, 2 of  
3485 whom shall be appointed by the Massachusetts Association of Planning Directors who shall be a  
3486 resident of a municipality within the turnpike corridor and 1 of whom shall be appointed by an  
3487 environmental organization. Each member of the road and bridge advisory board shall have 1  
3488 vote. A majority of members shall constitute a quorum and the road and bridge advisory board  
3489 may act by such majority vote represented in the quorum.

3490 (b) For the conduct of its business, the road and bridge advisory board shall adopt and  
3491 may revise and amend by-laws. The road and bridge advisory board shall convene its first  
3492 meeting within 60 days after the transfer of the state highway system, to the division and shall  
3493 thereafter convene regular meetings in accordance with its by-laws. The road and bridge  
3494 advisory board shall annually elect a chairperson and vice chairperson and any other officers that  
3495 the road and bridge advisory board shall determine. Each member of the road and bridge  
3496 advisory board shall serve for a term of 1 year and shall be eligible for reappointment. In the  
3497 event of a vacancy, a successor shall be named by the person or organization who originally  
3498 appointed the vacated member and such successor shall serve for the remainder of the unexpired  
3499 term. Each member of the road and bridge advisory board shall serve without compensation but  
3500 may be reimbursed, as an expense of said road and bridge advisory board, for all reasonable  
3501 expenses incurred in the performance of its duties as approved by the road and bridge advisory  
3502 board.

3503 (c) The purposes of the road and bridge advisory board shall be:

3504 (i) to review and prepare comments on all documents submitted to it pursuant to section  
3505 57 and to make recommendations to the division within 30 days of receipt of such  
3506 documents;

3507 (ii) to coordinate and share information and best practices in matters of the operation and  
3508 maintenance of roads and bridges and the development of adjacent land and air rights;

3509 (iii) to make recommendation to the division on its roads and bridges charges;

3510 (iv) to hold hearings, which may be held jointly with the division at the discretion of the  
3511 road and bridge advisory board and the division, on matters relating to the division;

3512 (v) to review the annual report of the authority and to prepare comments thereon to the  
3513 authority and the governor, and to make such examinations of the reports on the  
3514 division's records and affairs as the road and bridge advisory board deems appropriate;  
3515 and

3516 (vi) to make recommendations to the governor and the general court respecting the  
3517 authority and its road and bridge programs. The road and bridge advisory board shall  
3518 have all powers necessary or convenient to carry out and effectuate the forgoing  
3519 purposes.

3520 (d) The road and bridge advisory board may incur expenses, not to exceed \$50,000  
3521 annually for expenditures authorized under subsection (b) and for personnel and office expenses.

3522 Such expenses shall be paid by the division in the current fiscal year from its operating budget  
3523 and, for each year thereafter, shall be provided for in the current expense budget of the division.

3524 (e) The road and bridge advisory board shall be deemed to be a governmental body for  
3525 purposes of, and shall be subject to, section 11A ½ of chapter 30A and shall also be subject to  
3526 section 10 of chapter 66.

3527 Section 59. The division shall submit to the parkway advisory board, pursuant to section  
3528 60, all contracts, plans, agreements and memoranda of understanding relative to the land use  
3529 plans, air rights, zoning restrictions and environmental impacts associated with the operation and  
3530 maintenance of parkways owned by the division within the geographic area defined in section 33  
3531 of chapter 92 using standards set forth in the Historic Parkway Preservation Treatment  
3532 Guidelines. The parkway advisory board shall, within 30 days from receipt of all contracts,  
3533 plans, agreements and memoranda of understanding submitted by the division for review,  
3534 provide comments and recommendations to the division. The division shall prepare a written  
3535 response to the reports of the parkway advisory board and shall state the basis for any substantial  
3536 divergence between the actions of the division and the recommendations contain in such reports  
3537 of the parkway advisory board.

3538 Section 60. (a) There shall be a parkway advisory board within the division of roads and  
3539 bridges to consist of 11 members, 3 of whom shall be appointed by the governor, of which 2  
3540 shall be residents of a municipality outside the geographic area defined in section 33 of chapter  
3541 92, 2 of whom shall be appointed by the mayor of the city of Boston, 1 of whom shall be a  
3542 representative of the Massachusetts historical commission, 1 of whom shall be appointed by the  
3543 commissioner of conservation and recreation, 1 of whom shall be appointed by the

3544 Massachusetts Audubon Society who shall be a resident of a municipality within the geographic  
3545 area defined in said section 33 of said chapter 92, 1 of whom shall be appointed by the  
3546 Massachusetts Sierra Club who shall be a resident of a municipality outside the geographic area  
3547 defined in said section 33 of said chapter 92, 1 of whom shall be appointed by the Environmental  
3548 League of Massachusetts who shall be a resident of a municipality within the geographic area  
3549 defined in said section 33 of said chapter 92 and 1 of whom shall be appointed by Environment  
3550 Massachusetts who shall be a resident of a municipality outside the geographic area defined in  
3551 said section 33 of said chapter 92. Each member of the parkway advisory board shall have 1  
3552 vote. A majority of members shall constitute a quorum and the parkway advisory board may act  
3553 by such majority vote represented in the quorum.

3554 (b) For the conduct of its business, the parkway advisory board shall adopt and may  
3555 revise and amend by-laws. The parkway advisory board shall convene regular meetings in  
3556 accordance with its by-laws. The parkway advisory board shall annually elect a chairperson and  
3557 vice chairperson and any other officers that the parkway advisory board deems appropriate. Each  
3558 member of the parkway advisory board shall serve for a term of 2 years and shall be eligible for  
3559 reappointment. In the event of a vacancy, a successor shall be named by the person or  
3560 organization who originally appointed the vacated member and any such successor shall serve  
3561 for the remainder of the unexpired term. Each member of the parkway advisory board shall serve  
3562 without compensation but may be reimbursed, as an expense of the parkway advisory board, for  
3563 all reasonable expenses incurred in the performance of his duties as approved by the parkway  
3564 advisory board.

3565 (c) The purposes of the parkway advisory board shall include:

3566 (i) to review and prepare comments on all documents submitted to it pursuant to section  
3567 59 and to make recommendations to the division within 30 days of receipt of such  
3568 documents;

3569 (ii) to coordinate and share information and best practices in matters of the operation and  
3570 maintenance of historic parkways;

3571 (iii) to make recommendation to the division on its parkway charges;

3572 (iv) to hold hearings, which may be held jointly with the division, at the discretion of the  
3573 parkway advisory board and said division, on matters relating to the division;

3574 (v) to review the annual report of the authority and to prepare comments thereon to the  
3575 authority and the governor, and to make such examinations of the reports on the  
3576 division's records and affairs as the parkway advisory board deems appropriate; and

3577 (vi) to make recommendations to the governor and the general court respecting the  
3578 authority and its parkway programs. The parkway advisory board shall have all powers  
3579 necessary or convenient to carry out and effectuate the forgoing purposes.

3580 (d) The parkway advisory board may incur expenses, not to exceed \$50,000 annually for  
3581 expenditures authorized under subsection (b) and for personnel and office expenses. Such  
3582 expenses shall be paid by the division in the current fiscal year from its operating budget and, for  
3583 each year thereafter, shall be provided for in the current expense budgets of the authority's  
3584 division of roads and bridges.

3585 (e) The parkway advisory board shall be deemed to be a governmental body for purposes  
3586 of, and shall be subject to, section 11A 1/2 of chapter 30A and shall also be subject to section 10  
3587 of chapter 66.



3588           Section 61. No rule or regulation of the division shall prohibit the use of passenger or  
3589 station wagon type motor vehicles whose gross weight is less than 5000 pounds and which are  
3590 registered for commercial use, on ways, parkways or boulevards where non-commercial  
3591 passenger-type motor vehicles are permitted to operate. This section shall apply only to ways,  
3592 parkways or boulevards previously under the jurisdiction of the department of conservation and  
3593 recreation

3594           Section 62. The division may replace or rebuild any bridge over the Charles river within  
3595 the metropolitan parks district whenever funds for the purpose shall become available by  
3596 pursuant to this section; provided, however, that no such bridge shall be replaced or rebuilt  
3597 without the consent of the city council and the selectmen of any town in which any part of the  
3598 bridge is situated. Any such bridge may be replaced or rebuilt without a draw for the passage of  
3599 vessels, and may be of no greater height above the water than, in the judgment of the division,  
3600 the architectural appearance of the bridge would require, except that every such bridge over the  
3601 Charles river basin shall be so constructed as to leave a clear height of at least 12 feet above the  
3602 ordinary level of the water in the basin over the main ship channel, and the piers and other  
3603 obstructions to the flow of the river shall be constructed in such form and in such places as the  
3604 secretary of defense of the United States shall approve. When the work of replacing or rebuilding  
3605 any such bridge is completed, the bridge shall be maintained and policed under and in  
3606 accordance with the laws governing such maintenance and policing at the time when the work  
3607 was begun. The state treasurer may receive, hold, manage and invest any funds given or  
3608 bequeathed to him in trust by any person, upon such terms, conditions and limitations as the  
3609 donor may impose, for the purpose of enabling the division to carry out this section, and the  
3610 division, whenever it shall deem that the public interests so require, may expend, under authority

3611 of this section any such funds in accordance with the terms, conditions or limitations aforesaid.  
3612 Any owner or lessee of property abutting on the Charles river above any drawless bridge built  
3613 under the authority of this section and under authority of the act of congress entitled "An Act to  
3614 authorize the construction of drawless bridges across a certain portion of the Charles river in the  
3615 State of Massachusetts", approved February 27, 1911, shall be entitled to adequate compensation  
3616 for damages, if any, caused to such property or leasehold interests therein, by reason of the  
3617 interference with access by water to said property due to the construction of any such drawless  
3618 bridge, in accordance with provisos contained in said act of congress. Upon petition of any such  
3619 owner or lessee entitled to such damages, filed in the supreme judicial court within 1 year after  
3620 any such bridge without a draw is opened for public travel, said court shall appoint 3  
3621 commissioners to hear the parties in interest, and to assess the damages to the property and the  
3622 decision of the commissioners as to the amount of the damages and as to questions of fact  
3623 involved shall be final.

3624 Section 63. The division may transfer, for care and control, including police protection,  
3625 any lands or rights or easements or interest in land held by it to any city, town, county, or local  
3626 board of a city or town within the urban parks district, with the consent of such city, town,  
3627 county or board, and upon such terms and for such period as may mutually be agreed upon, and  
3628 enter into an agreement with any such city, town, county or board for the joint care and control  
3629 or police protection of such lands or rights therein. Any city, town, or county, or any local board  
3630 within the urban parks district, may transfer, for care and control, including police protection,  
3631 any land, rights, easements or interest in land in its control, although the same is already a part of  
3632 a public way owned or controlled by it, to the division for such period and upon such terms as

3633 may mutually be agreed upon, and may enter into an agreement with the division for the joint  
3634 care and control, including police protection, of such land or public way.

3635           Section 64. (a) The division may provide functional replacement of real property in  
3636 public ownership whenever the division has acquired such property in whole or in part under this  
3637 chapter or when such property is significantly and adversely affected as a result of the  
3638 acquisition of property for a highway or highway-related project and whenever the division  
3639 determines that functional replacement is necessary and in the public interest. For the purposes  
3640 of this section, "functional replacement" shall mean the replacement, pursuant to chapter 7,  
3641 requiring authorization of the general court prior to disposition of real property, including either  
3642 land or facilities thereon, or both, which will provide equivalent utility. "Real property in public  
3643 ownership" shall mean any present or future interest in land, including rights of use, now existing  
3644 or hereafter arising, held by an agency, authority, board, bureau, commission, department,  
3645 division or other unit, body, instrumentality or political subdivision of the commonwealth. This  
3646 section shall not constitute authorization by the general court as required by said chapter 7.

3647           (b) Whenever the division determines that it is necessary that a utility or utility facility,  
3648 as defined under federal law, be relocated because of construction of a project which is to be  
3649 reimbursed federally in whole or in part, such facility shall be relocated by the division or by the  
3650 owner thereof in accordance with an order from the division; provided, however, that the  
3651 authority shall reimburse the owner of such utility or utility facility for the cost of relocation  
3652 subject to the limitations in subsections (e) and (f) and in accordance with the following formula:  
3653 (1) for any utility facility that is to be reimbursed federally in whole or in part, the division shall  
3654 reimburse the owner to the extent that the cost of relocating the utility facility is reimbursed by  
3655 the federal government; and (2) for the relocation of any utility facility over \$50,000 that does

3656 not qualify for federal reimbursement, the division may reimburse the owner in accordance with  
3657 the owner's ability to meet the following schedule: if the utility performs the relocation in a  
3658 manner consistent with the division's policies and not later than the target date established by the  
3659 division for the project, the division shall reimburse the utility at least 50 per cent but not more  
3660 than 80 per cent of the costs of relocating the utility facility. Failure to comply with an order  
3661 from the division shall be subject to enforcement under chapter 81.

3662 (c) Any relocation of facilities carried out under this section which is not performed by  
3663 employees of the owner shall be subject to section 27 of chapter 149.

3664 (d) Notwithstanding any general or special law to the contrary, any utility facility that is  
3665 required to be relocated because of the construction of a project federally funded under the  
3666 Federal-Aid Highway Act of 1982 and the Federal-Aid Highway Act of 1987 may be relocated  
3667 temporarily above ground during the construction of the project.

3668 (e) The total cost to the authority for reimbursements for utility relocations under this  
3669 section that are not reimbursed federally in whole or in part shall not exceed \$25 ,000,000,  
3670 annually, and shall not be credited toward the costs of the annual statewide road and bridge  
3671 program.

3672 (f) A utility relocation shall be eligible for reimbursement under this section only if it is  
3673 completed to the satisfaction of the division within target dates established by the division and in  
3674 accordance with design criteria set forth by the department for the relocation in a manner that  
3675 facilitates the timely completion of the affected project.

3676 Section 64A. (a) There shall be within the division a real estate appraisal review board.  
3677 The board shall consist of not less than 3 but not more than 5 members to be appointed by the  
3678 governor, 2 of whom shall be certified general real estate appraisers licensed by the board of real

3679 estate appraisers pursuant to section 92 of chapter 13. Members of the board shall be appointed  
3680 for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed  
3681 and may be compensated at a rate to be determined by the secretary. Members of the board shall  
3682 be state employees under chapter 268A. A chairman of the board shall be elected annually from  
3683 the membership. The division shall provide administrative support to the board as requested. In  
3684 the event of a vacancy on the board, the governor shall appoint a new member consistent with  
3685 this section to fulfill the remainder of the unexpired term.

3686 (b) The division shall not purchase or acquire by eminent domain any real property or  
3687 any interest in real property with a value in excess of \$300,000 without the written approval of  
3688 the board.

3689 (c) The board shall meet periodically, but not less than twice each year. The board shall  
3690 keep a public record of all meetings, votes and other business.

3691 (d) The board shall submit an annual report of its activities during the preceding fiscal  
3692 year not later than September 1 to the governor, the secretary of the transportation, the  
3693 administrator of the division of road and bridges, the chairs of the joint committee on  
3694 transportation, the chairs of the house and senate committees on ways and means and the  
3695 secretary of administration and finance.

3696 Section 65. Notwithstanding section 64 or any other general or special law to the  
3697 contrary, the division may reimburse the owner of an underground utility or utility facility  
3698 whenever such underground utility or utility facility has been relocated because of construction  
3699 of a project which is to be reimbursed federally in whole or in part. The reimbursement

3700 authorized herein shall be to the extent that the cost of relocating the facility is reimbursed by the  
3701 federal government.

3702         Section 65. Not later than July 31 in a calendar year, the inspector general, in  
3703 consultation with the division of insurance and the executive office of transportation and public  
3704 works, shall determine for each privately-owned, publicly-used railway or roadway tunnel, the  
3705 types and amounts of insurance coverage necessary to fully protect the traveling public and the  
3706 commonwealth in the event of an incident in or on such tunnel or roadway that causes harm or  
3707 injury to a person or property.

3708         Not later than August 31 in a calendar year, the executive office of transportation and  
3709 public works shall publish a roster of all privately-owned, publicly-used tunnels. The roster shall  
3710 include at least the following information for each tunnel: the identity and location; the owner's  
3711 identity; the minimum requirements set by the inspector general; the types and amounts of  
3712 coverage in force, and exclusions, underwriter's identity, broker's identity, premium period,  
3713 premium amount and current expiration date. The roster shall be designed to facilitate usage by  
3714 the general public and shall not use industry-specific terminology unless those terms are defined  
3715 for the benefit of the general public.

3716         Not later than September 30 in a calendar year, the owner of each privately-owned,  
3717 publicly-used tunnel shall purchase at least the minimum coverage required, as determined by  
3718 the inspector general in accordance with this section, for the following calendar year and shall  
3719 provide proof of such coverage in the form and manner prescribed by the inspector general to the  
3720 executive office of transportation and public works. The executive office shall publish such  
3721 information at no charge to the public and update the published roster accordingly. If an owner  
3722 of a privately-owned, publicly-used railway or roadway tunnel fails to provide proof of the

3723 minimum required coverage, as determined by the inspector general by September 30, the  
3724 executive office shall purchase such coverage and shall subsequently collect from the tunnel  
3725 owner full reimbursement for all premiums paid by the commonwealth, together with the any  
3726 costs of enforcement and collection under this section.

3727 **SECTION 21.** Chapter 81B is hereby amended by striking out section 1, inserted by  
3728 section 20, and inserting in place thereof the following section:-

3729 Section 1. There is hereby created a body politic and corporate to be known as the  
3730 Massachusetts Surface Transportation Authority which, while within the executive office of  
3731 transportation and construction, shall not be subject to the supervision and regulation of said  
3732 executive office or any other department, commission, board, bureau, or agency, except as  
3733 specifically provided in any general or special law to the contrary. The authority is hereby  
3734 authorized and empowered, subject to the provisions of this chapter, to own, construct, maintain,  
3735 repair, reconstruct, improve, rehabilitate, finance, refinance, use, police, administer, control and  
3736 operate (a) the state highway system as defined in this chapter; (b) the turnpike as defined in the  
3737 chapter; and (c) the metropolitan highway system as defined in this chapter.

3738 The authority is hereby constituted a public instrumentality. The exercise by the  
3739 authority of the powers conferred by this chapter shall be deemed and held to be the performance  
3740 of an essential governmental function.

3741 **SECTION 22.** Said chapter 81B is hereby further amended by striking out section 1,  
3742 inserted by section 21, and inserting in place thereof the following section:-

3743 Section 1. There is hereby created a body politic and corporate to be known as the  
3744 Massachusetts Surface Transportation Authority which, shall be within the executive office of  
3745 transportation and construction, but not under the supervision and regulation of said executive

3746 office or any other department, commission, board, bureau or agency, except as specifically  
3747 provided in any general or special law to the contrary. The authority may, subject to this chapter,  
3748 own, construct, maintain, repair, reconstruct, improve, rehabilitate, finance, refinance, use,  
3749 police, administer, control and operate the state highway system, the turnpike, the metropolitan  
3750 highway system and the state public transit system.

3751 The authority is hereby constituted a public instrumentality. The exercise by the  
3752 authority of the powers conferred by this chapter shall be deemed and held to be the performance  
3753 of an essential governmental function.

3754 **SECTION 23.** Section 3 of said chapter 81B, inserted by section 20, is hereby further  
3755 amended by striking out the definition of “state highway system” and inserting in place thereof  
3756 the following definition:-

3757 “State highway system”, all roadways, bridges, tunnels, overpasses, interchanges, parking  
3758 facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist  
3759 information centers and administration, storage, maintenance and other buildings that the  
3760 authority owns, constructs or operates and maintains pursuant to this chapter and any additional  
3761 highway, tunnel and bridge components as the general court may from time to time determine.  
3762 The term “state highway system” shall include the turnpike and the metropolitan highway  
3763 system.

3764 **SECTION 24.** Section 4 of said chapter 81B is hereby amended by striking out clauses  
3765 (e) and (f), as appearing in section 20, and inserting in place thereof the following 2 clauses:

3766 (e) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,  
3767 administer, control and operate the state highway system or any part thereof and the state public  
3768 transit system or any part thereof, consistent with agreements entered into with the authority to



3769 the extent applicable, as it may determine; provided, however, that chapter 91 shall not apply to  
3770 the authority, except for any parts or areas thereof subject to said chapter 91 on March 1, 1997;

3771 (f) acquire sites abutting the state highway system and the state public transit system and  
3772 construct or contract for the construction of buildings and appurtenances for gasoline stations,  
3773 restaurants, parking facilities, tourist information centers and other services and lease such  
3774 facilities in such manner and under such terms as it may determine;

3775 **SECTION 25.** Said section 4 of said chapter 81B is hereby further amended by striking  
3776 out clause (k), as appearing in section 20, and inserting in place thereof the following clause:-

3777 (k) to fix, revise, charge and collect tolls for transit over the metropolitan highway  
3778 system; provided, however, that it shall furnish upon request to a user of the metropolitan  
3779 highway system a toll receipt showing the amount of toll paid, the classification of the vehicle  
3780 and the date of payment; provided further, that the authority shall convene at least 2 public  
3781 hearings to be held within the metropolitan Boston area at least 30 days prior to the effective date  
3782 of any proposed change in toll structure within the metropolitan highway system and shall allow  
3783 for a 1 week comment period after each such hearing during which the authority shall accept  
3784 written testimony and comments; provided further, that the authority shall not increase tolls  
3785 without first providing, at a public hearing, a written evaluation of the funding shortfall facing  
3786 the authority and all feasible statewide revenue options at its disposal; and provided further, that  
3787 the authority shall not authorize a toll increase that amounts, in the aggregate, to more than 15  
3788 per cent of the identified funding shortfall unless such restriction shall violate a binding covenant  
3789 of an existing trust agreement

3790 **SECTION 26.** Said section 4 of said chapter 81B is hereby further amended by striking  
3791 out subsection (l), as so appearing, and inserting in place thereof the following subsection:-

3792 (l) adopt such rules and regulations pursuant to chapter 30A and not repugnant to the  
3793 General Laws made applicable to the authority, as the authority determines necessary or  
3794 appropriate to provide for or govern the construction or reconstruction, including contractor  
3795 qualification, operation, maintenance, repair, rehabilitation, improvement, use, policing, control  
3796 or administration of the state highway system or state public transit system or the authority's  
3797 business or property; provided, however that such regulations may include the authority to grant  
3798 easements, permits or other forms of authorization for the installation, construction,  
3799 maintenance, repair, renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits,  
3800 cables, wires, towers, poles and other equipment and appliances of any public utility, private  
3801 entity or corporation or person owning or operating such facilities in, on, along, over or under the  
3802 state highway system or state public transit system; provided further, that such regulations may  
3803 impose penalties for violations thereof which, in the case of civil penalties, may be recovered  
3804 only after notice and hearing conducted by the authority or its designee and subject to judicial  
3805 review and enforcement pursuant to chapter 30A or such other civil proceedings under the laws  
3806 of the commonwealth or the United States as the law may provide and, in the case of criminal  
3807 penalties, may be recovered in a proceeding in a trial court of the commonwealth by indictment  
3808 or complaint. ; provided further, that the amount of any such civil or criminal penalty, with the  
3809 exception of penalties imposed under section 19, shall not exceed \$500 for each offense, unless  
3810 the law otherwise provides; provided further, that the full amount of a civil penalty shall be paid  
3811 to the authority and 80 per cent of a penalty recovered in a criminal proceeding shall be  
3812 accounted for and paid to the authority; and provided further, that the authority may further  
3813 provide in such regulations for adjudicatory proceedings that it or its designee conducts which  
3814 are subject to judicial review and enforcement according to the provisions of said chapter 30A;

3815           **SECTION 27.** Section 10 of said chapter 81B, as so appearing, is hereby amended by  
3816 adding the following subsection:-

3817           (b) The authority may charge, collect, and, from time to time, fix and revise tolls for  
3818 transit over or through the metropolitan highway system or any part thereof subject to such  
3819 classifications of vehicles and manners of collection as the authority determines desirable and  
3820 subject to clause (k) of section 4. Those tolls shall be so fixed and adjusted as to provide, at a  
3821 minimum, a fund sufficient with other revenues, if any, to pay: (a) costs incurred in furtherance  
3822 of this chapter related to the metropolitan highway system including, but not limited to, the cost  
3823 of owning, constructing, maintaining, repairing, reconstructing, improving, rehabilitating,  
3824 policing, using, administering, controlling and operating the metropolitan highway system; and  
3825 (b) the principal of, redemption premium, if any, and the interest on notes or bonds relating to the  
3826 metropolitan highway system as the notes or bonds shall become due and payable and to create  
3827 and maintain reserves established for any of the authority's corporate purposes; provided,  
3828 however, that the authority shall not charge or collect a toll for transit through the Callahan  
3829 tunnel, the Sumner tunnel or the Ted Williams tunnel by official vehicles of the commonwealth  
3830 or any municipality, political subdivision or instrumentality thereof, including police, fire and  
3831 ambulance vehicles, while such vehicles are on official business. The authority shall maintain the  
3832 confidentiality of all information including, but not limited to, photographs or other recorded  
3833 images and credit and account data, relative to account holders who participate in its electronic  
3834 toll collection system. That information shall not be a public record under clause Twenty sixth of  
3835 section 7 of chapter 4 or section 10 of chapter 66 and shall be used for enforcement purposes  
3836 only with respect to toll collection regulations. An account holder may, upon written request to  
3837 the authority, have access to all information pertaining solely to the account holder. For each

3838 violation of applicable authority regulations related to electronic toll collection, a violation notice  
3839 shall be sent to the registered owner of the vehicle in violation. The notice shall include the  
3840 registration number of the vehicle, the state of issuance of such registration and the date, time  
3841 and place of the violation. The notice may be based in whole or in part upon inspection of any  
3842 photographic or other recorded image of a vehicle and the written certification by a state police  
3843 officer or other person employed by or under contract with the authority or its electronic toll  
3844 collection system contractor that it is so based shall be prima facie evidence of the facts  
3845 contained therein and shall be admissible in any administrative or judicial proceeding to  
3846 adjudicate the liability for such violation.

3847 **SECTION 28.** Said chapter 81B is hereby further amended by adding the following 3  
3848 sections:-

3849 Section 42. (a) No proposal for a systemwide change in fares under the division of public  
3850 transit or decrease in systemwide service of 10 per cent or more shall be effective until the  
3851 proposal has been the subject of 1 or more public hearings and has been reviewed by the mass  
3852 transit advisory board and, for a systemwide increase in fares of 10 per cent or more, the  
3853 Massachusetts Surface Transportation Authority board of directors has made findings on the  
3854 environmental impact of such increase in fares and, for a systemwide decrease in service of 10  
3855 per cent or more, the decrease shall be the subject of an environmental notification form  
3856 initiating review pursuant to sections 61 to 62H, inclusive, of chapter 30. Any systemwide  
3857 increase in fares of 10 per cent or more shall conform to the fare policy established under  
3858 subsection (c). The authority shall increase fares only to provide needed revenue and shall not  
3859 increase fares solely for the purpose of funding the stabilization fund established pursuant to  
3860 section 19.

3861 (b) The Massachusetts Surface Transportation Authority board of directors shall not  
3862 establish a fare in excess of one-half the regular adult cash fare for pupils of public day or  
3863 evening schools, pupils of private day schools or private evening schools or industrial day or  
3864 evening schools giving substantially the same character and grade of instruction as the schools  
3865 conducted at public expense and of a not higher grade than a high school for transportation  
3866 between those schools and their homes, or for children between the ages of 5 and 11 years,  
3867 inclusive, or for persons 65 and older who reside within the commonwealth, or for persons with  
3868 disabilities who reside within the commonwealth. Any such fare so established shall provide for  
3869 free transfer privileges.

3870 (c) The authority, in consultation with the division of public transit, shall adopt, and  
3871 revise as appropriate, a fare policy which addresses fare levels, including discounts, fare equity  
3872 and a fare structure including, but limited to, fare media and passes. The fare policy shall include  
3873 a system for free or substantially price-reduced transfer privileges.

3874 Section 43. The authority shall establish and implement policies that provide for the  
3875 maximization of nontransportation revenues from all sources. The authority shall report to the  
3876 general court 30 days prior to the board's approval of its preliminary annual budget on efforts of  
3877 the authority to maximize nontransportation revenues. The authority, in consultation with the  
3878 division of public transit, shall establish and implement policies that maximize and increase total  
3879 fare revenue and ridership by improving service quality, expanding transit service where  
3880 appropriate, establishing fare policies that promote ridership growth, marketing its transit  
3881 services and fare media and providing desirable services and benefits to transit riders.

3882 The authority shall establish and implement policies that increase the proportion of the  
3883 division's expenses covered by system revenues; provided, however, that the division shall take

3884 all necessary steps to increase system revenues and improve operating efficiency before  
3885 considering any reductions in service levels; provided further that the division take all necessary  
3886 steps to maximize nontransportation revenues, increase ridership and improve fare collection  
3887 practices before implementing fare increases. Nothing in this chapter shall preclude the authority  
3888 from increasing fares, if necessary, to meet debt service obligations.

3889         The authority shall determine, among other accountability measures, the net operating  
3890 investment per passenger mile ratio for the purposes of measuring the efficiency of the division  
3891 of public transit operations and evaluating the proportion of division's expenses covered by  
3892 system revenues.. To calculate such ratio, the authority shall use for the values of the variables in  
3893 the ratio the data reported each fiscal year to the federal transit agency, for the purposes of the  
3894 national transit database.

3895         In conjunction with the preparation of the preliminary operating budget for the  
3896 subsequent fiscal year, the authority shall establish a target net operating investment per  
3897 passenger mile ratio that is expected to be achieved in the subsequent fiscal year. The authority  
3898 shall forward a report to the secretary of transportation, the general court, and the mass transit  
3899 advisory board not later than April 1 of each year detailing the actual net operating investment  
3900 per passenger mile ratio achieved in the prior 2 fiscal years, the ratio projected to be achieved in  
3901 the current fiscal year and the ratio expected to be achieved in the subsequent 2 fiscal years. The  
3902 report shall be accompanied by an explanation of the reasons for year-to-year change in the ratio.

3903         Beginning in fiscal year 2012, the authority shall seek to achieve and maintain a target  
3904 ratio of not more than 20 cents for any fiscal year; provided, that the inability to achieve the ratio  
3905 of 20 cents shall not, by itself, require the authority to reduce service levels, increase fares or  
3906 take any other specific action; provided further, that if the authority is unable to achieve or

3907 maintain the target ratio of 20 cents, or less, it shall, for fiscal year 2012 and subsequent fiscal  
3908 years, include in the report the reasons therefor and the plans of the authority for seeking to  
3909 achieve the target ratio of 20 cents.

3910           Section 44. (a) If the authority shall operate or contract for the operation of a mass  
3911 transportation service or route which is not substantially similar to a service or route previously  
3912 operated by the authority or the division of public transit and which is in competition with an  
3913 existing mass transportation service or route provided by a private company, and if such  
3914 competition causes substantial economic damage to such company, the company may file a  
3915 claim for relief with the authority within 6 months of the commencement of such new operation.  
3916 The claim for relief shall state all of the facts relevant to the claimed competition and to the  
3917 alleged damage suffered therefrom. Thereupon the authority shall make a prompt and full  
3918 investigation of the claim. During its investigation and any subsequent arbitration the authority  
3919 shall have access to the books and records of the company including, but not limited to, copies of  
3920 all federal and state tax returns of the company for prior years. Within 120 calendar days after  
3921 the filing of the claim for relief the authority shall issue a report setting forth its findings with  
3922 respect to the claim, together with a detailed statement of the facts as to the respective patronage,  
3923 revenues and costs on the allegedly competing routes and, if deemed appropriate, an offer of  
3924 relief. That offer may include a proposal that the authority purchase all or a portion of the assets  
3925 of the company, or that the authority grant to the company a contract under section 4 of chapter  
3926 81D, or the authority may propose another plan or alternative plans of relief as it shall deem  
3927 reasonable and in the public interest. Within 90 calendar days of receipt of such report the  
3928 company shall accept or reject any offer or offers of the authority or it shall make 1 or more  
3929 counteroffers. The authority shall accept or reject any counteroffers within 30 calendar days of

3930 receipt. The authority may modify or revoke any such offer and the company may modify or  
3931 revoke any such counter-offer at any time before acceptance or rejection.

3932 (b) If the authority declines to make any offer to the company, or if all offers or  
3933 counteroffers are rejected, or if the authority or the company fails to act with respect to such  
3934 offers or counteroffers within the time prescribed herein, the matter shall be referred to a board  
3935 of arbitration for final and binding adjudication. Unless the parties shall agree in writing to some  
3936 other method of constituting the board of arbitration, of selecting its members and of providing  
3937 for the rules of procedure by which it shall be: governed, the board shall be appointed and its  
3938 proceedings regulated by the applicable sections of chapter 251. The function of the board of  
3939 arbitration shall be to determine whether the operations of the authority in competition with those  
3940 of the company during the period complained of have constituted a proximate cause of  
3941 substantial damage to the company; to identify and designate the portion of the company's  
3942 operations so damaged, that designation to include a complete list of the physical assets of the  
3943 company, real and personal fairly allocable to that portion; and to fix the fair value of the portion  
3944 of the company's operations as of the time that the competition commenced. In determining the  
3945 fair value the board of arbitration shall follow generally accepted accounting principles and shall  
3946 place particular emphasis on capitalization of the average net income of the company for prior  
3947 years, excluding, however, from such average net income any amounts received by the company  
3948 under section 25B of chapter 58, and upon an appraisal of the listed physical assets of the  
3949 company valued at their cost basis less depreciation in a manner consistent with the valuation  
3950 and depreciation methods employed by the company in filing federal and state income tax  
3951 returns for the preceding years. Under no method of valuation shall any value be placed upon  
3952 franchises or good will. Within 30 calendar days after the award of the board of arbitration the



3953 company shall sell, and the authority shall purchase, the physical assets listed by the board, and  
3954 the authority shall pay to the company the fair value of the portion of the company's operations  
3955 as found by the board. The cost to the authority of any acquisition under this section shall be paid  
3956 from the proceeds of bonds or bond anticipation notes issued as hereinafter provided. An award  
3957 under this section shall be subject to the availability of those bond or note proceeds and any sale  
3958 hereunder may be postponed by the agreement of the parties pending the availability of those  
3959 funds.

3960 (c) The procedure set forth in this section shall constitute the exclusive remedy of a  
3961 private mass transportation company against the authority for relief from the effects of the  
3962 division's operations or activities, and no action or suit shall be brought against the authority on  
3963 account of alleged damage suffered except to enforce compliance with the provisions of this  
3964 section. Nothing herein shall prohibit the authority and the company from entering into an  
3965 agreement in settlement of the claim for relief at any time, notwithstanding the rejection of an  
3966 offer or counteroffer, the pendency of arbitration proceedings or the existence of an award. All  
3967 time requirements in this section may be extended by written agreement between the authority  
3968 and the company. It is the intent of this section to encourage cooperation between the authority  
3969 and private companies so as to provide fair and reasonable relief as speedily as possible in case  
3970 of damaging competition.

3971 **SECTION 29.** The General Laws are hereby amended by inserting after chapter 81C the  
3972 following chapter:-

3973 Chapter 81D

3974 THE DIVISION OF PUBLIC TRANSIT

3975 Section 1. (a) Without limiting the generality of the powers granted to the authority  
3976 under chapter 81B or this chapter, the following provisions are made for the operation,  
3977 improvement and construction of the state public transit system.

3978 (b) There is hereby established a division of public transit within the authority.

3979 Section 2. The division shall be directed by an administrator of public transit, who shall  
3980 be appointed by and serve at the pleasure of the chief executive officer of the Massachusetts  
3981 Surface Transportation Authority. The administrator shall be responsible for administering and  
3982 enforcing this chapter relative to the administration of the division under the administrator's  
3983 control and supervision unless otherwise provided herein, subject to the supervision of the chief  
3984 executive officer of the authority.

3985 The administrator shall be exempt from chapter 31. The position of administrator shall be  
3986 classified in accordance with section 45 of chapter 30 and the salary shall be determined in  
3987 accordance with section 46C of said chapter 30. The chief executive officer shall consider a  
3988 prospective administrator's fitness, including experience in matters relating to transportation  
3989 infrastructure, including roads and bridges, such as their construction, operations, financing or  
3990 other relevant experience relative to the efficient exercise of the administrator's powers and  
3991 duties. The commissioner shall administer this section and the General Laws, rules and  
3992 regulations that grant powers to or impose duties upon the division , subject to the supervision of  
3993 the chief executive officer.

3994 (a) The administrator shall establish a procedure for recommending to the chief executive  
3995 officer approval or disapproval of all contracts, including specifications, made by the division,  
3996 and any changes, alterations, amendments, or modifications thereof and for contract appeals of  
3997 all claims made under any contract with the division with the exception of claims subject to

3998 section 39Q of chapter 30. Any person aggrieved by a decision of the chief executive officer  
3999 acting in regard to contract appeals may bring suit against the authority for recovery of damages  
4000 based on such claim under the provisions of chapter 258.

4001 To assist the chief executive officer and administrator in performing this function, the  
4002 chief executive officer may appoint and remove a person of legal training and experience, who  
4003 shall be a member of the bar of the commonwealth, to the position of hearing examiner. The  
4004 hearing examiner shall devote full-time during business hours to the duties of his position. The  
4005 position shall be classified in accordance with section 45 of chapter 30 and the salary shall be  
4006 determined in accordance with section 46C of said chapter 30. The chief executive officer may  
4007 refer any dispute concerning contracts, contract specifications or the execution of contracts not  
4008 subject to section 39Q of said chapter 30 to the hearing examiner for a report on the matter  
4009 including a recommendation as to the disposition of the dispute.

4010 The hearing examiner shall hear all claims by contractors from determinations of the  
4011 department with the exception of claims subject to section 39Q of chapter 30 and shall, after  
4012 hearing, render to the chief executive officer a report of the matter including a recommendation  
4013 as to the disposition of the claim. The examiner shall, at the request of the contractor or of the  
4014 division or on his own motion, summon witnesses and require the production of books and  
4015 records and take testimony under oath. These reports shall be maintained as public records in a  
4016 place and form fully accessible to the public.

4017 (b) The administrator shall appoint and may remove all employees in the division, subject  
4018 to the approval of the chief executive officer of the authority. Except as provided in this chapter  
4019 or as otherwise provided by law, all such appointments and removals shall be made in  
4020 accordance with chapter 31. The administrator may, subject to appropriation and regulation,

4021 employ such consultants as he may consider necessary, provided that consultants shall be  
4022 engaged to perform only those services for the division which regular employees of the division  
4023 are unable to perform owing to lack of special expertise or other inability to perform such  
4024 services on the schedule or in the manner required by the division.

4025 (c) The administrator shall establish such bureaus, sections, and district and other offices  
4026 as shall be necessary for the efficient and economical administration of the division and, if  
4027 necessary for such purpose may, with the approval of the chief executive officer, consolidate or  
4028 abolish the same. The administrator shall prepare and keep current a general statement of the  
4029 organization of the division, of the assignment of functions to its various administrative units,  
4030 officials and employees, and of the established places at which and the methods whereby the  
4031 public may secure information or make requests, such statement to be known as the division's  
4032 "description of organization". The administrator shall file with the state secretary an attested  
4033 copy of such description and of each amendment thereto.

4034 (d) The administrator may adopt rules and regulations to effectuate the purposes of this  
4035 chapter.

4036

4037 Section 3. As used in this chapter, the following words shall, unless the context  
4038 otherwise requires, have the following meanings:—

4039 "Area constituting the authority", the service area of the division consisting of the 14  
4040 cities and towns, the 51 cities and towns, and other served communities.

4041 "Authority", the Massachusetts Surface Transportation Authority established in chapter  
4042 81B.

4043 "Board", the board of directors of the authority.

4044 “Capital investment program”, the program of capital spending as promulgated by the  
4045 executive office of transportation each fiscal year based on a 5 year capital spending projection  
4046 that advances the program for mass transportation of the authority.

4047 “Dedicated revenue source”, monies provided to the authority in accordance with section  
4048 35T of chapter 10.

4049 “Division”, the division of public transit established in section 5 of chapter 81D.

4050 “Equipment”, all rolling stock and other conveyances, vehicles, rails, signal and control  
4051 systems, lighting and power distribution systems, fences, station equipment, fare collection  
4052 equipment, incidental apparatus and other tangible personal property, whether or not affixed to  
4053 realty, required or convenient for the mass movement of persons.

4054 “Express service”, all mass transportation service provided by or under the control of the  
4055 division, whether by ownership, lease, contract or otherwise, over rights of way with fully  
4056 controlled access and restricted to the use of such service exclusively or on a shared basis with  
4057 other mass transportation service, including, but not limited to, rapid transit service, the highland  
4058 branch and Mattapan high-speed services and express bus, monorail and other similar services,  
4059 and such term shall also mean all commuter railroad passenger service provided by or under the  
4060 control of the division.

4061 “Fare revenue”, the amount of money directly paid by passengers on all modes of service,  
4062 provided that said revenue shall include both the fares accounted for by the division as revenues  
4063 and as credits to expenditures.

4064 “51 cities and towns”, the cities and towns of Bedford, Beverly, Braintree, Burlington,  
4065 Canton, Cohasset, Concord, Danvers, Dedham, Dover, Framingham, Hamilton, Hingham,  
4066 Holbrook, Hull, Lexington, Lincoln, Lynn, Lynnfield, Manchester-by-the-Sea, Marblehead,

4067 Medfield, Melrose, Middleton, Nahant, Natick, Needham, Norfolk, Norwood, Peabody, Quincy,  
4068 Randolph, Reading, Salem, Saugus, Sharon, Stoneham, Swampscott, Topsfield, Wakefield,  
4069 Walpole, Waltham, Wellesley, Wenham, Weston, Westwood, Weymouth, Wilmington,  
4070 Winchester, Winthrop and Woburn.

4071 “14 cities and towns”, the cities and towns of Arlington, Belmont, Boston, Brookline,  
4072 Cambridge, Chelsea, Everett, Malden, Medford, Milton, Newton, Revere, Somerville and  
4073 Watertown.

4074 “Local service”, all mass transportation service provided by or under the control of the  
4075 division, other than express service.

4076 “Massachusetts Bay Transportation Authority State and Local Contribution Fund”, the  
4077 fund established pursuant to section 35T of chapter 10.

4078 “Mass transportation facilities”, all real property, including land, improvements,  
4079 terminals, stations, garages, yards, shops and structures appurtenant thereto, and all easements,  
4080 air rights, licenses, permits and franchises, used in connection with the mass movement of  
4081 persons.

4082 “Maximize”, increase to the highest level possible consistent with the principles of sound  
4083 financial planning and accepted transportation practices.

4084 “Net operating investment per passenger mile ratio”, the ratio whereby operating  
4085 expenses minus the sum of nontransportation revenues and fare revenues are divided by  
4086 passenger miles and expressed as a monetary amount per mile.

4087 “Nontransportation revenues”, any and all division revenue sources resulting from  
4088 sources other than state or local taxes, state or authority bonds, federal mass transportation  
4089 assistance and fares.

4090 “Operating expense”, salaries, wages, benefits, materials and supplies, and purchased  
4091 transportation, excluding debt service and capital expenses, for all modes of service.

4092 “Other served communities”, the cities and towns of Abington, Acton, Amesbury,  
4093 Andover, Ashburnham, Ashby, Ashland, Attleboro, Auburn, Ayer, Bellingham, Berkley,  
4094 Billerica, Boxborough, Boxford, Bridgewater, Brockton, Carlisle, Carver, Chelmsford, Dracut,  
4095 Duxbury, East Bridgewater, Easton, Essex, Fitchburg, Foxborough, Franklin, Freetown,  
4096 Georgetown, Gloucester, Grafton, Groton, Groveland, Halifax, Hanover, Hanson, Haverhill,  
4097 Harvard, Holden, Holliston, Hopkinton, Ipswich, Kingston, Lakeville, Lancaster, Lawrence,  
4098 Leicester, Leominster, Littleton, Lowell, Lunenburg, Mansfield, Marlborough, Marshfield,  
4099 Maynard, Medway, Merrimac, Methuen, Middleborough. Millbury, Millis, Newbury,  
4100 Newburyport, North Andover, North Attleborough, Northborough, Northbridge, Norton, North  
4101 Reading, Norwell, Paxton, Pembroke, Plymouth, Plympton, Princeton, Raynham, Rehoboth,  
4102 Rochester, Rockland. Rockport, Rowley, Salisbury, Scituate, Seekonk, Sherborn, Shirley,  
4103 Shrewsbury, Southborough, Sterling, Stoughton, Stow, Sudbury, Sutton, Taunton, Tewksbury,  
4104 Townsend, Tyngsborough, Upton, Wareham, Way land, West Boylston, West Bridgewater,  
4105 Westborough, West Newbury, Westford, Westminster, Whitman, Worcester, Wrentham, and  
4106 such other municipalities as may be added in accordance with section 6 or in accordance with  
4107 any special act to the area constituting the authority.

4108 “Passenger miles”, the sum of the distances ridden by each passenger for all modes of  
4109 service.

4110 “Program for mass transportation”, a comprehensive, coordinated program of  
4111 construction, reconstruction, and development of mass transportation facilities and equipment  
4112 throughout the area constituting the division, promulgated by the executive office of

4113 transportation, for the benefit of the inhabitants thereof and the commonwealth that establishes a  
4114 planning horizon of not more than 20 years and incorporates an ongoing capital investment  
4115 program.

4116 “Rider”, a person whose residence is in 1 of the 14 cities or towns, 1 of the 51 cities or  
4117 towns, or 1 of the other served communities and uses local service or express service of the  
4118 division.

4119 “Secretary”, the secretary of the executive office of transportation.

4120 “Serious bodily injury” bodily injury which results in a permanent disfigurement, loss or  
4121 impairment of a bodily function, limb or organ.

4122 “Service quality standards”, objectives established by the division for the effectiveness  
4123 and quality of each mode of service, rapid transit, light rail, bus, and commuter rail, based on  
4124 measurements of: (a) comfort; (b) communication; (c) convenience; (d) rider satisfaction; (e)  
4125 reliability; (f) security; and (g) environmental benefit.

4126 “System revenues”, revenues generated by the division, excluding the dedicated revenue  
4127 source and municipal assessments.

4128 Section 4. The division may:

4129 (1) establish within the area constituting the division a principal office and such other  
4130 offices as necessary;

4131 (2) hold, operate and manage the mass transportation facilities and equipment acquired  
4132 by the division;

4133 (3) appoint and employ officers, agents, and employees to serve at the pleasure of the  
4134 administrator, except as may otherwise be provided in collective bargaining agreements, and to  
4135 fix their compensation and conditions of employment;



4136 (4) make, revise and repeal, by-laws, rules, regulations and resolutions;

4137 (5) establish transit facilities and related infrastructure, including terminals, stations,  
4138 access roads, and parking, pedestrian access facilities and bicycle parking and access facilities as  
4139 deemed necessary and desirable. The division may charge reasonable fees for the use of such  
4140 facilities as it may deem desirable, or it may allow the use of such facilities free of charge;

4141 (6) accept gifts, grants and loans from agencies of local, state and federal governments, or  
4142 from private agencies or persons, and to accede to such conditions and obligations as may be  
4143 imposed as a prerequisite to any such gift, grant or loan;

4144 (7) provide mass transportation service, whether directly, jointly or under contract, on an  
4145 exclusive basis, in the area constituting the division and without being subject to the jurisdiction  
4146 and control of the department of public utilities in any manner except as to safety of equipment  
4147 and operations and, with respect only to operations of the division with equipment owned and  
4148 operated by the division, without, except as otherwise provided in this chapter, being subject to  
4149 the jurisdiction and control of any city or town or other licensing authority; provided, that  
4150 schedules and routes shall not be considered matters of safety subject to the jurisdiction and  
4151 control of said department. Except as otherwise provided in this chapter, the board shall  
4152 determine the character and extent of the services and facilities to be furnished, and in these  
4153 respects its authority shall be exclusive and shall not be subject to the approval, control or  
4154 direction of any state, municipal or other department, board or commission except the advisory  
4155 board as provided in this chapter. Nothing contained in this paragraph shall be construed as  
4156 exempting any privately owned or controlled carrier, whether operating independently, jointly or  
4157 under contract with the division, from obtaining any license required under section 1 of chapter  
4158 159A;

4159 (8) operate mass transportation facilities and equipment, directly or under contract in  
4160 areas outside the area constituting the authority; but only pursuant to: (i) an agreement with or  
4161 purchase of a private mass transportation company, part of whose operations were, at the time  
4162 the authority was established, within the area constituting the authority; or (ii) an agreement with  
4163 a transportation area or a municipality for service between the area constituting the authority and  
4164 that of the transportation area or municipality, where no private company is otherwise providing  
4165 that service;

4166 (9) provide for construction, extension, modification or improvement of the mass  
4167 transportation facilities in the area constituting the authority;

4168 (10) sell, lease or otherwise contract for advertising in or on the facilities of the division;  
4169 and

4170 (11) ensure that land devoted to any public use other than mass transportation may be  
4171 taken by the division only: (i) if any substantial interference with such public use is temporary or  
4172 any permanent interference therewith is not substantial, or both; or (ii) in the case of takings not  
4173 authorized by clause (i), upon providing equivalent land for such public use. Interference with  
4174 the public use of a street or public utility line shall not be considered to be substantial unless it  
4175 presents a substantial interference with the traffic or utility system of which it is a part.

4176 Section 5. (a) There shall be a mass transit advisory board within the division of public  
4177 transit consisting of a representative of each city or town paying an assessment to the authority.  
4178 Each such representative shall be, in the case of a city having a Plan D or Plan E form of charter,  
4179 the city manager, in the case of every other city, the mayor, or the chairman of the board of  
4180 selectmen of every town. Each city manager, mayor, or chairman may appoint a designee to act  
4181 for him on the mass transit advisory board by filing the name of said designee with the authority.

4182           The total voting strength of cities and towns on the mass transit advisory board shall be  
4183 not less one than 1 vote for each city or town together with additional votes calculated by  
4184 multiplying 1 and one-half times the total number of cities and towns paying assessments to the  
4185 Surface Transportation Trust Fund, established under section 35LL of chapter 10, by a fraction  
4186 of which the numerator shall be the total amount of all assessments made by the state treasurer to  
4187 such city or town under this chapter and the denominator shall be the total amount of all  
4188 assessments made by the state treasurer to all such cities and towns. The determination of votes  
4189 shall be based upon the most recent annual assessment. The total vote of each city and town shall  
4190 be determined by the authority and delivered in writing to the mass transit advisory board 30  
4191 days after the state treasurer has sent the warrants for payments to the cities and towns.

4192           Whenever the approval of the mass transit advisory board, or of the 14 cities and towns,  
4193 or of the 51 cities and towns or of the other served communities, is required for any action by the  
4194 authority, such approval shall be deemed to have been granted within 30 days of the authority's  
4195 submission for approval thereof, so long as the mass transit advisory board, 14 cities and towns  
4196 or the 51 cities and towns or the other served communities has or have not communicated its or  
4197 their disapproval to the authority, in writing.

4198           Any notice or submission hereunder to the mass transit advisory board or to the 14 cities  
4199 and towns or to the 51 cities and towns or to the other served communities shall be given in such  
4200 manner as the authority deems reasonable.

4201           Except as otherwise provided by vote of the mass transit advisory board or of the 14  
4202 cities and towns or of the 51 cities and towns or of the other served communities, respectively, a  
4203 meeting may be called by the representative or representatives of cities and towns having 5 per  
4204 cent or more of the votes of the mass transit advisory board or of 14 cities and towns or of 51

4205 cities and towns or of the other served communities, as the case may be. The first meeting of the  
4206 14 cities and towns and of the 51 cities and towns and of the other served communities, which  
4207 shall be immediately followed by the first meetings of the 14 cities and towns and of the 51 cities  
4208 and towns and of the served communities shall be held as soon as practicable upon the call of the  
4209 authority. The mass transit advisory board shall act by a majority vote, except that it may  
4210 delegate its power of approval to an executive committee formed and elected pursuant to duly  
4211 adopted by-laws of the board and constituting among its members as least one-half of the total  
4212 vote of the board, and may at any time, revoke such delegation provided that no such executive  
4213 committee shall be empowered to approve the governor's appointments to the board.

4214 The mass transit advisory board may incur expenses, as authorized by majority vote of  
4215 such board, for staff, stenographic, clerical and other purposes. Such expenses as do not annually  
4216 exceed 0.25 per cent of the assessment upon member communities shall be paid by the authority.

4217 (b) The mass transit advisory board shall be considered a governmental body for  
4218 purposes of, and shall be subject to, section 11A½ of chapter 30A of the General Laws and shall  
4219 also be subject to section 10 of chapter 66 of the General Laws.

4220 (c) Additional purposes of the mass transit advisory board shall include:

4221 (i) to consider matters committed to the approval of the advisory board under  
4222 paragraphs (d) and (p) of section 5 of chapter 161A of the General Laws;

4223 (ii) to make recommendation to the division on its mass transit charges;

4224 (iii) to hold hearings, which may be held jointly with the division at the discretion of  
4225 the mass transit advisory board and the division, on matters relating to the  
4226 division;

4227 (iv) to review and prepare comments on the annual report of the authority for the  
4228 authority and the secretary, and to make such examinations of the reports on the  
4229 division's records and affairs as the advisory board deems appropriate; and  
4230 (v) to make recommendations to the governor and the general court respecting the  
4231 authority and its mass transit programs. The mass transit advisory board shall  
4232 have all powers necessary or convenient to carry out and effectuate the forgoing  
4233 purposes.

4234 Section 6. Unless otherwise required under section 6A of chapter 31 or any other general  
4235 or special law to the contrary, the administrator shall design and implement a program for  
4236 performance evaluation of employees. The sole purpose of said program shall be the  
4237 improvement of the performance of individual employees and the division. Notwithstanding any  
4238 general or special law to the contrary, all information compiled by said program shall be  
4239 confidential and exempt from clause twenty-sixth of section 7 of chapter 4 or section 10 of  
4240 chapter 66. The division may consult with individuals and organizations and may contract for  
4241 technical assistance for the purpose of the evaluation program to the extent it deems necessary.

4242 Section 7. Notwithstanding any general or special law to the contrary, whenever there  
4243 exists a continued interruption, stoppage or slowdown of transportation of passengers on any  
4244 vehicle or line of the division or a strike causing the same, and which is in violation of an  
4245 injunction, a temporary injunction, a restraining order, or other order of a court of competent  
4246 jurisdiction, and which threatens the availability of essential services of transportation to such an  
4247 extent as to endanger the health, safety or welfare of the community, the governor may declare  
4248 that an emergency exists. During such emergency the governor may take possession of, and  
4249 operate in whole or in part, the lines and facilities of the division in order to safeguard the public

4250 health, safety and welfare. Such power and division may be exercised through any department or  
4251 agency of the commonwealth or through any person or persons and with the assistance of such  
4252 public or private instrumentalities as may be designated by the governor. The lines and facilities  
4253 shall be operated for the account of the division. The powers hereby granted to the governor shall  
4254 expire 45 days after his declaration that a state of emergency exists.

4255 Section 8. (a) In addition to the powers granted to the authority under chapter 81B and  
4256 section 4 and all other powers granted by law, the authority shall have the power to establish on a  
4257 self-liquidating basis 1 or more separate units of mass transportation facilities and equipment to  
4258 furnish, in each instance, express service or local service between specified terminal points and  
4259 over a fixed route or routes. In establishing such separate units, the authority may enter into 1 or  
4260 more unit lease arrangements with such persons, firms and corporations as the authority shall  
4261 select and franchise. Each such unit lease arrangement shall provide for the following:

4262 (i) acquisition by the authority of real property, including easements and rights of way,  
4263 necessary or desirable for the operation of such units of mass transportation facilities and  
4264 equipment, parking and other related auxiliary services and facilities, by purchase or exercise of  
4265 the authority's power of eminent domain under subsection (o) of section 4 of chapter 81B;

4266 (ii) design, construction and acquisition of mass transportation facilities and equipment;

4267 (iii) operation of the mass transportation facilities and equipment so designed,  
4268 constructed and acquired by a lessee of the facilities and equipment: (1) for a period not in  
4269 excess of 40 years; (2) at a rental or lease charge at least sufficient to discharge the authority's  
4270 financial obligations incurred in connection with the unit of facilities and equipment under the  
4271 authority's powers as hereinafter set forth in subsection (b); and (3) upon such provisions and

4272 conditions as to fares and other matters relating to the conduct and operation of the mass  
4273 transportation facilities and equipment as the authority and lessee shall agree; and

4274 (iv) power in the authority to cancel or terminate the unit lease arrangement at stated  
4275 times which shall be not less frequent than once in each calendar year.

4276 (b) To meet the expenditures necessary in carrying out the provisions of this section, the  
4277 authority may issue bonds under chapter 81B, and those bonds shall provide, in addition to other  
4278 provisions allowed under that chapter, that all payments of principal and interest shall be made  
4279 solely from: (1) the rental or lease charges received by the authority under its lease with the  
4280 lessee of mass transportation facilities and equipment as aforesaid; provided, however, that the  
4281 lease may be assigned by the authority to secure the obligations of those bonds; or (2) in the  
4282 event the authority terminates the lease from the income derived from operation of said mass  
4283 transportation facilities and equipment; provided, however, that bonds issued for the purposes of  
4284 this section shall not be included in the computation of the bonds to which the limitations on  
4285 amount contained in section 22 of chapter 81B shall apply.

4286 Section 9. The authority shall have the duty to develop and finance, and the division shall  
4287 have the duty to operate, the mass transportation facilities and equipment in the public interest,  
4288 consistent with the purposes this chapter. The division shall provide a high standard of service to  
4289 its riders, and achieve maximum effectiveness in complementing other forms of transportation in  
4290 order to promote the general economic and social well-being of the area constituting the division  
4291 and of the commonwealth.

4292 Section 10. The division may sell at public or private sale any land, or rights in land, the  
4293 title to which the division has acquired, upon determination by the board that such land or rights  
4294 in land are no longer necessary for the division's purposes. In the event of such public or private

4295 sale the division shall execute a deed thereof, with or without covenants of title and warranty, in  
4296 the name and behalf of the authority, to the purchaser, his heirs and assigns, and deposit said  
4297 deed with the state treasurer, together with a certificate of the terms of the sale and the price paid  
4298 or agreed to be paid at said sale. Upon receipt of the agreed upon payment, and upon the terms  
4299 agreed to in said deed, the treasurer shall deliver the deed to the purchaser. The state treasurer  
4300 may, through the attorney general, file suit for and collect the payment and otherwise enforce the  
4301 terms of any such sale.

4302           The division may, with the approval of the authority, transfer to another division, or to a  
4303 city, town, or public authority or agency, any land to which it has acquired the title and which the  
4304 board determines is no longer necessary for the division's purposes.

4305           The division may also, with the approval of the authority, lease or rent any land, or rights  
4306 in land, to which it has acquired the title, and which land, or rights therein, the board determines  
4307 are not presently needed for the division's purposes.

4308           The foregoing provisions of law with reference to the sale, leasing or renting of land  
4309 acquired by the division, shall also apply to land, or rights in land, acquired by the division for  
4310 maintenance sites.

4311           In addition to the foregoing, the division may also transfer to another state agency, land  
4312 acquired from that state agency, which is no longer needed for the purposes for which it was  
4313 acquired. The use of that land shall be subject to such restrictions as may be imposed by the  
4314 division.

4315           Section 11. If the division seeks to contract for local and express bus services theretofore  
4316 performed by division employees, it shall conduct a public hearing in each of the affected areas.  
4317 The division shall cooperate with the chief executive officers of each of the cities and towns in



4318 the affected areas to determine the appropriate, geographically convenient locations at which  
4319 such hearings shall be held. Those hearings shall be held within 30 days after the division's  
4320 requests for proposals and before the awarding of a contract for those services. The division shall  
4321 provide written notice 10 days before the hearing to elected officials from affected areas. The  
4322 division shall be represented at the meeting by the administrator or his designee who is familiar  
4323 with the proposed contract. The public hearing shall be conducted in the evening hours in a  
4324 location in the area to be affected by the proposed contract. The division shall present reasons for  
4325 the proposed contract. Persons in attendance at the public hearing shall have a reasonable  
4326 opportunity to ask questions and present reasons why such proposed contract should not be  
4327 executed. Within 30 days after the hearing and before the execution of any contract, the division  
4328 shall give written notice of its decision and the supporting reasons to persons who received  
4329 written notice of the hearing. The division shall continue to conduct public hearings pursuant to  
4330 this section each year the contract is in effect. Nothing in this section shall be construed as  
4331 affecting the applicability of sections 52 to 55, inclusive, of chapter 7 to any such contract.

4332         Section 12. The division shall on or before April 1 of each year, render to the board, the  
4333 secretary, mass transit advisory board, and the general court, a report of its operations for the  
4334 preceding calendar year, including therein a description of the organization of the division, its  
4335 service quality standards, trends in revenue and ridership, service improvements and  
4336 recommendations for legislation, if any, and the program for mass transportation as most  
4337 recently revised.

4338         Section 13. Any agreement entered into by the division with a municipality outside of  
4339 the territory of the division for service to such municipality directly by the division, or through  
4340 agreement with a private company, shall provide for reimbursement by the municipality to the

4341 division only for the net additional expense of such service as determined by the division. Such  
4342 agreements may be for such terms, not exceeding 5 years, as the parties may determine, except  
4343 as provided in paragraph (x) of section 4 of chapter 81B. The agreements shall not be subject to  
4344 the provisions of section 4 of chapter 40 or section 31 of chapter 44. Municipalities may  
4345 appropriate from taxes or from any available funds to meet their obligations under any such  
4346 contracts.

4347         Section 14. Any private company lawfully providing mass transportation service in the  
4348 area constituting the division when the division is established may continue to operate the same  
4349 route or routes and levels of service, and may conduct such further operations as the division  
4350 may permit in the future with or without a contract; provided, however, that the division shall in  
4351 all respects have the same powers and duties in respect to such private carriers as are provided by  
4352 law for the department of public utilities except as to safety of equipment and operations;  
4353 provided further, that schedules and routes shall not be considered safety of equipment and  
4354 operations for the purposes of this paragraph; provided further, that whenever the division  
4355 desires to add new routes for service in any area, it shall give preference in the operation of those  
4356 routes to the private carrier then serving the area unless the division concludes that the private  
4357 carrier has not demonstrated an ability to provide that service according to the standards of the  
4358 division, that such service can be operated directly by the division at substantially lesser expense  
4359 to the division and the public than if operated by that private carrier, or that for substantial and  
4360 compelling reasons in the public interest operation by such private carrier is not feasible.

4361         Section 15. The division, during construction projects, may require the relocation or  
4362 removal of public utility facilities; provided, that if such project is in whole or in part funded by

4363 a federal grant, the division may reimburse the utility company for the costs of relocation and  
4364 removal as may be agreed upon by the utility and the division.

4365 Section 16. The division shall provide gate attendants daily from 7:00 a.m. until 2:00  
4366 a.m. on the following day, on High street in the city of Medford at the railroad crossing.

4367 Section 17. No alcoholic beverages shall be sold on any of the properties under the  
4368 supervision and control of the division, its tenants or lessees; provided, however, that this  
4369 subsection shall not apply to properties used by or for railroads, as defined in chapter 160, or  
4370 properties used for railroad-related purposes including, but not limited to, railroad stations and  
4371 terminals.

4372 Section 17A. The division shall be a public employer as defined in section 1 of chapter  
4373 258 and shall be subject to the indemnification limits of section 2 of chapter 258; provided,  
4374 however, that if the division is liable for a serious bodily injury or death, the limitation of section  
4375 2 of chapter 258 shall not apply.

4376 Section 18. No person shall have in his possession on a facility or conveyance under the  
4377 supervision or control of the authority, an alcoholic beverage, with the intent to consume such  
4378 beverage on the facility or conveyance, unless such possession is exempt under section 17. A  
4379 violation of this section shall be punishable as provided in section 40A of chapter 272 and the  
4380 alcoholic beverages shall be forfeited to the division.

4381 Section 19. The division shall create, after public hearing and in consultation with the  
4382 mass transit advisory board, mechanisms for ensuring reliable, high-quality and cost-effective  
4383 operations by establishing and implementing service quality standards.

4384 Section 20. The division shall promote, in consultation with the mass transit advisory  
4385 board, maximization of fare revenue and no transportation revenue, through reasonable and

4386 equitable fares, ridership growth and transit-oriented development of land and air rights  
4387 controlled by the division.

4388           Section 21. Any city or town seeking to receive transportation service from the division,  
4389 may place upon the official ballot at any biennial or regular or special city election or annual or  
4390 special town election the following question:

4391           “Shall this (city, town) be added to the Division of Public Transit of the Massachusetts  
4392 Surface Transportation Authority”

4393           Yes \_\_\_\_\_ No \_\_\_\_\_

4394           The city or town solicitor shall prepare a fair, concise summary of each question not later  
4395 than 35 days prior to such election. That question shall not be placed upon the official ballot  
4396 unless the city council or town meeting shall have voted to have that question so placed or unless  
4397 a petition signed by not less than 5 per cent of the registered voters of the city or town, certified  
4398 as such by the registrars of voters thereof, shall have been filed with the city or town clerk, at  
4399 least 90 days before the date of any election. Forms for such petitions shall be made available  
4400 without cost by the city or town clerk and each form shall bear the following heading:

4401           “The undersigned registered voters of (city, town) hereby petition for the placement upon  
4402 the official ballot of the question whether this (city, town) shall be added to the area constituting  
4403 the Division of Public Transit of the Massachusetts Surface Transportation Authority”.

4404           The votes upon such question shall be counted and returned to the city or town clerk in  
4405 the same manner as votes for candidates in municipal elections. Said clerk shall immediately  
4406 notify the division of the results of the vote. If a majority of the votes cast upon the question shall  
4407 be in the affirmative, the city or town shall be considered added to the division effective on the  
4408 first day of January next following the notification by the clerk. If the city council or town

4409 meeting of more than 1 city or town shall vote to have that question placed on the official ballot,  
4410 or if a petition signed as provided in this section shall be filed with more than 1 city or town  
4411 clerk, and if that combination of cities or towns, if regarded as a single municipality, would be  
4412 contiguous to the area constituting the division, the question shall be placed upon the official  
4413 ballot in each such city or town. The votes upon the question shall be counted and returned to  
4414 each city or town clerk in the same manner as votes for candidates in municipal elections. The  
4415 city or town clerks for each city or town shall immediately notify the division of the result of its  
4416 vote. If a majority of the votes cast upon the vote in such city or town shall be in the affirmative,  
4417 each said city or town shall be considered within the division effective on the first day of January  
4418 next following the notifications by the clerks. The division may not provide service to a city or  
4419 town that fails to join the transportation area, unless the city or town was receiving service as of  
4420 July 1, 2000.

4421           Section 22. Notwithstanding any general or special law to the contrary, all cities and  
4422 towns of the authority shall contribute to the Massachusetts Bay Transportation Authority State  
4423 and Local Contribution Fund, an amount in the aggregate not less than \$136,026,868, which,  
4424 after fiscal year 2006, shall be adjusted each July 1 by the growth rate of the inflation index over  
4425 the preceding 12 months; provided, however, that after such fiscal year, in no case shall the  
4426 assessment exceed 102.5 per cent of the previous year's assessment. Each municipality's share of  
4427 the assessment shall equal its weighted percentage of the total population of the authority. For  
4428 the purposes of this calculation, the weights shall be as follows: Boston, 18; Brookline and  
4429 Cambridge, 12; the 14 cities and towns excluding Boston, Brookline and Cambridge, 9; the 51  
4430 cities and towns, 3; other served communities, 1. For the purpose of this section, "Population"  
4431 shall mean population as most recently estimated and published by the United States Census

4432 Bureau. On or before March 1 of each year, the authority shall certify to the state treasurer the  
4433 amount to be assessed to each city and town on account of the ensuing fiscal year, and the state  
4434 treasurer shall, on behalf of commonwealth, assess each such city and town on account of such  
4435 year in accordance with section 20 of chapter 59. Beginning on July 1, 2001, a city or town that  
4436 is also a member of a regional transit authority or that at any time joins a regional transit  
4437 authority shall have 100 per cent of the amount assessed for the operation of the regional transit  
4438 authority credited against its share of the assessment made under this section; provided, however,  
4439 that the amount credited shall not exceed the total amount of the assessment; and provided  
4440 further, that the amount credited shall be the most recently audited regional transit authority  
4441 assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal  
4442 year's estimated cherry sheet assessments. The total amount of regional transit authority credits  
4443 authorized herein shall be re-assessed to the 14 cities and towns and the 51 cities and towns  
4444 based on the weighted percentage of said cities and towns' share of the population of the 14 cities  
4445 and towns and 51 cities and towns. For the purposes of this section, the words "inflation index"  
4446 shall mean the per cent change in inflation as measured by the per cent change in the consumer  
4447 price index for all urban consumers for the Boston metropolitan area as determined by the bureau  
4448 of labor statistics of the United States Department of Labor.

4449 A city or town assessed by the authority that is not receiving par transit services for the  
4450 disabled from the authority shall have 50 per cent of the amount it expended in the previous  
4451 fiscal year for the operation of or membership in a local or regional par transit service credited  
4452 against its share of the assessment made under this section. The amount credited shall not exceed  
4453 the total amount of the assessment. The credit shall apply only to services provided to individuals  
4454 eligible for par transit services. As used in this paragraph, "par transit services" shall mean

4455 services provided to individuals with disabilities who, as the result of a physical or mental  
4456 impairment, including a vision impairment, are unable to board, ride or disembark from a vehicle  
4457 in the authority's regular transportation system without the assistance of another individual,  
4458 except the operator of a wheelchair lift or other boarding assistance device.

4459 Section 23. The administrator shall have authority to bargain collectively with labor  
4460 organizations representing employees of the division and to enter into agreements, with those  
4461 organizations relative to wages, salaries, hours, working conditions, the assignment of work  
4462 schedules and work locations on the basis of seniority, including:

4463 (a) hours of work each day and days worked each week; provided however, that a change  
4464 in such assignment shall not provide for a change in classification; and

4465 (b) the filling of vacancies by promotion or transfer of qualified applicants on the basis of  
4466 seniority, health benefits, pensions and retirement allowances of such employees; provided,  
4467 however, that the administrator shall have no authority to bargain collectively and shall have no  
4468 authority to enter into collective bargaining agreements with respect to matters of inherent  
4469 management right which shall include the right:

4470 (I) to direct, appoint, and employ officers, agents and employees and to determine  
4471 the standards therefore;

4472 (ii) to discharge or terminate employees subject to the provisions of clauses (a)  
4473 and (b).

4474 (a) No such action to discharge or terminate shall be sustained if, in a  
4475 proceeding invoked in accordance with the provisions of clause (b), the employee  
4476 shall establish by a preponderance of the evidence that it was based upon race,  
4477 sex, color, religion, creed, sexual orientation, age, national origin, handicapping

4478 condition, marital status, or political affiliation, or activities or union activities or  
4479 union organizing of the employees; a reprisal against the employee for disclosure  
4480 of information by an employee which the employee reasonably believes evidences  
4481 a violation of any law, rule or regulation or mismanagement, a gross waste of  
4482 funds, or abuse of authority; a reprisal against any employee for the refusal of any  
4483 person to engage in political activity.

4484 (b) The parties may include in any written agreement a grievance  
4485 procedure culminating in final and binding arbitration which may be invoked in  
4486 the event any employee of the authority is aggrieved by any action taken to so  
4487 discharge or terminate employees;

4488 (iii) to plan and determine the levels of service provided by the division;

4489 (iv) to direct, supervise, control, and evaluate the departments, units, and  
4490 programs of the division; to classify the various positions of the division and ascribe  
4491 duties and standards of productivity therefore;

4492 (v) to develop and determine levels of staffing and training; provided however,  
4493 that to the extent that levels of staffing and training have an impact on the safety of  
4494 division employees the determination, development and implementation of such levels of  
4495 staffing and training shall not constitute a matter of inherent management right and the  
4496 administrator shall have the authority to bargain collectively on such subjects with labor  
4497 organizations representing employees of the division; and provided further, that the  
4498 administrator and labor organizations may include in any written agreement a grievance  
4499 procedure culminating in final and binding arbitration before a neutral arbitrator which  
4500 may be invoked in the event that an employee of the division to whom such agreement



4501 applies is aggrieved by actions taken by the administrator or division management with  
4502 respect to the development, determination or implementation of levels of staffing and  
4503 training which have an impact on the safety of division employees;

4504 (vi) to determine whether goods or services should be made, leased, contracted  
4505 for, or purchased on either a temporary or permanent basis;

4506 (vii) to assign and apportion overtime; and

4507 (viii) to hire part-time employees.

4508 The division is hereby prohibited from bargaining collectively or entering into any  
4509 agreement to make pension benefit payments to its employees that are determined in a manner  
4510 that includes the amount of overtime earnings of those employees.

4511 The division is hereby prohibited from bargaining collectively or entering into a contract  
4512 which provides for automatic cost-of-living salary adjustments which are based on changes in  
4513 the consumer price index or other similar adjustments unless specifically authorized by law.

4514 Except as otherwise provided in sections 15 to 19, inclusive, of chapter 81B, the employees of  
4515 the division shall submit all grievances and disputes pursuant to arbitration provisions in  
4516 agreement existing at the time of the creation of the division or subsequently entered into with  
4517 the division or, in the absence of such provisions, to the state board of conciliation and  
4518 arbitration, or other board or body having similar powers and duties. Any general or special law  
4519 relative to rates of wages, hours of employment and working conditions of public employees,  
4520 shall not apply to the division nor to the employees thereof, but the division and its employees  
4521 shall be governed with respect to hours of employment, rates of wages, salaries, hours, working  
4522 conditions, health benefits, pensions and retirement allowances of its employees by the laws  
4523 relating to street railway companies.

4524           Section 24. In the event of any conflict between the regulatory powers and duties of the  
4525 department of public utilities and the regulatory powers and duties of the division within its area,  
4526 the department of public utilities shall resolve such dispute and exercise such powers as it  
4527 requires in the particular instance.

4528           Section 25. The division shall have the power to procure electric utility services,  
4529 including the purchase, generation, transmission, transformation and distribution of the supplies  
4530 of electricity necessary to operate its mass transportation facilities and equipment, at the lowest  
4531 reasonable cost consistent with the provision of public transportation services in an efficient,  
4532 reliable and economic manner. In procuring such electric utility services, the division may solicit  
4533 offers and proposals to provide such electric utility services from owners or operators, of  
4534 facilities that generate, transmit, transform, or distribute electric power and energy including the  
4535 New England power pool as defined in chapter 164A., and shall take into consideration factors  
4536 relating to the public interest including, but not limited to the following:

4537           (a) the lowest prices that may be offered by responsible bidders, including electric  
4538 companies, municipal lighting plants, political subdivisions and alternate energy producers as  
4539 defined in section 1 of chapter 164;

4540           (b) the demonstrated ability of any prospective supplier of electric utility services to  
4541 provide reliable and continuous service and stability of price; and

4542           (c) consistency with the environmental and conservation goals of the commonwealth  
4543 while concurrently fulfilling all obligations of contracts and agreements lawfully entered into and  
4544 currently in force.

4545           Section 26. The division shall have the power to engage in electric utility business which  
4546 shall include the generation, transformation, transmission and distribution of electricity for

4547 public consumption of electricity used in connection with the mass movement of persons. The  
4548 division shall be classified as a domestic electric utility under chapter 164A solely for the  
4549 purpose of purchasing electricity and becoming a member of the New England power pool as  
4550 defined in chapter 164A. The division may exercise any of its rights and powers necessary or  
4551 convenient to carry out and effectuate the purpose of providing light, heat and power in  
4552 connection with the mass movement of persons. In addition, the division shall have the following  
4553 powers:

4554 (a) to purchase electric power and energy including, without limiting the generality of the  
4555 foregoing, all or a portion of the capacity and output of 1 or more specific electric power  
4556 facilities and steam, whether or not produced by an electric power facility;

4557 (b) to purchase electric power and energy and other products of electric power facilities  
4558 from other utilities, public and private, within and without the commonwealth, political  
4559 subdivisions; provided, however, that nothing in this section shall be construed to authorize  
4560 resale of electric power and energy so purchased except as otherwise authorized by law;

4561 (c) to contract for the use of transmission and distribution facilities owned by others for  
4562 the delivery to the division and any such owner may enter into such contracts with the division;

4563 (d) to contract, with respect to the purchase, sale, delivery, exchange, interchange,  
4564 wheeling, pooling, transmission or use of electric power and energy and to otherwise participate  
4565 in the New England power pool, as defined by section 1 of chapter 164A; and

4566 (e) to do all things necessary, convenient or desirable to provide electricity in connection  
4567 with the mass movement of persons or powers expressly granted or necessarily implied in this  
4568 chapter.

4569           Section 27. An officer of the division may immediately give to a person who violates  
4570 section 43A of chapter 272 a written notice to appear before the clerk of the district court having  
4571 jurisdiction at any time during office hours, not later than 21 days after the date of the violation.  
4572 The notice shall be signed by the officer and shall be signed by the offender in acknowledgment  
4573 that the offender has received the notice. The officer shall deliver to the offender at the time and  
4574 place of the violation a copy of the notice. Whenever it is not possible to deliver a copy of the  
4575 notice to the offender at the time and place of the violation, or to such after division employee  
4576 authorized by the division, such copy shall be mailed or delivered by the officer or by his  
4577 commanding officer to the offender's last known address, within 5 days of the offense, exclusive  
4578 of Sundays and legal holidays. The notice mailed by the officer, his commanding officer, or such  
4579 person so authorized to the last address of the offender, shall be deemed sufficient notice, and a  
4580 certificate of the officer or person so mailing the notice that it has been mailed in accordance  
4581 with this section shall be considered prima facie evidence thereof and shall be admissible in any  
4582 court of the commonwealth as to the facts contained therein. At or before the completion of each  
4583 tour of duty, the officer shall give his commanding officer those copies of each notice of such  
4584 violations he has taken cognizance of during such tour which have not already been delivered or  
4585 mailed by him as aforesaid. The commanding officer shall retain and safely preserve 1 of those  
4586 copies and shall, at a time not later than the next court day after said delivery or mailing, deliver  
4587 1 of those copies to the clerk of the court before whom the offender has been notified to appear.  
4588 The clerk of each district court shall maintain a separate docket of all such notices to appear.

4589           Any person so notified to appear before the clerk of a district court may appear before the  
4590 clerk and confess the offense charged, either personally or through an agent duly authorized in  
4591 writing, or by mail to such clerk, with the notice, and the sum of \$25, such payment to be made

4592 only by postal note, money order, or check. Payment of that sum shall operate as a final  
4593 disposition of the case. Proceedings under this paragraph shall not be criminal and no person  
4594 notified to appear before the clerk of a district court as provided herein shall be required to report  
4595 to any probation officer, and no record of the case shall be entered in the probation records.

4596         If any person notified to appear before the clerk of the district court fails to appear and  
4597 pay the fine provided hereunder or, having appeared desires not to avail himself of the procedure  
4598 hereinbefore provided for the non-criminal disposition of the case, the clerk shall notify the  
4599 officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear  
4600 in accordance with the summons issued upon such complaint, the clerk shall send the person, by  
4601 certified mail, return receipt requested, a notice that the complaint is pending and that if the  
4602 person fails to appear within 21 days from the sending of such notice, the court shall issue a  
4603 warrant for his arrest. If a person fails to appear within 21 days from the sending of such notice,  
4604 the court shall issue a warrant for his arrest.

4605         If, after an officer delivers a notice to an offender, the offender continues to violate  
4606 section 43A of chapter 272, an officer of the division may arrest such offender without a warrant.  
4607 Any offender arrested under this section shall be subject to the fines and penalties provided  
4608 under section 43A of chapter 272.

4609         Section 28. Agreements between the division and a railroad for the provision of  
4610 commuter rail service shall provide that the division shall secure and maintain a liability  
4611 insurance policy covering the liability of the division and the railroad for property damage,  
4612 personal injury, bodily injury and death arising out of such commuter rail service. Such policy  
4613 shall name the division as named insured, and the railroad as an additional insured, shall have  
4614 policy limits of not less than \$75,000,000 per occurrence annually and \$75,000,000 in the

4615 aggregate annually, and shall be subject to self-insured retention in an amount not less than  
4616 \$7,500,000. In no event shall the division or the railroad be liable in excess of the coverage limits  
4617 of such insurance policy for any and all claims for damage, whether compensatory or punitive,  
4618 for property damage, personal injury, bodily injury and death arising out of such commuter rail  
4619 service.

4620 For the purposes of this section, the term "railroad" shall include any person, railroad  
4621 corporation or other legal entity in the business of providing rail transportation which contracts  
4622 with the division of public transit for the provision of commuter rail services and the term  
4623 "commuter rail service", shall include all services performed by a railroad pursuant to a contract  
4624 with the division of public transit in connection with the transportation of rail passengers  
4625 including, but not limited to, the operation of trains, track age and equipment, or the  
4626 construction, reconstruction or maintenance of railroad equipment, tracks and any appurtenant  
4627 facilities or the provision of track age rights over lines owned by any such railroad.

4628 Section 29. Whenever the division deems it necessary to make surveys, soundings, test  
4629 pits, borings, drillings or examinations to obtain information for or to expedite the construction  
4630 of public transportation facilities or other projects under its jurisdiction, the division, or its  
4631 authorized agents or employees may, after 30 days notice by registered or certified mail and  
4632 without the necessity of any judicial orders or other legal proceedings, enter upon any lands,  
4633 waters and premises, not including buildings, in the commonwealth, including lands both  
4634 publicly and privately owned, including land owned by railroad corporations, for the purpose of  
4635 making such surveys, soundings, test pits, borings, drillings or examinations as it may deem  
4636 necessary or convenient for the purposes of this section, and the entry shall not be a trespass. The  
4637 division shall make reimbursement for any injury or damage to lands resulting from entry caused

4638 by any act of its authorized agents or employees and shall, so far as possible, restore such lands  
4639 to the same condition as prior to the making of such surveys, soundings, test pits, borings,  
4640 drillings or examinations.

4641           Section. 30. Any bank, as defined in section 1 of chapter 167, or any credit union, as  
4642 defined in section 1 of chapter 171, may subject to agreement entered into with the division or  
4643 any regional transit authority established pursuant to chapter 161B, sell prepaid monthly passes,  
4644 authorized by the division for use on the facilities of the division or such regional transit  
4645 authorities.

4646           Section 31. The division may promulgate rules and regulations pertaining to the parking  
4647 of motor vehicles in any terminals, stations, garages, yards, shops, parking lots, or parking  
4648 garages owned or operated by the division, but specifically excluding any streets, ways,  
4649 highways, roads and parkways. The division may, by a vote of the board, adopt the provisions of  
4650 section 20A of chapter 90; provided however, that the board establishes rules and regulations  
4651 creating regional districts throughout the division consisting of contiguous cities or towns within  
4652 which the parking clerk shall regularly conduct hearings.

4653           Section 32. Any of the 51 cities and towns and other served communities may for the  
4654 purpose of providing local bus service enter into agreements with any person lawfully authorized  
4655 to operate any motor bus on any public way therein for the carrying of passengers for hire. That  
4656 city, town or community shall have the same powers and duties in respect to such private bus  
4657 carriers as are provided by law for the department of public utilities, except as to safety of  
4658 equipment and operations; provided, however, that schedules and routes shall not be considered  
4659 safety of equipment and operations for purposes of this paragraph; provided further, that the

4660 division shall be notified of the establishment of any such contract to provide local service, but  
4661 shall not have control or jurisdiction over that service.

4662           **SECTION 29A.** Section 7A of chapter 90 of the General Laws is hereby amended by  
4663 striking out in line 94, as appearing in the 2006 Official Edition the words “Highway Fund” and  
4664 inserting in place thereof the following words:- Surface Transportation Trust Fund, established  
4665 under section 35LL of chapter 10.

4666           **SECTION 30.** chapter 90 of the General Laws, , is hereby further amended by striking  
4667 out the entire section 34 as most recently amended by section 19 of chapter 303 of the Acts of  
4668 2008, and inserting in place thereof the following section:-

4669           Section 34. The fees received under the preceding sections, together with all other fees  
4670 received by the registrar or any other person under the laws of the commonwealth relating to the  
4671 use and operation of motor vehicles and trailers shall be paid by the registrar or by the person  
4672 collecting the same into the treasury of the commonwealth and disposed of as provided in section  
4673 35LL of chapter 10.

4674           **SECTION 31.** Section 34 ½ of chapter 90 is hereby repealed.

4675           **SECTION 32.** Chapter 92 is hereby amended by striking out section 35, as appearing in  
4676 the 2006 Official Edition, and inserting in place thereof the following section:-

4677           Section 35. The commission may connect any way, park or other public open space with  
4678 any part of the towns of the urban parks district by suitable roadways or boulevards, in this  
4679 chapter called boulevards, and for this purpose exercise any of the rights and powers granted the  
4680 commission in respect to reservations. The commission shall submit its plans for any such  
4681 connection to the secretary of transportation and the administrator of roads and bridges so that it  
4682 may be included in their capital plans.



4683           **SECTION 33.** Sections 36, 49 to 52, inclusive, 69, 80, and 86 of said chapter 92 are  
4684 hereby repealed.

4685           **SECTION 34.** Said chapter 92 is hereby further amended by striking out section 37 as  
4686 appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

4687           Section 37. Except as provided in section 38, the commissioner, in consultation with the  
4688 director, may make rules and regulations for the government and use of the reservations under  
4689 the division's care and to govern the public use of the Charles river, the Neponset river and the  
4690 Mystic river, within the urban park district, and of the ponds and other waters along which it  
4691 holds abutting lands for reservations in that district; provided, however, that no rule or regulation  
4692 shall affect the water rights of any person, whether a mill owner or otherwise.

4693           A police officer employed by a city or town in whose boundaries, reservations, roads,  
4694 driveways, parkways, boulevards or bridges are located shall have all the same powers to enforce  
4695 the laws of the commonwealth and the rules and regulations of the department on any bikeway,  
4696 pathway, park, reservation or other land under the care of the division as he has as a police  
4697 officer of such city or town

4698           The division shall cause such rules and regulations to be posted in the reservation,  
4699 bikeway, pathway, park or other land to which they apply, and shall also cause the rules and  
4700 regulations to be published at least once in a newspaper published in the county where the  
4701 reservation, bikeway, pathway, park or other land is in whole or in part situated, and such posting  
4702 and publication shall be sufficient notice to all persons. The sworn certificate of the director of  
4703 such posting and publishing shall be prima facie evidence thereof.

4704           Whoever violates any rule or regulation made under this section shall be punished by a  
4705 fine not exceeding \$200.

4706           **SECTION 35.** Section 41 of said chapter 92, as so appearing, is hereby amended by  
4707 striking out, in line 2, the words “and boulevards”.

4708           **SECTION 36.** Section 42 of said chapter 92, as so appearing, is hereby amended by  
4709 inserting after the word “commission” the following words:- , in consultation with division of  
4710 roads and bridges,

4711           **SECTION 37.** Said Chapter 92 is hereby further amended by striking out section 53, as  
4712 so appearing, and inserting in place thereof the following section:-

4713           Section 53. The commission may provide band concerts in such parks or other places  
4714 under its control for boulevard or reservation purposes and at such times as it may select. If the  
4715 site of the band concert will also take place on a parkway formerly under its control, the  
4716 commission shall, in a timely manner, inform the administrator of roads and bridges.. The  
4717 commission shall include, in its annual estimate of the expense of maintenance of the urban  
4718 parks system for each year, such sum as it may recommend should be appropriated for the  
4719 purposes of this section.

4720           **SECTION 38.** Section 84 of said chapter 92, as so appearing, is hereby amended by  
4721 striking out, in line 6, the words “or boulevard”.

4722           **SECTION 39.** Said chapter 92 is hereby further amended by striking out section 87, as  
4723 so appearing, and inserting in place thereof the following section:-

4724           Section 87. The department may transfer, for care and control, including police  
4725 protection, any lands or rights, easements or interest in land held by it under sections 33 and 35  
4726 to any city, town, county or local board of a city or town within the urban parks district, with the  
4727 consent of such city, town, county or board and upon such terms and for such period as may  
4728 mutually be agreed upon and enter into an agreement with any such city, town, county or board

4729 for the joint care and control or police protection of such lands or rights therein. Any city, town  
4730 or county or any local board within the urban parks district, may transfer, for care and control,  
4731 including police protection, any land, rights, easements or interest in land in its control to the  
4732 department for such period and upon such terms as may mutually be agreed upon and may enter  
4733 into an agreement with the department for the joint care and control, including police protection,  
4734 of such land.

4735 **SECTION 40.** Said chapter 92 is hereby further amended by striking out section 88, as  
4736 so appearing, and inserting in place thereof the following section:-

4737 Section 88. The division may join with any city, town or county in the laying out,  
4738 improvement, relocation, widening, repairing, maintaining and caring for any property or stream  
4739 which lies along or connects any reservation owned or controlled by the division and in the  
4740 expense of such work, and for such purposes or any of them, may make contribution to such city,  
4741 town or county by a grant of land or rights in land or by payment of money for its portion of such  
4742 expense.

4743 **SECTION 40A.** Subsection (b) of section 44D<sup>3/4</sup> of chapter 149 of the General Laws, as  
4744 so appearing, is hereby amended by inserting after the word "Authority", in line 17, the  
4745 following words:- the Massachusetts Surface Transportation Authority.

4746 **SECTION 40B.** Section 20 of chapter 149A of the General Laws, as so appearing, is  
4747 hereby amended by adding the following subsection:-

4748 (d). Except for section §39M of chapter 30, all other provisions of the public bidding  
4749 laws, including sections 26, 27, 27A, 27B, 27C, 27D, 29, 29C and 34A of chapter 149 and  
4750 sections 39F, 39G, 39J, 39N, 39O 39P and 39R of said chapter 30, shall apply to all design build  
4751 projects procured pursuant to this chapter in the same manner as they apply to public works

4752 projects generally procured pursuant to section 39M said of said chapter 30.**SECTION 41.**  
4753 Chapter 161 of the General Laws is hereby repealed.

4754 **SECTION 42.** Chapter 161A of the General Laws is hereby repealed.

4755 **SECTION 42A.** Clause (4) of subsection (a) of section 13 of chapter 161A of the  
4756 General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the  
4757 last paragraph.

4758 **SECTION 42B.** Section 20 of said chapter 161A, as so appearing, is hereby amended by  
4759 striking out, in line 2, the figure “1” and inserting in place thereof the following figure:- 15.

4760 **SECTION 42C.** Said section 20 of said chapter 161A, as so appearing, is hereby further  
4761 amended by striking out, in line 4, the word “March” and inserting in place thereof the following  
4762 word:- April.

4763 **SECTION 43.** The General Laws are hereby amended by striking out chapter 161B and  
4764 inserting in place thereof the following chapter:

4765 **CHAPTER 161B.**

4766 **TRANSPORTATION FACILITIES, HIGHWAY SYSTEMS AND URBAN DEVELOPMENT**  
4767 **PLANS**

4768 Section 1. As used in this chapter, the following words shall have the following  
4769 meanings, unless the context otherwise requires:-

4770 “Authority”, an authority established by section 3 or section 14.

4771 “Area constituting the division of public transit for mass transit”, the service area of the division  
4772 of public transit of the Massachusetts Surface Transportation Authority consisting of the 14 cities  
4773 and towns, the 51 cities and towns and other served communities.

4774 “Equipment”, all rolling stock and other conveyances, vehicles, rails, signal and control  
4775 systems, lighting and power distribution systems, fences, station equipment, fare collection  
4776 equipment, incidental apparatus and other tangible personal property, whether or not affixed to  
4777 realty, required or convenient for the mass movement of persons.

4778 “Fiscal year”, the year beginning with July 1 and ending with the following June 30.

4779 “Mass transportation facilities”, all real property, including land, improvements,  
4780 terminals, stations, garages, yards, shops and structures appurtenant thereto, and all easements,  
4781 air rights, licenses, permits and franchises, used in connection with the mass movement of  
4782 persons.

4783 “Net cost of service”, the difference between: (a) all income received by the authority  
4784 including, but not limited to, revenues and receipts from operations, advertising, parking, sale of  
4785 capital assets in the ordinary course of business and gifts and grants for current purposes; and (b)  
4786 all current expenses incurred by the authority including, but not limited to, expenses for  
4787 operations, wages, contracts for service by others, maintenance, debt service, including any  
4788 debts, liabilities and obligations assumed by law and including any applicable sinking fund  
4789 requirements, taxes, rentals and payments into a reserve account established by subsection (q) of  
4790 section 6, and all other expenses which the authority determines not to capitalize, when such  
4791 expenses exceed such income. Expenditures from the proceeds of bonds or bond anticipation  
4792 notes shall not be included in current expenses.

4793 “Net saving”, any excess of the income items included in the net cost of service over the  
4794 expense items included in that computation.

4795           Section 2. The territory within and the inhabitants of each of the following groups of  
4796 cities and towns may, upon compliance with section 14, become a body politic and corporate and  
4797 a political subdivision of the commonwealth under the name preceding each group.

4798           Berkshire Regional Transit Authority. The cities of North Adams and Pittsfield and the  
4799 towns of Adams, Alford, Becket, Cheshire, Clarksburg, Dalton, Edgemont, Florida, Great  
4800 Barrington, Hinsdale, Lanes borough, Lee, Lenox, Monterey, Mount Washington, Otis,  
4801 Richmond, Sheffield, Stockbridge, Washington and Williamstown;

4802           Brockton Area Regional Transit Authority. The city of Brockton and the towns of  
4803 Abington, Avon, Bridgewater, East Bridgewater, Easton, Hanson, Stoughton, West Bridgewater  
4804 and Whitman;

4805           Cape Ann Transportation Authority. The city of Gloucester and the towns of Rockport,  
4806 Essex and Ipswich;

4807           Cape Cod Regional Transit Authority. The towns of Barnstable, Bourne, Brewster,  
4808 Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich,  
4809 Truro, Wellfleet and Yarmouth;

4810           Franklin Regional Transit Authority. The city of Greenfield and the towns of Ash field,  
4811 Athol, Bernard ton, Bland ford, Buckland, Claremont, Chester, Chesterfield, Colerain, Conway,  
4812 Cumming ton, Deerfield, Erving, Gill, Goshen, Hawley, Heath, Huntington, Leyden,  
4813 Middlefield, Montague, Montgomery, New Salem, Northfield, Orange, Peters ham, Phillips ton,  
4814 Plainfield, Rowe, Russell, Shelburne, Shaftesbury, Southampton, Southwick, Warwick, Wendell,  
4815 Westhampton, Whitely, Worthington;

4816           Greater Attleboro Taunton Regional Transit Authority. The cities of Attleboro and  
4817 Taunton and the towns of Bellingham, Berkley, Carver, Dighton, Duxbury, Fox borough,

4818 Franklin, Kingston, Lakeville, Mansfield, Marshfield, Medway, Middleborough, Norfolk, North  
4819 Attleboro, Pembroke, Plainville, Plymouth, Raynham, Rehoboth, Seekonk, Wareham and  
4820 Wrentham;

4821 Lowell Regional Transit Authority. The city of Lowell and the towns of Acton, Billerica,  
4822 Chelmsford, Dracut, Dunstable, Groton, Maynard, Pepperell, Tewksbury, Townsend, Tyngsboro  
4823 and Westford;

4824 Martha's Vineyard Transit Authority. Towns of Aquinnah, Chilmark, Edgartown, Oak  
4825 Bluffs, Tisbury and West Tisbury;

4826 Merrimack Valley Regional Transit Authority. The cities of Lawrence, Haverhill,  
4827 Methuen, Newbury, North Andover; Rowley, Salisbury, West Newbury and Newburyport and  
4828 the towns of Amesbury, Andover, Boxford, Georgetown, Groveland, Merrimac,

4829 MetroWest Regional Transit Authority. The city of Marlborough and the towns of  
4830 Ashland, Framingham, Holliston, Hopkinton, Natick, Sherborn, Sudbury, Southborough,  
4831 Wayland and Weston;

4832 Montachusets Area Transit Authority. The cities of Fitchburg, Leominster, Gardner and  
4833 the towns of Ashburnham, Shirley, Ayer, Lancaster, Sterling, Hubbardston, Royalston, Littleton,  
4834 Winchendon, Ashby, Templeton, Westminster, Hardwick, Lunenburg, Harvard, Bolton,  
4835 Boxborough and Stow

4836 Nantucket Regional Transit Authority. Nantucket;

4837 The Pioneer Valley Transit Authority". The cities of Chicopee, Holyoke, Northampton,  
4838 Springfield and Westfield and the towns of Agawam, East Longmeadow, Easthampton, Hadley,  
4839 Longmeadow, Ludlow, South Hadley, West Springfield, Wilbraham, Amherst, Belchertown,  
4840 Granby, Hampden, Leverette, Palmer, Pelham, Sunderland, Ware and Williamsburg;

4841 Southeastern Regional Transit Authority. The cities of New Bedford and Fall River and  
4842 the towns of Westport, Acushnet, Dartmouth, Fairhaven, Freetown, Somerset and Swansea; and  
4843 Worcester Regional Transit Authority. The city of Worcester and the towns of Auburn, Boylston,  
4844 Grafton, Holden, Leicester, Millbury, Paxton, Shrewsbury and West Boylston;

4845 An authority established under section 3 or section 14 shall have the power to hold  
4846 property, to sue and be sued in law and equity and to prosecute and defend in all actions relating  
4847 to its property and affairs. Each authority shall be liable for its debts and obligations, but the  
4848 property of an authority shall not be subject to attachment or levied upon by execution or  
4849 otherwise. Process may be served upon the administrator of an authority or his designee. Section  
4850 3 of chapter 12 shall not apply to the authorities established under this chapter.

4851 Section 3. Any city or town or group or combination of cities or towns, other than a city  
4852 or town included in the area constituting the division of public transit for mass transit in which  
4853 the authority operates a fixed bus service may, upon compliance with this section and with the  
4854 approval of a city manager in the case of a city operating under a Plan E form of government, the  
4855 mayor and city council in the case of all other cities or the board of selectmen in the case of a  
4856 town, be made into a body politic and corporate and a political subdivision of the commonwealth  
4857 under the name of the municipality within the new authority having the greatest population or  
4858 under any other appropriate regional name agreed to by a majority of the member municipalities  
4859 and followed by the words "Transit Authority".

4860 Any such authority shall be deemed to be established upon written notification to the  
4861 chief executive officer of the Massachusetts Surface Transportation Authority that the member  
4862 municipalities have voted to establish a regional transit authority. Having so notified the chief  
4863 executive officer of the Massachusetts Surface Transportation Authority, the advisory board



4864 established in section 5 shall proceed to appoint an administrator in accordance with section 4.  
4865 Once established, each such authority shall have the same powers, limitations, duties and  
4866 organization as an authority established in section 14 and shall, in all respects, be subject to this  
4867 chapter, except section 14, as if it were an authority so established.

4868 Any city or town, or group or combination of cities or towns, other than a city or town  
4869 included in the area constituting the division of public transit for mass transit in which the  
4870 Massachusetts Surface Transportation Authority operates fixed route bus service or is in an  
4871 authority established in section 14 may, with the approval of a city manager in the case of a city  
4872 operating under a Plan E form of government, the mayor and city council in the case of all other  
4873 cities or the board of selectmen in the case of a town, and subject to the approval of the advisory  
4874 board to a regional transit authority, join an authority which is not separated from the city or  
4875 town or group or combination of cities and towns by more than 1 other municipality.

4876 Section 4. The affairs of an authority shall be managed by an administrator who shall be  
4877 appointed by, and serve at the pleasure of, the advisory board of the authority established in  
4878 section 5; provided, however, that the administrator shall not be appointed until after the board  
4879 has provided the notification required by clause (c) of section 14; and provided, further, that the  
4880 administrator shall not hold any elective office, except that of town meeting member, in any city  
4881 or town within the jurisdiction of such authority. The administrator shall be the chief executive  
4882 officer of the authority and shall receive such annual salary as shall be determined by said  
4883 advisory board. Upon his appointment, the administrator shall give the chief executive officer of  
4884 the Massachusetts Surface Transportation Authority a bond for the faithful performance of his  
4885 official duties in such penal sum and with such sureties as may be approved by said advisory  
4886 board.

4887           Section 5. There shall be an advisory board to each authority consisting of the city  
4888 manager, in the case of a city operating under a Plan D or Plan E form of government, or the  
4889 mayor of each other city in the authority, and the chairman of the board of selectmen of each  
4890 town having such board, or the town manager or town administrator of each other town in the  
4891 authority. Each mayor or city manager and each chairman, town manager or town administrator,  
4892 may, by writing filed with the authority, from time to time, appoint a designee to act for him on  
4893 the advisory board. Each city and town shall have 1 vote on the advisory board plus additional  
4894 votes and fractions thereof as determined by multiplying 1 and one-half times the total number of  
4895 cities and towns in the authority by a fraction of which the numerator shall be the total amount of  
4896 all assessments made by the state treasurer to such city or town under this chapter and the  
4897 denominator shall be the total amount of all such assessments made by the state treasurer to such  
4898 cities and towns. The total vote of each city and town shall each year be determined by the  
4899 authority and delivered in writing to the advisory board 30 days after the state treasurer has sent  
4900 his warrants for payments to the cities and towns. The determination of votes shall be based upon  
4901 the most recent annual assessment. Until the first such assessment, the fraction specified above  
4902 shall be replaced by a fraction of which the numerator shall be the population of each such city  
4903 or town and the denominator shall be the total population of all cities and towns in the authority.  
4904 Population data shall be determined in accordance with the latest decennial census made by the  
4905 United States Department of Commerce.

4906           One representative of the disabled commuter population shall serve on the advisory board  
4907 as a non-voting member for a 1-year term. Every city or town in the region, on a rotating basis as  
4908 determined by the board, shall successively appoint a representative. The mayor or city manager  
4909 or the chairman, town manager or town administrator shall appoint a resident of the city or town

4910 for this purpose. This representative shall be mobility impaired or have a family member who is  
4911 mobility impaired, be a caretaker of a person who is mobility impaired, or work for an  
4912 organization that serves the needs of the physically disabled. The representative of a city or town  
4913 may be reappointed after representatives from the other cities and towns within the region have  
4914 served their 1 year terms.

4915         The advisory board shall act by majority vote, except that it may delegate its power of  
4916 approval to an executive committee formed and elected pursuant to duly adopted by-laws of the  
4917 board and constituting among its members at least a majority of the total vote of the board and  
4918 may, at any time, revoke such delegation. Until the board has adopted by-laws and elected  
4919 officers, the mayor or city manager of the city having the largest population or, in the case of an  
4920 authority composed entirely of towns, the chairmen, town manager or town administrator of the  
4921 town having the largest population within the area constituting the authority may call meetings of  
4922 the advisory board by sending notice to each other mayor or city manager or chairman, town  
4923 manager or town administrator and shall preside at such meetings.

4924         The advisory board may incur expenses, not to exceed \$10,000 annually, for stenographic  
4925 and clerical work, and such expenses shall be paid by the authority.

4926

4927         Section 6. In addition to all power otherwise granted to an authority by law, the authority  
4928 shall have the following powers, in each case to be exercised by the administrator of the  
4929 authority unless otherwise specifically provided:

4930             (a) to adopt and use a corporate seal and designate the custodian thereof;

4931             (b) to establish within its area a principal office and such other offices as may be deemed  
4932 necessary;

4933 (c) to hold and manage the mass transportation facilities and equipment acquired by the  
4934 authority;

4935 (d) to appoint and employ officers, agents and employees to serve at the pleasure of the  
4936 administrator except as may otherwise be provided in collective bargaining agreements and to fix  
4937 their compensation and conditions of employment; provided, however, no person employed as  
4938 administrative or staff personnel shall hold any elective office, except that of town meeting  
4939 member, in any city or town within the jurisdiction of such authority; provided, further, that for  
4940 policies of group life insurance and accidental death and dismemberment insurance and group  
4941 health insurance purchased by such authority, all active employees and their dependents of such  
4942 authority shall contribute to the total monthly premium or rate applicable to said coverages at not  
4943 less than the current employee share of monthly premium or rate established in section 8 of  
4944 chapter 32 A;

4945 (e) to make and, from time to time, revise and repeal, by-laws, rules, regulations, and  
4946 resolutions and establish penalties for violation thereof, not to exceed \$50;

4947 (f) to enter into agreements, subject to approval of the regional transit advisory board,  
4948 with other parties including, without limiting the generality of the foregoing, government  
4949 agencies, municipalities, authorities, private transportation companies, railroads, corporations  
4950 and other concerns, providing: (i) for construction, operation and use by such other party of any  
4951 mass transportation facility and equipment; or (ii) for the acquisition of any mass transportation  
4952 facility and equipment of another party where the whole or any part of the operations of such  
4953 other party takes place within the area constituting the authority. Any such other party is hereby  
4954 given power and authority to enter into any such agreements, subject to such laws as may be  
4955 applicable. Any agreement with a private company under this chapter which provides for the

4956 rendering of transportation service by such company and for financial assistance to such  
4957 company by subsidy, lease or otherwise, shall include such standards for such service as the  
4958 authority may deem appropriate and shall not bind the authority for a period of longer than 1  
4959 year from its effective date; provided, however that agreements for longer than 1 year shall not  
4960 be prohibited if the authority's obligations thereunder are subject to annual renewal or annual  
4961 cancellation by the authority for just cause or lack of sufficient appropriation. Such agreements  
4962 may provide for cash payments for services rendered, but not more than that which permits any  
4963 private company a reasonable return;

4964 (g) to establish at or near its terminals and stations such off-street parking facilities and  
4965 access roads as may be deemed necessary and desirable. The authority may charge such fees for  
4966 the use of off-street facilities as it may deem desirable or it may allow the use of such facilities  
4967 free;

4968 (h) to accept gifts, grants and loans from agencies of local, state and federal governments  
4969 or from private agencies or persons, subject to approval of the regional transit advisory board,  
4970 and to accede to such conditions and obligations as may be imposed as a prerequisite to any such  
4971 gift, grant or loan;

4972 (i) to provide mass transportation service on an exclusive basis, except as provided in  
4973 paragraph (j) of section 8 in the area constituting the authority and without being subject to the  
4974 jurisdiction and control of the department of telecommunications and energy in any manner  
4975 except as to safety of equipment and operations; provided, however, that schedules and routes  
4976 shall not be considered matters of safety subject to the jurisdiction and control of said  
4977 department. Nothing contained in this paragraph shall be construed as exempting any privately-

4978 owned or controlled carrier, whether operating independently or under contract with the  
4979 authority, from obtaining any license required under section 1 of chapter 159A;

4980 (j) to provide mass transportation service under a contract in areas outside the area  
4981 constituting the authority but only pursuant to an agreement with another transportation authority  
4982 or transportation area or a municipality for service between the area of the authority and that of  
4983 such other authority, area or municipality if no private company is otherwise providing such  
4984 service, subject to approval by the regional transit advisory board;

4985 (k) to provide for construction, extension, modification or improvement of the mass  
4986 transportation facilities and equipment in the area constituting the authority; provided, however,  
4987 that any such construction, extension, modification or improvement shall be subject to the  
4988 approval of the regional transit advisory board, unless specifically authorized by legislation;

4989 (l) to conduct research, surveys, experimentation, evaluation, design and development, in  
4990 cooperation with other government agencies and private organizations if appropriate, with regard  
4991 to the mass transportation needs of the area and to the facilities, equipment and services  
4992 necessary to meet such needs;

4993 (m) to grant such easements over any real property held by the authority shall not, in the  
4994 judgment of the authority, unduly interfere with the operation of any of its mass transportation  
4995 facilities;

4996 (n) to sell, lease or otherwise contract for advertising in, or on the facilities of, the  
4997 authority;

4998 (o) to issue bonds, notes and other evidences of indebtedness as hereinafter provided;

4999 (p) consistent with the constitution and laws of the commonwealth, the authority shall  
5000 have such other powers, including the power to buy, sell, lease, pledge and otherwise deal with

5001 its real and personal property, as may be necessary for, or incident to, carrying out the foregoing  
5002 powers and the accomplishment of the purposes of this chapter; and

5003 (q) to establish a reserve account for the purpose of meeting the cost of extraordinary  
5004 expenses of the authority. The account shall consist of annual payments made by the authority  
5005 into said account in an amount not to exceed 3 per cent of the prior year's local assessment. Any  
5006 balance remaining in the account at the end of each fiscal year of the authority shall be carried  
5007 forward into the next fiscal year; provided, however, the aggregate amount of the account shall  
5008 not exceed 20 per cent of the prior year's local assessment at any time during any fiscal year of  
5009 the authority. Any expenditure made by an authority pursuant to this paragraph for extraordinary  
5010 expenses shall be subject to the approval of the division of public transit of the Massachusetts  
5011 Surface Transportation Authority. The division of public transit of the Massachusetts Surface  
5012 Transportation Authority shall issue guidelines to each authority establishing the type of  
5013 extraordinary expenses the account may be used for and detailing the procedures for the approval  
5014 process for the expenditures.

5015 Section 7. In addition to the powers granted to the authority under section 6 and all other  
5016 powers granted by law, the authority shall have the power to establish on a self-liquidating basis  
5017 1 or more separate units of mass transportation facilities and equipment. In establishing such  
5018 separate units, the authority may enter into 1 or more unit lease arrangements with such persons,  
5019 firms and corporations as the authority shall select and franchise. Each such unit lease  
5020 arrangement shall provide for the following:

5021 (i) acquisition by the authority of real property, including easements and rights of way,  
5022 necessary or desirable for the operation of such units of mass transportation facilities and  
5023 equipment, parking and other related auxiliary services and facilities;

5024 (ii) design, construction and acquisition of mass transportation facilities and equipment;  
5025 (iii) operation of the mass transportation facilities and equipment so designed,  
5026 constructed and acquired by a lessee of such facilities and equipment: (1) for a period not in  
5027 excess of 40 years; (2) at a rental or lease charge at least sufficient to discharge the authority's  
5028 financial obligations incurred in connection with the unit of facilities and equipment under the  
5029 authority's powers; and (3) upon such provisions and conditions as to fares and other matters  
5030 relating to the conduct and operation of the mass transportation facilities and equipment as the  
5031 authority and lessee shall agree; and

5032 (iv) power in the authority to cancel or terminate the unit lease arrangement at stated  
5033 times which shall not be less frequent than once in each fiscal year.

5034 To meet the expenditures necessary in carrying out the provisions of this section, the  
5035 authority may issue bonds in accordance with the provisions of the first paragraph of clause (2)  
5036 of section 17 and such bonds shall provide, in addition to other provisions allowed under this  
5037 chapter, that all payments of principal and interest shall be made solely from: (i) the rental or  
5038 lease charges received by the authority under its lease with the lessee of mass transportation  
5039 facilities and equipment, which lease may be assigned by the authority to secure the obligations  
5040 of the bonds; or (ii) in the event the authority terminates such lease, from the income derived  
5041 from operation of the mass transportation facilities and equipment.

5042 Section 8. An authority shall be subject to the following limitations, conditions,  
5043 obligations and duties:

5044 (a) The authority shall have the duty to develop, finance and contract for the operation of  
5045 mass transportation facilities and equipment in the public interest consistent with this chapter and



5046 to achieve maximum effectiveness in complementing other forms of transportation in order to  
5047 promote the general economic and social well-being of the area and of the commonwealth;

5048 (b) No real estate shall be sold unless notice thereof shall have been given to the advisory  
5049 board not less than 30 days prior to the date of sale and such real property shall be sold to the  
5050 highest bidder unless the sale shall have been advertised once a week for 3 successive weeks  
5051 prior to the date of sale in a newspaper of general circulation in the city or town in which the real  
5052 property to be sold is located;

5053 (c) Any concession in or lease of property for a term of more than 1 year shall be  
5054 awarded to the highest bidder unless the authority shall find, subject to the approval of the  
5055 advisory board, that sound reasons in the public interest require otherwise;

5056 (d) No change in fares shall be effective unless submitted and approved by the advisory  
5057 board;

5058 (e) No substantial change in mass transportation service in the region constituting the  
5059 authority shall be made unless notice thereof shall have been given to the advisory board at least  
5060 30 days prior to the change and approved by the board;

5061 (f) The authority shall, in consultation with the regional transit advisory board and the  
5062 division of public transit of the Massachusetts Surface Transportation Authority, prepare and  
5063 annually revise its program for public mass transportation which shall include a long-range  
5064 program for the construction, reconstruction or alteration of facilities for mass transportation of  
5065 persons within the area constituting the authority together with a schedule for the implementation  
5066 of such program and comprehensive financial estimates of costs and revenues.

5067 Such program, whether prepared by the authority directly, jointly or under contract with  
5068 the areawide planning agency, shall be performed in accordance with any agreements that may

5069 exist between the regional transit advisory board, the division of public transit of the  
5070 Massachusetts Surface Transportation Authority, the authority and the areawide planning agency  
5071 officially established or designated to carry out areawide, comprehensive planning on a  
5072 continuing and cooperative basis for the region in which the authority is principally located.  
5073 Such mass transportation program shall be consistent with the plans for urban transportation and  
5074 comprehensive development for the regional area and, so far as practicable, shall meet the  
5075 criteria established by any federal law authorizing federal assistance to preserve, maintain, assist,  
5076 improve, extend or build local, metropolitan or regional mass transportation facilities or systems.

5077         In addition to the contracts and agreements authorized in paragraph (f) of section 6, the  
5078 authority may enter into contracts or agreements with any areawide planning agency or, if the  
5079 authority determines that an agreement with such agency is not practicable, with any other public  
5080 or private party for the provision of planning services. Such services may include, but shall not  
5081 be limited to, feasibility and need studies, transportation planning, family and business relocation  
5082 planning and such other planning services that the authority may require;

5083         (g) The authority shall not later than October 1 of each year render to the chief executive  
5084 officer of the Massachusetts Surface Transportation Authority, the regional transit advisory  
5085 board, the clerk of the senate and the clerk of the house of representatives and the house and  
5086 senate chairmen of the joint committee on transportation a report of its operations for the  
5087 preceding fiscal year, including therein a description of organization of the authority, its  
5088 recommendations for legislation and its comprehensive program for mass transportation as most  
5089 recently revised;

5090         (h) All current expenses of the authority shall be in accordance with an annual budget  
5091 prepared by the administrator and submitted to the advisory board no later than April 1 of each

5092 year for the ensuing fiscal year. Not later than June 1 of each year the advisory board shall  
5093 approve said budget as submitted or subject it to such itemized reductions therein as the advisory  
5094 board shall deem appropriate.

5095 (i) Any agreement entered into by an authority with a contiguous municipality outside of  
5096 the area of such authority for service to such municipality through an agreement with a private  
5097 company, shall provide for reimbursement by such municipality to an authority only for the  
5098 additional expense of such service as determined by the authority. Such agreements may be for  
5099 such terms, not exceeding 5 years, as the parties may determine, except as provided in paragraph  
5100 (f) of section 6. They shall not be subject to section 4 of chapter 40 or section 31 of chapter 44.  
5101 Municipalities may appropriate from taxes or from any available funds to meet their obligations  
5102 under any such contracts.

5103 (j) Any private company lawfully providing mass transportation service in the area  
5104 constituting the authority at the commencement of operations by the authority may continue to  
5105 operate the same route and level of service as theretofore and may conduct such further  
5106 operations, without a contract, as the authority, subject to the approval of the department of  
5107 public utilities, may permit.

5108 (k) As a condition of any assistance to a private carrier operating under lease, contract or  
5109 other arrangement with the authority, the rights, benefits and other employee protective  
5110 conditions and remedies of the Urban Mass Transportation Act of 1964, as amended (P.L. 88-  
5111 365) as determined by the Secretary of Labor, shall apply for the protection of the employees  
5112 affected by such assistance. Pursuant to the Urban Mass Transportation Act of 1964, as  
5113 amended, the terms and conditions of a fair and equitable employee protective arrangement  
5114 pursuant to this paragraph shall be a proper subject of collective bargaining and arbitration with

5115 the labor organizations that represent such employees. Such protective arrangement shall  
5116 include, without limitation, provisions for the continuing employment or reemployment of those  
5117 employees who are, or may be, displaced or otherwise affected by such assistance, paid training  
5118 and re-training programs, preservation of all employment and retirement rights and interest and  
5119 any other protections which are necessary or appropriate to minimize the injury to such persons;  
5120 provided, however, that any such protection shall not be detrimental to the employment or  
5121 retirement rights and interests of any other persons affected by such assistance. The contract,  
5122 lease or other arrangement for the granting of any such assistance to a private carrier shall  
5123 specify the terms and conditions of the protective arrangements.

5124         Section 9. If, in any year the Massachusetts surface transportation authority shall be  
5125 called upon to pay any amount on account of the net cost of service of any regional transit  
5126 authority except the Cape Cod Regional Transit Authority, unless said authority elects not to  
5127 assess costs as provided in section 9A, the total amount of such net cost of service shall be  
5128 assessed upon the cities and towns which are members of such authority in the proportion which  
5129 the loss attributable to each route in each such city or town bears to the loss attributable to all  
5130 such routes in all such cities and towns. The loss attributable to each such route in each such city  
5131 or town shall be determined on the basis of the difference between the revenues collected from  
5132 the route in the city or town and the cost of providing the route therein.

5133         Such determination shall be made by the authority in accordance with sound accounting  
5134 practice and guidelines developed in consultation with the regional transit advisory board and the  
5135 division of public transit of the Massachusetts Surface Transportation Authority. Amounts  
5136 assessed under this section shall be the most recently audited regional transit authority

5137 assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal  
5138 year's estimated cherry sheet assessments.

5139 Section 9A. If in any year the Massachusetts Surface Transportation Authority shall be  
5140 called upon to pay any amount on account of the net cost of service of the Cape Cod Regional  
5141 Transit Authority, the total amount of such net cost of service may be assessed in whole, or in  
5142 part, upon the cities and towns which are members of the Authority on the basis of the total  
5143 passenger miles and the number of trips attributable to the residents of cities and towns within  
5144 the Authority. Any such assessment formula shall be subject to the approval of the regional  
5145 transit advisory board, the division of public transit of the Massachusetts Surface Transportation  
5146 authority and the advisory board of the Authority.

5147 Such determination shall be made by the Authority in accordance with sound accounting  
5148 practice and guidelines developed in consultation with the regional transit advisory board and the  
5149 division of public transit of the Massachusetts Surface Transportation Authority. Amounts  
5150 assessed under this section shall be the most recently audited regional transit authority  
5151 assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal  
5152 year's estimated cherry sheet assessments.

5153 Section 10. If, as of the last day of June in any year there was any net cost of service, an  
5154 authority shall notify the state treasurer, the regional transit advisory board and the division of  
5155 public transit of the Massachusetts Surface Transportation Authority of the amount of such net  
5156 cost of service and all other facts required by the state treasurer in order to proceed in accordance  
5157 with this chapter to assess such net cost. Upon notification of the amount of such net cost, the  
5158 commonwealth shall pay to the authority such amount.

5159           The Massachusetts Surface Transportation Authority may borrow, from time to time, on  
5160 the credit of the commonwealth such amounts as may be necessary to make payments required  
5161 of the Massachusetts Surface Transportation Authority under this section or under section 11 and  
5162 to pay any interest or other charges incurred in borrowing such money and may issue notes of the  
5163 commonwealth therefor, bearing interest payable at such times and at such rates as shall be fixed  
5164 by the state treasurer. Such interest and other charges shall be included in the assessments under  
5165 this chapter in proportion to the respective assessments on the cities and towns constituting the  
5166 authority for the net cost of service of the period to which any such payment relates. No note  
5167 issued under this paragraph shall mature more than 2 years from its date, but notes payable  
5168 earlier may be refunded 1 or more time;, provided, however, that no refunding note shall mature  
5169 more than 2 years from the date of the original loan being refunded. Such notes shall be issued  
5170 for such maximum term of years, not exceeding 2 years, as the governor may recommend to the  
5171 general court in accordance with section 3 of article LXII of the amendments to the constitution  
5172 of the commonwealth.

5173           Pending any payment from the state treasurer to the authority and at any other time that  
5174 the authority in the opinion of the administrator, has insufficient cash to make the payments  
5175 required in the course of its duties as such payments become due, the authority may temporarily  
5176 borrow money and issue notes of the authority therefor.

5177           If, at any time any principal or interest is due or about to come due on any note issued by  
5178 the authority pursuant to this section and funds to pay the same are not available, the  
5179 administrator shall certify to the chief executive officer of the Massachusetts Surface  
5180 Transportation Authority the amount required to meet the obligation and the Massachusetts  
5181 Surface Transportation Authority shall thereupon pay over to the authority that amount. If the

5182 Massachusetts Surface Transportation Authority shall not make the payment within a reasonable  
5183 time, the authority or any holder of an unpaid note issued by the authority pursuant to this  
5184 section, acting in the name and on behalf of the authority, shall have the right to require the  
5185 Massachusetts Surface Transportation Authority to pay the authority the amount remaining  
5186 unpaid, which right shall be enforceable as a claim against the Massachusetts Surface  
5187 Transportation Authority. The authority or any holder of an unpaid note issued pursuant to this  
5188 section may file a petition in the superior court to enforce a claim or intervene in any proceeding  
5189 already commenced to enforce such a claim. Chapter 258 shall apply to the petition insofar as it  
5190 relates to the enforcement of a claim against the Massachusetts Surface Transportation  
5191 Authority. Any holder of an unpaid note who shall have filed such a petition may apply for an  
5192 order of the court requiring the authority to apply funds received by the authority on its claim  
5193 against the Massachusetts Surface Transportation Authority to the payment of the holder's  
5194 unpaid note, and, if the court finds such amount to be due to the holder, shall issue the order.

5195 All assessments made under this chapter shall be made as provided in section 20 of  
5196 chapter 59.

5197 If, in any year the income received by the authority including, but not limited to, revenues  
5198 from leasing, advertising, parking, sale of capital assets, gifts and grants, exceeds the expenses  
5199 incurred by the authority including, but not limited to, expenses for wages, contracts for service  
5200 by others, maintenance, debt service, taxes, rentals, payments to any governmental body and all  
5201 other costs, the authority shall determine the amount of such excess. Such excess shall be placed  
5202 in a reserve fund up to such amount as shall be determined by the authority with the approval of  
5203 the advisory board. Any amount of excess not placed in such reserve fund shall be applied to  
5204 reimbursing the Massachusetts Surface Transportation Authority for any amounts which it may

5205 have paid under this section, and the Massachusetts Surface Transportation Authority shall  
5206 thereupon distribute the amounts so received among the cities and towns constituting the  
5207 authority up to the amounts which they were respectively assessed in the previous fiscal year. All  
5208 remaining amounts in excess shall be so distributed up to the amounts assessed in each fiscal  
5209 year immediately preceding, commencing with the most recent such year.

5210         Section 12. The state auditor, in conjunction with the internal special audit unit of  
5211 Massachusetts Surface Transportation Authority, established in section 40 of chapter 81B, shall  
5212 biennially make an audit of the accounts of each authority and make a report thereon to the chief  
5213 executive officer of the Massachusetts Surface Transportation Authority, the regional transit  
5214 advisory board and the governor. In making such audits, the state auditor, in conjunction with  
5215 said internal special audit unit may call upon any of the departments, commissions, officers and  
5216 agencies of the commonwealth for such information as may be needed. The state auditor, in  
5217 conjunction with said internal special audit unit, may employ such auditors, accountants and  
5218 other assistants as he deems necessary for carrying out his duties under this section and chapter  
5219 31 and the rules made thereunder shall not apply to such employees. The Massachusetts Surface  
5220 Transportation Authority shall be reimbursed by the authority for the cost of the audit.

5221         A copy of each biennial audit shall be provided to the chairs of the senate and house  
5222 committees on transportation, the chairs of the senate and house committee on ways and means.

5223         Section 13. An authority and all its real and personal property shall be exempt from  
5224 taxation and from betterments and special assessments, and an authority shall not be required to  
5225 pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions,  
5226 nor shall an authority be required to pay any fee or charge for any permit or license issued to it  
5227 by the commonwealth, by any department, board or officer thereof, or by any political



5228 subdivision of the commonwealth or by any department, board or officer of such political  
5229 subdivision. Bonds and notes issued by an authority, the transfer thereof and the income  
5230 therefrom, including any profit made on the sale thereof, shall at all times be free from taxation  
5231 within the commonwealth.

5232 Section 14. An authority described in section 2 shall be deemed to be established after:

5233 (a) 20 per cent of the votes on the advisory board have recorded themselves in favor of calling a  
5234 meeting to vote on the establishment of the authority; (b) notice of the meeting has been sent by  
5235 a member municipality of the authority to the chief executive officer of the Massachusetts  
5236 Surface Transportation Authority, the regional transit advisory board and every other member  
5237 municipality at least 2 weeks prior to the meeting; and (c) the advisory board has sent the chief  
5238 executive officer of the Massachusetts Surface Transportation Authority written notification that  
5239 the advisory board has voted to establish the authority; provided, however, that such notification  
5240 shall not be given except after a majority of municipalities have voted to establish the authority  
5241 and after a majority of the regional transit advisory board have voted to establish the authority.

5242 The membership of the authority, upon its establishment as provided in this section, shall  
5243 consist of those cities and towns that affirmatively vote for the formation of the authority as  
5244 provided in this section. This section shall not prevent any city or town, including a city or town  
5245 which did not vote for the formation of the authority, from joining an authority subsequent to the  
5246 formation thereof.

5247 Section 15. Any city or town which is a member of an authority may place upon the  
5248 official ballot at any biennial, regular or special city election or annual or special town election  
5249 the following question:

5250           “Shall this (city, town) continue to be a member of the (name) Regional Transit  
5251 Authority?”

5252           The city or town solicitor shall prepare a fair, concise summary of each question not later  
5253 than 35 days prior to such election. Such question shall not be placed upon the official ballot  
5254 unless the city council or town meeting shall have voted that such question be so placed or a  
5255 petition signed by not less than 5 per cent of the registered voters of the city or town, certified as  
5256 such by the registrars of voters thereof, shall have been filed with the city or town clerk, at least  
5257 60 days before the date for any such election. Forms for such petitions shall be made available  
5258 without cost by the city or town clerk and each form shall bear the following heading: “The  
5259 undersigned registered voters of the (city or town) hereby petition for the placement upon the  
5260 official ballot of the question whether this (city, town) shall continue to be a member of the  
5261 (name) Regional Transit Authority”.

5262           The votes upon such a question shall be counted and returned to the city or town clerk in  
5263 the same manner as votes for candidates in municipal elections. The clerk shall forthwith notify  
5264 the authority of the result of the vote. If a majority of the votes cast upon the question shall be in  
5265 the negative, the authority shall forthwith take all steps necessary and appropriate for the  
5266 termination of membership of such city or town in such authority.

5267           Section 16. In the event of any conflict between the regulatory powers and duties of the  
5268 department of public utilities in respect to mass transportation service within an area, the  
5269 department of public utilities shall resolve such dispute and exercise such powers as it deems  
5270 required in the particular instance.

5271           Section 17. An authority is hereby authorized to provide by resolution at 1 time or from  
5272 time to time for the issue of bonds of the authority for any 1 or more of the following purposes:

5273 (1) To acquire by purchase or otherwise, plan, design, construct, reconstruct, alter,  
5274 recondition and improve for lease to any eligible private company, mass transportation facilities  
5275 and equipment; or

5276 (2) To pay any capital costs of the authority, whether or not bonds for any such purchase  
5277 may also be issued under clause (1);

5278 Bonds may be issued for any costs of the foregoing incurred either before or after the  
5279 issue of the bonds. Bonds issued under either of the foregoing clauses may be issued in sufficient  
5280 amount to pay the expenses of issues and to establish such reserves as may be required by any  
5281 applicable trust agreement or bond resolution. The aggregate principal amount of bonds for all  
5282 authorities established under this chapter which may be outstanding at any 1 time under this  
5283 section shall not exceed the sum of \$20,000,000; provided, however, that no such bonds may be  
5284 issued under this section without the prior approval of the chief executive officer of the  
5285 Massachusetts Surface Transportation Authority. Seventy-five per cent of the bond proceeds  
5286 shall be extended only for projects for which the authority has agreements with the federal  
5287 government or other sources including, but not limited to, other governmental jurisdictions or  
5288 private entities providing for matching grants or for expenditures which are preliminary to the  
5289 obtaining of federal grants.

5290 The chief executive officer of the Massachusetts Surface Transportation Authority shall  
5291 make and, from time to time revise, guidelines for the allocation and distribution of the principal  
5292 amount of said bonds, or any part thereof, among the authorities established by this chapter..

5293 The chief executive officer of the Massachusetts Surface Transportation Authority shall  
5294 adopt rules and regulations governing the procedures by which private companies shall apply for  
5295 assistance pursuant to any agreements financed from proceeds of bonds or bond anticipation

5296 notes and governing the use of such assistance. Such rules and regulations shall include: (a)  
5297 requiring any private company which receives such assistance to agree to limit its profits and its  
5298 expenses for salaries and overhead to make available as much of its earnings as possible for  
5299 repayment to the authority of such assistance; (b) requiring such repayment; (c) enabling the  
5300 authority and the chief executive officer of Massachusetts Surface Transportation Authority to  
5301 examine and audit the books and records of such company for the purpose of establishing and  
5302 enforcing such limitation and repayment; and (d) requiring the authority to transfer to the  
5303 Massachusetts Surface Transportation Authority, the Massachusetts Surface Transportation  
5304 Authority's share of such repayment.

5305         The bonds of each issue shall be dated, shall bear interest at such rates, shall mature at  
5306 such time not exceeding 40 years from the date thereof as may be determined by the authority  
5307 and may be made redeemable before maturity at the option of the authority at such price or  
5308 prices and under such terms and conditions as may be fixed by the authority prior to the issue of  
5309 the bonds. The authority shall determine the form of the bonds, including any interest coupons to  
5310 be attached thereto, and the manner of execution of the bonds and shall fix the denomination of  
5311 the bonds and the place of payment of principal and interest which may be at any bank or trust  
5312 company within or without the commonwealth. In case any officer whose signature or a  
5313 facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer  
5314 before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid  
5315 and sufficient for all purposes, as if he had remained in office until such delivery. All bonds  
5316 issued under this chapter shall have, and are hereby declared to have, all the qualities and  
5317 incidents of negotiable instruments under the Uniform Commercial Code. The bonds may be  
5318 issued in coupon or in registered form, or both, as the authority may determine and provisions

5319 may be made for the registration of any coupon bonds as to principal alone and also as to both  
5320 principal and interest, for the reconversion into coupon bonds of any bonds registered as to both  
5321 principal and interest and for the exchange of coupon and registered bonds. The authority may  
5322 sell such bonds in such manner, either at public or private sale, and for such price as it may  
5323 determine to be for the best interest of the authority.

5324         The proceeds of such bonds shall be disbursed in such manner and under such  
5325 restrictions, if any, as the authority may provide. The authority may also provide for the  
5326 replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds and  
5327 bond anticipation notes may be issued under the provisions of this chapter after obtaining the  
5328 consent of the Massachusetts Surface Transportation Authority and without any other  
5329 proceedings or the happening of any other conditions or things other than those proceedings,  
5330 conditions or things which are specifically required by this chapter. This chapter, as it, relates to  
5331 the preparation, adoption or approval of plans, programs, projects, budgets and expenditures,  
5332 shall not affect the issue of bonds and notes and the bonds and notes may be issued either before  
5333 or after such preparation, adoption or approval.

5334         While any bonds or notes issued or assumed by the authority remain outstanding, the  
5335 powers, duties and existence of the authority and the provisions for payments by the  
5336 Massachusetts Surface Transportation Authority to the authority shall not be diminished or  
5337 impaired in any way that will adversely affect the interests and rights of the holders of such  
5338 bonds or notes.

5339         Section 18. In the discretion of the authority, such bonds shall be secured by a trust  
5340 agreement by, and between, the authority and a corporate trustee, which may be any trust  
5341 company or bank having the powers of a trust company within the commonwealth. Either the

5342 resolution providing for the issue of bonds or the trust agreement may contain provisions for  
5343 protecting and enforcing the rights and remedies of the bondholders as may be reasonable and  
5344 proper and not in violation of law, including covenants setting forth the duties of the authority in  
5345 relation to the acquisition, improvement, maintenance, operation, repair and insurance of  
5346 property, and the custody, safeguarding and application of all moneys and may pledge or assign  
5347 the revenues to be received, but shall not convey or mortgage any property.

5348         Section 19. Bonds issued under this chapter are hereby made securities in which all  
5349 public officers and public bodies of the commonwealth and its political subdivisions, all  
5350 insurance companies, and savings banks, co-operative banks and trust companies in their  
5351 banking departments, banking associations, investment companies, executors, trustees and other  
5352 fiduciaries and all other persons who are now, or may hereafter be, authorized to invest in bonds  
5353 or other obligations of a similar nature may properly and legally invest funds, including capital in  
5354 their control or belonging to them and such bonds are hereby made obligations which may  
5355 properly and legally be made eligible for the investment of savings deposits and the income  
5356 thereof in the manner provided by section 15B of chapter 167. Such bonds are hereby made  
5357 securities which may properly and legally be deposited with and received by any state or  
5358 municipal officer or any agency or political subdivision of the commonwealth for any purpose  
5359 for which the deposit of bonds or other obligations of the commonwealth now or may hereafter  
5360 be authorized by law.

5361         Section 20. Any holder of bonds issued under this chapter or of any of the coupons  
5362 appertaining thereto, and the trustee under the trust agreement, if any, except to the extent the  
5363 rights herein may be restricted by such resolution or trust agreement may, either at law or in  
5364 equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights

5365 under the laws of the commonwealth or granted hereunder or under such resolution or trust  
5366 agreement and may enforce and compel the performance of all duties required by this chapter or  
5367 by such resolution or trust agreement to be performed by the authority or by any officer thereof.

5368         Section 21. An authority may provide by resolution, at 1 time or from time to time, for  
5369 the issue of interest bearing or discounted notes for the purposes and in the amounts that bonds  
5370 may be issued. The notes shall be payable within 3 years from their dates, but the principal of  
5371 and interest on notes issued for a shorter period may be renewed or paid from time to time by the  
5372 issue of other notes hereunder maturing within the required time from the date of the original  
5373 loan being refunded. When bonds are issued for the purposes for which the notes were issued,  
5374 the proceeds of the bonds shall be used to repay the notes, except that interest on the notes may  
5375 be financed as a current expense to the extent deemed appropriate by the authority. The notes  
5376 may be secured by a trust agreement or by the provisions of a resolution, as in the case of bonds.  
5377 Bond anticipation notes may be issued either before or after the authorization of the bonds being  
5378 anticipated. If any bond anticipation note is paid otherwise than from the proceeds of bonds or  
5379 renewal notes, such payment shall be included in the measure of the net cost of service;  
5380 provided, however, that if bonds or renewal notes are later issued to provide for such payment,  
5381 there shall be a corresponding offset against the net cost of service.

5382         Section 22. Each authority, in conjunction with the regional transit advisory board, shall,  
5383 from time to time, take all necessary action to secure any federal assistance which is, or may  
5384 become, available to the Massachusetts Surface Transportation Authority for any of the purposes  
5385 of this chapter. If any federal law, administrative regulation or practice requires any action  
5386 relating to such federal assistance to be taken by any department or instrumentality of the  
5387 commonwealth, other than the authority, such other department or instrumentality shall take all

5388 such action including, without limitation, filing applications for assistance, supervising the  
5389 expenditure of federal grants or loans and making any determinations and certifications  
5390 necessary or appropriate to the foregoing and the authority shall take all action necessary to  
5391 permit such other department or instrumentality to comply with all federal requirements.

5392         Section 23. The chief executive officer of the Massachusetts Surface Transportation  
5393 Authority may enter into a contract with the authorities created in this chapter providing that at  
5394 least 50 per cent and up to 75 per cent of the net cost of service of each authority incurred in each  
5395 fiscal year shall be paid by the Massachusetts Surface Transportation Authority, and shall not be  
5396 assessed upon the cities and towns constituting the authorities; provided, however, that the share  
5397 assessed upon the cities and towns shall be at least 25 per cent of the net cost of service;  
5398 provided further, that in the event that 25 per cent of the net cost of service of each authority  
5399 exceeds 102.5 per cent of the previous year's local assessment, excluding payments made by  
5400 cities and towns for the costs of new service for which the cities and towns have not previously  
5401 been assessed by the regional transit authority, the authority shall reduce its operating expenses  
5402 of an increase its revenues to meet the difference. Such amount, not to be so assessed, shall be  
5403 called contract assistance.

5404         Contracts shall provide for payment of debt service by the Massachusetts Surface  
5405 Transportation Authority when due, except to the extent that the authority shall have previously  
5406 notified the state treasurer that the revenues of the authority are sufficient for the purpose.

5407         Any debt service on bonds issued by an authority, for which contract assistance is  
5408 provided, shall mature serially beginning not later than 10 years after the date of issue and  
5409 ending not later than 40 years after the date of the bonds, so that the amounts payable in the  
5410 several years for principal and interest combined shall be as nearly equal as in the opinion of the



5411 authority as is practicable to make them or, in the alternative, in accordance with a schedule  
5412 providing a more rapid amortization of principal.

5413 Any contracts or agreements made between an authority and any private company or  
5414 carrier for which contract assistance is provided shall be subject to the following limitations: (i)  
5415 in determining whether assistance is needed under this paragraph with respect to an operating  
5416 agreement with a private transportation company, and in determining the terms of such  
5417 assistance, the authority shall review the entire transportation operations of the company and its  
5418 affiliates and shall make a finding that the assistance will not permit the applicant company to  
5419 make more than a reasonable return overall; and (ii) that the assistance shall cover only those  
5420 services determined by the authority to be in the public interest.

5421 Any contract under this section shall include such provisions as the chief executive  
5422 officer of the Massachusetts Surface Transportation Authority deems necessary and desirable to  
5423 assure the efficient operation of the authority and the minimum burden on the Massachusetts  
5424 Surface Transportation Authority and on the cities and towns within the authority and to insure  
5425 contract assistance is provided for projects which are consistent with the program for public mass  
5426 transportation of the authority.

5427  
5428 Section 24. Section 10 of chapter 40A, sections 28, 59 to 64, inclusive, 83 to 85,  
5429 inclusive, and 92 to 104, inclusive, of chapter 159 and sections 89, 103 and 113 of chapter 161  
5430 shall apply to the authorities created by this chapter, its property and employees in the same  
5431 manner as though each were a street railway company.

5432

5433           Section 25. Nothing in this chapter shall be deemed to authorize or permit any authority  
5434 established by this chapter to directly operate any mass transportation service.

5435

5436           Section 26. The regional transit authorities shall establish a Stabilization Fund into which  
5437 the authorities shall deposit revenues in excess of expenditures. The Stabilization Fund shall  
5438 have a fund balance not greater than 15 per cent of total revenues for all regional transit  
5439 authorities for the fiscal year most recently ended. Monies from the fund shall be subject to  
5440 appropriation and used for capital improvements and expenditures, to offset the unforeseen and  
5441 dramatic loss of revenues within a fiscal year, and to pay current expenses after implementing all  
5442 efficiencies and savings possible. The authorities may not assume draws from the fund in  
5443 preparing their annual budgets. In the event that an authority requires a draw from the fund, it  
5444 shall file with the chief executive officer of the Massachusetts Surface Transportation Authority,  
5445 the regional transit advisory board, the joint committee on transportation and the house and  
5446 senate committees on ways and means a financial plan that projects to produce, in the following  
5447 fiscal year, an excess of revenues over expenses, all measures taken to implement efficiencies  
5448 and savings, the amount necessary to offset operating losses and any other information that the  
5449 chief executive officer, regional transit advisory board or committees may require.

5450

5451           Section 27. (a) There shall be a regional transit advisory board within the division of  
5452 public transit of the Massachusetts Surface Transportation Authority to represent the needs of the  
5453 15 regional transit authorities in the commonwealth.

5454           The regional transit advisory board shall consist of 17 members including the following:  
5455 1 representative from each of the regional transit authorities, as defined in section 2, to serve

5456 terms of 2 years; 1 representative, appointed by the governor, for a term of 3 years who shall be  
5457 an expert with experience in the fields of transportation law or public policy, transportation  
5458 planning or design and construction of transportation projects; provided, however, that the  
5459 representative shall not reside in an area constituting the division for public transit for mass  
5460 transit; and the chief executive officer of the authority, or his designee. The members of the  
5461 advisory board shall be appointed not later than August 1, 2009.

5462 The first meeting of the regional transit advisory board shall be held as soon as  
5463 practicable upon the call of the chief executive officer of the authority. The regional transit  
5464 advisory board shall act by a majority vote, except that it may delegate its power of approval to  
5465 an executive committee formed and elected pursuant to duly adopted by-laws of the board and  
5466 constituting among its members as least one-half of the total vote of the regional transit advisory  
5467 board, and may at any time, revoke such delegation; provided, however, that no such executive  
5468 committee shall be empowered to approve the governor's appointments to the Massachusetts  
5469 Surface Transportation Authority's board of directors. Until the regional transit advisory board  
5470 has adopted by-laws and elected officers, the chief executive officer of the authority may call  
5471 meetings of the regional transit advisory board by sending notice to the executive director of  
5472 each regional transit authority and shall preside at such meetings.

5473 The regional transit advisory board may incur expenses, not to exceed \$10,000 annually,  
5474 for stenographic and clerical work, and such expenses shall be paid by the Massachusetts Surface  
5475 Transportation Authority.

5476 (b) The regional transit advisory board shall be deemed to be a governmental body for  
5477 purposes of, and shall be subject to, section 11A1/2 of chapter 30A and shall also be subject to  
5478 section 10 of chapter 66.

5479 (c) The purpose of the regional transit advisory board shall be as follows:

5480 (i) oversee the federally funding Rural Transit Assistance Program under contract with

5481 the Massachusetts Surface Transportation Authority;

5482 (ii) coordinate and share information and best practices in matters of security and public

5483 safety planning and preparedness, service delivery including, the disabled and senior

5484 population, cost savings and administrative efficiencies;

5485 (iii) to create, after public hearings and in consultation with the administrator of the

5486 division of public transit, mechanisms for ensuring reliable, high-quality and cost-

5487 effective operations by establishing and implementing service quality standards;

5488 (iv) to adopt and revise, as appropriate, a system-wide fare policy which addresses fare

5489 levels, including discounts, fare equity and a fare structure including, but not limited to,

5490 fare media and passes. The fare policy shall include a system for free or substantially

5491 price-reduced transfer privileges;

5492 (v) to make recommendation to the division of public transit on its regional transit

5493 charges;

5494 (vi) to hold hearings, which may be held jointly with the division of public transit at the

5495 discretion of the regional transit advisory board and the division of public transit, on

5496 matters relating to the division of public transit;

5497 (vii) to review the annual report of the authority and to prepare comments thereon to the

5498 authority and the secretary of transportation and to make such examinations of the reports

5499 on the division of public transit's records and affairs as the regional transit advisory board

5500 deems appropriate; and

5501 (viii) to make recommendations to the governor and the general court respecting the  
5502 authority and its regional transit programs. The regional transit advisory board shall have  
5503 all powers necessary or convenient to carry out and effectuate the forgoing purposes.

5504 **SECTION 45.** Chapter 161C of the General Laws is hereby repealed.

5505 **SECTION 46.** Section 1 of chapter 258 of the General Laws, as appearing in the 2006  
5506 Official Edition, is hereby amended by inserting after the word “including”, in line 40, the words  
5507 “the Massachusetts Surface Transportation Authority established pursuant to chapter 81B,”.

5508 **SECTION 47.** Said Section 1 of said chapter 258, as so appearing is hereby further  
5509 amended by striking out, in lines 50 and 51, the words, “the Massachusetts Bay Transportation  
5510 Authority”.

5511 **SECTION 48.** Said section 1 of said chapter 258, as so appearing, is hereby further  
5512 amended by striking out, in lines 51 and 52, the words “the Massachusetts Turnpike Authority,”.

5513 **SECTION 49.** Section 2 of chapter 634 of the acts of 1971, as most recently amended  
5514 by section 1 of chapter 364 of the acts of 1990, is hereby amended by striking out the second  
5515 paragraph and inserting in place thereof the following paragraph:-

5516 Following acquisition of the bridges by the department, the department shall, in its  
5517 discretion, furnish or otherwise provide for the necessary flag protection on the railroad rights-  
5518 of-way of the Massachusetts Bay Transportation Authority, which may be required when the  
5519 department is performing inspection, maintenance and repair, reconstruction or replacement of  
5520 any such bridges.

5521 **SECTION 49A.** The first sentence of subsection (b) of section 11 of chapter 233 of the  
5522 acts of 2008 is hereby amended by inserting after the word “engineering” the following words:-  
5523 “and construction”.

5524

5525           **SECTION 49B.** Notwithstanding section 31 of chapter 15 of the acts of 1988 or any  
5526 other general or special law to the contrary, the Massachusetts Bay Transportation Authority is  
5527 hereby approved to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise  
5528 dispose of the public parking garage constructed and operated by the authority and the land  
5529 acquired by the authority pursuant to such law, subject to such terms, restrictions, covenants and  
5530 conditions, for facilitating economic development, employment opportunities and increase of the  
5531 tax base, as determined by the Authority in consultation with the Boston Redevelopment  
5532 Authority.

5533           **SECTION 50.** Notwithstanding any general or special law to the contrary, the secretary  
5534 of administration and finance shall establish an office of transition management for  
5535 transportation within the executive office for administration and finance to accomplish the  
5536 purposes of this act. Agencies from within that executive office including, but not limited to, the  
5537 human resources division and the division of capital asset management and maintenance, as well  
5538 as the executive office of transportation and public works and the department of labor shall staff  
5539 the office.

5540           The office shall monitor compliance with this act, recommend to the secretary of  
5541 transportation and public works rules and regulations not inconsistent with this act to facilitate  
5542 the orderly, expeditious transfer of assets and functions from the executive office of  
5543 transportation and public works, the Massachusetts Turnpike Authority, the Massachusetts Bay  
5544 Transportation Authority, the Massachusetts Port Authority, the department of conservation and  
5545 recreation and the department of highways to the Massachusetts Surface Transportation  
5546 Authority, developing administrative processes to assure continuity of employment and

5547 operations during the transitions, identifying opportunities for potential efficiencies and cost  
5548 savings and recommending legislation to realize such savings and efficiencies, resolve issues or  
5549 assist government agencies with the transition of transportation agencies.

5550 Ninety days after the effective date of this act and quarterly thereafter until such  
5551 transition period is complete, the secretary of transportation and public works shall submit a  
5552 report to the governor, the secretary of administration and finance, the joint committee on  
5553 transportation, the senate and house committees on ways and means and the clerks of the senate  
5554 and the house of representatives, relative to the progression of the incorporation of the agencies  
5555 and authorities into the Massachusetts Surface Transportation Authority.

5556 The report shall include, but shall not be limited to, plans for the assignment and  
5557 reassignment of resources including personal, equipment and supplies into the Massachusetts  
5558 Surface Transportation Authority. The reports shall also include the status of the transition of  
5559 roads, bridges, parkways and any other transportation assets of the Massachusetts Turnpike  
5560 Authority, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority,  
5561 the department of conservation and recreation and the department of highways and shall further  
5562 include approximate schedules for the completion of the transition.

5563 **SECTION 51.** Notwithstanding any general or special law to the contrary, the bureau  
5564 for environmental health within the department of public health shall conduct a comprehensive  
5565 baseline study of the health effects of particulate air pollution from surface transportation in  
5566 Massachusetts. The study shall focus on understanding the health impacts from fine and ultrafine  
5567 particulate matter upon populations that are located within 500 feet of any roadway with 50,000  
5568 or more motor vehicle trips per day or any rail line regularly used by diesel locomotives;  
5569 provided, however, that the study may include, but shall not be limited to, examining respiratory

5570 and cardiovascular disease and cancer incidence that may be affected by exposure to traffic-  
5571 related particles. The following departments and agencies of the commonwealth shall provide  
5572 information to the bureau relevant to this study: the department of environmental protection, the  
5573 executive office of transportation, the Massachusetts Surface Transportation Authority and the  
5574 central transportation planning staff of the Boston region metropolitan planning organization.  
5575 The bureau shall report its interim findings, or a progress report, together with any recommended  
5576 response actions by the commonwealth to the house and senate committees on ways and means  
5577 not later than December 31, 2009. The study shall be concluded and filed with the house and  
5578 senate committees on ways and means not later than June 30, 2010.

5579         **SECTION 52.** (a) In order to provide funds during the period from the effective date of  
5580 this act until December 31, 2009, the state treasurer, on behalf of the commonwealth, shall loan  
5581 to the authority through investment in a note or other appropriate instrument of the Authority,  
5582 and the authority is authorized to borrow from the state treasurer, at any time and from time to  
5583 time on or prior to December 31, 2009, on such terms and conditions as the state treasurer and  
5584 the authority shall agree, an amount not to exceed \$100,000,000. Any amount so borrowed by  
5585 the authority, with interest thereon at such reasonable rate as the state treasurer and the authority  
5586 shall agree, shall be repaid to the commonwealth to be credited on the books of the  
5587 commonwealth not later than June 30, 2010.

5588         (b) The authority may issue at 1 time or from time to time prior to June 30, 2014, notes of  
5589 the Authority in the aggregate principal amount of \$1,000,000,000 outstanding at any 1 time,  
5590 excluding notes refunded by other notes issued under this paragraph, for the purpose of  
5591 providing funds for: (i) repaying the commonwealth for any amounts borrowed by the authority  
5592 from the commonwealth including interest thereon pursuant to paragraph (c); (ii) paying all or



5593 part of the cost of the authority's projects undertaken at any time prior to December 31, 2013;  
5594 (iii) paying all or any part of the current expenses of the authority in anticipation of receipt of  
5595 revenues of the authority, but in no event shall the aggregate amount of notes outstanding for this  
5596 purpose exceed one-half of the budgeted current expenses of the authority for the fiscal year in  
5597 which such notes are outstanding; and (iv) paying all or any part of the interest payable on any  
5598 notes of the authority issued under this paragraph. Notes issued by the Authority in accordance  
5599 with this subsection shall be issued for such term or terms as the authority shall determine and  
5600 may be renewed from time to time; provided, however, that all such notes and any renewals  
5601 thereof shall mature and be payable not later than June 30, 2014 except that notes issued in  
5602 anticipation of revenues shall be payable and shall mature not later than 1 year from their date.  
5603 Notes issued by the authority in accordance with this paragraph, except notes issued in  
5604 anticipation of revenues, shall be issued in anticipation of bonds to be issued by the authority  
5605 pursuant to section 22 of chapter 81B of the General Laws. All notes issued pursuant to this  
5606 subsection shall be authorized, issued and sold in the same manner as, and shall otherwise be  
5607 subject to said section 22 of said chapter 81B and the other provisions of said chapter 81B  
5608 relating to bonds; provided, however, that notes issued under this subsection shall be issued at a  
5609 fixed..

5610 (c) The commonwealth, acting by and through the secretary of administration and finance  
5611 with the approval of the governor, upon application of the authority, shall guarantee the principal  
5612 of and interest on notes of the authority issued in accordance with subsection (b). The secretary  
5613 of administration and finance with the approval of the governor may approve the form, terms and  
5614 conditions of, and may execute and deliver on behalf of the commonwealth such guaranty and  
5615 any related agreements with or for the benefit of the holders of such notes containing such terms,

5616 conditions and covenants as the secretary of administration and finance may deem reasonable,  
5617 including provision for the payment of notes not paid or refunded by the authority by application  
5618 of the proceeds of the loan authorized in subsection (d) . Without limiting the generality of the  
5619 foregoing, such guaranty may take the form of an agreement to reimburse the issuer of a letter of  
5620 credit or other credit facility which relates to such notes. The full faith and credit of the  
5621 commonwealth shall be pledged for the guaranty provided for in this paragraph. The total  
5622 principal amount of notes to be guaranteed under this paragraph shall not exceed \$1,000,000,000  
5623 in the aggregate; provided, however, that the refunding note shall be included within such total  
5624 amount; provided, further, that any note being refunded by the issuance of a guaranteed note  
5625 shall not be included within such total amount.

5626 (d) If the authority fails or is otherwise unable to refund or pay when due any guaranteed  
5627 notes, or the interest thereon, issued by the authority in accordance with subsection (c), such  
5628 notes, and the interest thereon, upon presentation to the state treasurer, shall be paid by the  
5629 commonwealth. For the purpose of providing funds to pay any such guaranteed notes and  
5630 interest or to reimburse the treasury for any such payments, the state treasurer shall, upon the  
5631 request of the governor, issue and sell bonds of the commonwealth in an amount specified by the  
5632 governor from time to time, but not exceeding in the aggregate the sum of \$1,000,000,000 for  
5633 principal and \$150,000,000 for interest. Bonds issued by the commonwealth under this  
5634 subsection shall be designated on their face, Massachusetts Surface Transportation Authority  
5635 Loan, Act of 2009. Such bonds shall be issued for such maximum term or terms not exceeding  
5636 20 years as the governor may recommend to the general court in accordance with Section 3 of  
5637 article LXII of the amendments to the constitution of the commonwealth. The Authority shall  
5638 reimburse the commonwealth in accordance with a schedule to be determined by the secretary of

5639 administration and finance at the time such bonds are issued, from any moneys of the authority  
5640 which are available for such purposes. Bonds and interest thereon issued by the commonwealth  
5641 under the authority of this section shall, notwithstanding any other provisions of this act, be  
5642 general obligations of the commonwealth. In anticipation of the receipt of proceeds of such  
5643 bonds, the treasurer may issue and sell temporary notes and renewals thereof in an amount  
5644 outstanding at 1 time not in excess of the amount of bonds specified by the governor pursuant to  
5645 this subsection, for a term not to exceed 3 years, including any renewals thereof. The principal of  
5646 and interest on such notes may be paid from the proceeds of the renewal notes or bonds and to  
5647 the extent not so paid shall be paid from any other funds or receipts; provided, however, that if  
5648 the principal amount of such notes is paid from other than the proceeds of the renewal notes or  
5649 bonds, the principal amount of the bonds which may be issued under this section shall be  
5650 reduced by a like amount. Such notes and any renewals thereof shall be general obligations of  
5651 the commonwealth.

5652 (e) The state treasurer may borrow, from time to time, on the credit of the commonwealth  
5653 such amounts as may be necessary to make any loans required of the commonwealth under  
5654 subsection (a) and to pay any interest or other charges incurred in borrowing such money, and  
5655 may issue notes of the commonwealth therefor, bearing interest payable at such times and at such  
5656 rates as shall be fixed by him. No note issued under this paragraph shall mature more than one  
5657 and one-half years from its date but notes may be refunded 1 or more times. Such notes shall be  
5658 issued for such maximum term of years, not exceeding one and one-half years, as the governor  
5659 may recommend to the general court in accordance with Section 3 of article LXII of the  
5660 amendments to the constitution.

5661           **SECTION 53.** The state auditor shall perform a close-out audit of each agency or  
5662 authority admitted to the Massachusetts Surface Transportation Authority. Said audit shall  
5663 include a catalog of any issues relating to the agency or authority's current and future finances  
5664 and operations, current and future revenues or debt structure, and internal policies and  
5665 procedures, that he believes are not within Financial Accounting Standards Board of practice or  
5666 may violate other General Laws, rules and procedures..

5667           **SECTION 54.** (a) The Massachusetts Surface Transportation Authority may provide by  
5668 resolution for the issuance of revenue bonds of the authority, at 1 time or from time to time, for  
5669 the purpose of providing funds for:

5670       (1) refunding the western turnpike revenue bonds then outstanding, including the payment of  
5671 the redemption premium thereon;

5672       (2) paying the cost of constructing such extensions, enlargements and improvements to the  
5673 western turnpike as may be authorized by said resolution; and

5674       (3) providing funds for paying the current expenses of the authority prior to the time when the  
5675 revenues of the projects will be available for such purposes.

5676           (b) The proceeds of such bonds shall be deposited with the trustee and applied as follows:

5677       (1) such amount of the proceeds as may be required for paying the principal of and the  
5678 redemption premium on the western turnpike revenue bonds then outstanding shall be deposited  
5679 with the trustee under the trust agreement securing the bonds in trust for the sole and exclusive  
5680 purpose of paying such principal and redemption premium, and the bonds shall thereupon be  
5681 called for redemption at the earliest practicable date;

5682       (2) the trustee shall set aside from the proceed amounts as may be provided in the trust  
5683 agreement for paying the current expenses of the authority prior to the time when the revenues of

5684 the projects will be available for such purpose; and

5685 (3) the balance of such proceeds shall be deposited with the trustee to the credit of a special  
5686 fund to be used solely for the payment of the cost of the extensions, enlargements and  
5687 improvements of the western turnpike authorized by the resolution and shall be disbursed in such  
5688 manner and under such restrictions as may be provided in the trust agreement.

5689 (c)The Authority may, in its sole discretion assume the western turnpike revenue bonds  
5690 then outstanding.

5691 (d) Upon the issuance of revenue bonds under subsection (a) and the application of the  
5692 proceeds of the bonds as provided in subsection (b), or the assumption of revenue bonds under  
5693 subsection (c), title to the western turnpike shall be vested in the authority; provided, however,  
5694 that the turnpike shall thereafter be maintained, repaired and operated by the Authority, the  
5695 trustee under the trust agreement securing the outstanding western turnpike revenue bonds shall  
5696 deposit with the trustee for the credit of the appropriate funds all moneys then in its hands which  
5697 pertain to the western turnpike.

5698 (e) The Massachusetts Turnpike Authority shall transfer the turnpike, as defined in  
5699 section 3 of chapter 81A of the General Laws, its right to collect toll revenues on the turnpike,  
5700 and all related assets, liabilities, expenses and obligations to the division of roads and bridges in  
5701 the Massachusetts Surface Transportation Authority not later than July 1, 2009. The transfer by  
5702 the Massachusetts Turnpike Authority of the turnpike may be made pursuant to such other terms  
5703 and conditions as may be acceptable to the transferor and the Massachusetts Surface  
5704 Transportation Authority, but such terms shall be consistent with any trust agreement to which  
5705 the Massachusetts Turnpike Authority is a party as of the effective date of this act.

5706 (f) On July 1, 2009, ownership, possession and control of the turnpike shall pass to and  
5707 be vested in the Massachusetts Surface Transportation Authority without consideration or further  
5708 evidence of transfer.

5709 (g) All books, maps, papers, plans, records and documents of whatever description  
5710 pertaining to the design, construction, operation and affairs of the turnpike which are in the  
5711 possession of the Massachusetts Turnpike Authority on June 30, 2009, or which thereafter come  
5712 into the possession of the Massachusetts Turnpike Authority shall also be transferred and  
5713 delivered to the Massachusetts Surface Transportation Authority for its use, ownership,  
5714 possession and control.

5715 (h) On July 1, 2009, all proceeds of the western turnpike revenue bonds, any other bonds  
5716 and grants and other aid which are held by the Massachusetts Turnpike Authority for the benefit  
5717 of the turnpike at the effective date of this act shall then and thereafter be deemed to be held in  
5718 trust for the Massachusetts Surface Transportation Authority, be transferred to the Massachusetts  
5719 Surface Transportation Authority to be applied to projects for which such bonds, grants or other  
5720 aid was authorized. All proceeds of bonds, grants or other aid referred to herein, which shall be  
5721 so held in trust and transferred pursuant to this section, and shall be in the amount as certified by  
5722 the executive director of the Massachusetts Turnpike Authority to the state treasurer.

5723 **SECTION 55.** (a) The commonwealth shall transfer the roadways, driveways, parkways,  
5724 boulevards and bridges and land thereunder, in the care, custody and control of the department  
5725 of conservation and recreation and all appurtenant facilities, works and systems and any  
5726 machinery and equipment related to the operation and maintenance of the assets and the roads  
5727 and bridges, as well as any machinery and equipment related to the operation and maintenance of

5728 said assets and all appurtenant facilities, works and systems in the custody and control of the  
5729 department of highways to the division of roads and bridges in the Massachusetts Surface  
5730 Transportation Authority not later than July 1, 2009.

5731 (d) The division of capital asset management and maintenance shall take any required  
5732 actions relative to specifically defining and documenting the boundaries of the  
5733 transfer affected by this section.

5734 (e) Nothing in this section shall be construed to transfer any lands, parks, reservations,  
5735 approaches or other facilities under the care, custody or control of the department of  
5736 conservation and recreation.

5737 (f) On July 1, 2009, ownership, possession and control of the facilities transferred under  
5738 this section shall pass to and be vested in the Massachusetts Surface Transportation  
5739 Authority without consideration or further evidence of transfer.

5740 **SECTION 56.** (a) The Massachusetts Port Authority shall transfer the Maurice J. Tobin  
5741 Memorial Bridge, in the city of Chelsea its right to collect toll revenues on that bridge and all  
5742 related assets, liabilities, expenses and obligations to the division of roads and bridges in the  
5743 Massachusetts Surface Transportation Authority not later than July 1, 2010, provided, however,  
5744 that the tolls collected from transit over or through the bridge by private passenger vehicles  
5745 registered in the city of Chelsea or the Charlestown section of the city of Boston, as the Boston  
5746 transportation department has determined the geographical boundaries thereof, shall not be  
5747 greater than the tolls in effect for such vehicles at existing toll facilities at the bridge as of  
5748 January 1, 2009, pursuant to the Resident Commuter Permit program as provided under 740  
5749 CMR 11.03.

5750           The transfer by the Massachusetts Port Authority of that bridge may be made pursuant to  
5751 such other terms and conditions as may be acceptable to the Massachusetts Port Authority and  
5752 the Massachusetts Surface Transportation Authority, but such terms shall be consistent with and  
5753 authorized by chapter 465 of the act of 1956 and any trust agreement to which the Massachusetts  
5754 Port Authority is a party as of the effective date of this act.

5755           (b) On July 1, 2009, ownership, possession and control of the bridge shall pass to and be  
5756 vested in the Massachusetts Surface Transportation Authority without consideration or further  
5757 evidence of transfer.

5758           (c) All books, maps, papers, plans, records and documents of whatever description  
5759 pertaining to the design, construction, operation and affairs of the bridge which are in the  
5760 possession of the Massachusetts Port Authority on June 30, 2010, or which thereafter come into  
5761 the possession of the Massachusetts Port Authority shall be transferred and delivered to the  
5762 Massachusetts Surface Transportation Authority for its use, ownership, possession and control.

5763           (d) On July 1, 2010, all proceeds of bonds and grants and other aid which are held by the  
5764 Massachusetts Port Authority for the benefit of the bridge on the effective date of this act shall  
5765 then and thereafter be deemed to be held in trust for, and shall upon demand of the  
5766 Massachusetts Surface Transportation Authority be transferred to the Massachusetts Surface  
5767 Transportation Authority to be applied to projects for which such bonds, grants or other aid were  
5768 authorized. All proceeds of bonds, grants or other aid referred to herein, which shall be so held  
5769 in trust and transferred upon demand, shall be in the amount as certified by the executive director  
5770 of the Massachusetts Port Authority to the state treasurer.

5771           **SECTION 57.** (a) The Massachusetts Surface Transportation Authority shall provide by  
5772 resolution for the issuance of revenue bonds of the authority for the purpose of providing funds



5773 to be used to refund the metropolitan highway system revenue bonds outstanding, including the  
5774 payment of the redemption premium thereon. Such resolution shall be adopted as soon as  
5775 reasonably prudent considering all applicable market conditions. Revenue from tolls collected  
5776 for transit over the turnpike or metropolitan highway system as authorized by subsections (j) and  
5777 (k) of section 4 of chapter 81B shall not be pledged or assigned for such notes or bonds.

5778 (a 1/2) The Massachusetts Surface Transportation may provide by resolution for the  
5779 issuance of revenue bonds of the authority, at 1 time or from time to time, for the purpose of  
5780 providing funds for:

5781 (1) paying the cost of constructing such extensions, enlargements and improvements to  
5782 the metropolitan highway system as may be authorized by the resolution; and

5783 (2) providing funds for paying the current expenses of the authority prior to the time  
5784 when the revenues of the projects will be available for such purposes.

5785 (b) The proceeds of such bonds shall be deposited with the trustee and applied as  
5786 follows:

5787 (1) such amount of the proceeds as may be required for paying the principal of and the  
5788 redemption premium on the metropolitan highway system revenue bonds then outstanding shall  
5789 be deposited with the trustee under the trust agreement securing the bonds in trust for the sole  
5790 and exclusive purpose of paying such principal and redemption premium, and the bonds shall  
5791 thereupon be called for redemption at the earliest practicable date;

5792 (2) the trustee shall set aside from the proceed amounts as may be provided in the trust  
5793 agreement for paying the current expenses of the authority prior to the time when the revenues of  
5794 the projects will be available for such purpose; and

5795 (3) the balance of such proceeds shall be deposited with the trustee to the credit of a special  
5796 fund to be used solely for the payment of the cost of the extensions, enlargements and  
5797 improvements of the metropolitan highway system authorized by the resolution and shall be  
5798 disbursed in such manner and under such restrictions as may be provided in the trust agreement.

5799 (c) The Authority may, in its sole discretion, assume the metropolitan highway system  
5800 revenue bonds then outstanding.

5801 (d) Upon the issuance of revenue bonds under subsection (a) and the application of the  
5802 proceeds of the bonds as provided in subsection (b) or the assumption of revenue bonds under  
5803 subsection (c), title to the metropolitan highway system shall be vested in the authority. The  
5804 metropolitan highway system shall thereafter be maintained, repaired and operated by the  
5805 Authority, the trustee under the trust agreement securing the outstanding metropolitan highway  
5806 system revenue bonds shall deposit with the trustee for the credit of the appropriate funds all  
5807 moneys then in its hands which pertain to the metropolitan highway system and the  
5808 Massachusetts Turnpike Authority shall be dissolved.

5809 (e) The Massachusetts Turnpike Authority shall transfer the metropolitan highway  
5810 system, as defined in section 3 of chapter 81A of the General Laws, its right to collect toll  
5811 revenues on the metropolitan highway system and all related assets, liabilities, expenses and  
5812 obligations to the division of roads and bridges in the Massachusetts Surface Transportation  
5813 Authority not later than July 1, 2010.

5814 (f) The transfer by the Massachusetts Turnpike Authority of the metropolitan highway  
5815 system may be made pursuant to such other terms and conditions as may be acceptable to the  
5816 transferor and the Massachusetts Surface Transportation Authority, but such terms shall be

5817 consistent with and authorize by chapter 354 of the Act of 1952 and any trust agreement to  
5818 which the Massachusetts Turnpike Authority is a party as of the effective date of this act.

5819 (g) On July 1, 2010, ownership, possession and control of the metropolitan highway  
5820 system shall pass to and be vested in the Massachusetts Surface Transportation Authority  
5821 without consideration or further evidence of transfer.

5822 (h) All books, maps, papers, plans, records and documents of whatever description  
5823 pertaining to the design, construction, operation, and affairs of the metropolitan highway system  
5824 which are in the possession of the Massachusetts Turnpike Authority on June 30, 2010, or which  
5825 thereafter come into the possession of the Massachusetts Turnpike Authority shall be transferred  
5826 and delivered to the Massachusetts Surface Transportation Authority for its use, ownership,  
5827 possession and control.

5828 (i) On July 1, 2010, all proceeds of the metropolitan highway system revenue bonds, all  
5829 other bonds and grants and other aid which are held by the Massachusetts Turnpike Authority at  
5830 the effective date of this act shall then and thereafter be deemed to be held in trust for, and shall  
5831 upon demand of the Massachusetts Surface Transportation Authority be transferred to the  
5832 Massachusetts Surface Transportation Authority to be applied by the Massachusetts Surface  
5833 Transportation Authority to projects for which such bonds, grants or other aid were authorized.  
5834 All proceeds of bonds, grants or other aid referred to herein, which shall be so held in trust and  
5835 transferred upon demand, shall be in the amount as certified by the executive director of the  
5836 Massachusetts Turnpike Authority to the state treasurer.

5837 **SECTION 58.** (a) The Massachusetts Bay Transportation Authority shall transfer all  
5838 mass transportation facilities and equipment under its custody and control, the right to collect

5839 fare revenue for services in connection with such mass transportation facilities and equipment  
5840 and all related assets, liabilities, expenses and obligations to the division of public transit in the  
5841 Massachusetts Surface Transportation Authority not later than July 1, 2011.

5842 (b) The transfer by the Massachusetts Bay Transportation Authority of the mass  
5843 transportation facilities and equipment required in this section may be made pursuant to such  
5844 other terms and conditions as may be acceptable to the transferor and the Massachusetts Surface  
5845 Transportation Authority, but such terms shall be consistent with and authorized by chapter  
5846 161A of the General Laws and any trust agreement to which the Massachusetts Bay  
5847 Transportation Authority is a party as of the effective date of this act.

5848 (c) On July 1, 2011, ownership, possession and control of the mass transportation  
5849 facilities and equipment referred to in this section shall pass to and be vested in the  
5850 Massachusetts Surface Transportation Authority without consideration or further evidence of  
5851 transfer.

5852 (d) All books, maps, papers, plans, records and documents of whatever description  
5853 pertaining to the design, construction, operation and affairs of the mass transportation facilities  
5854 and equipment which are in the possession of the Massachusetts Bay Transportation Authority  
5855 on June 30, 2011, or which thereafter come into the possession of the Massachusetts Bay  
5856 Transportation Authority shall be transferred and delivered to the Massachusetts Surface  
5857 Transportation Authority for its use, ownership, possession and control.

5858 (e) On July 1, 2011, all proceeds of bonds, grants and other aid which are held by the  
5859 Massachusetts Bay Transportation Authority on the effective date of this act shall then and  
5860 thereafter be deemed to be held in trust for, and shall upon demand of the Authority be

5861 transferred to the Massachusetts Surface Transportation Authority to be applied to projects for  
5862 which such bonds, grants or other aid were authorized. All proceeds of bonds, grants or other aid  
5863 referred to herein, which shall be so held in trust and transferred upon demand, shall be in the  
5864 amount as certified by the general manager of the Massachusetts Bay Transportation Authority  
5865 to the state treasurer.

5866         **SECTION 59.** Notwithstanding any other provision of this act or any other general or  
5867 special law to the contrary, commencing on July 1, 2009, all amounts of any kind received by the  
5868 commonwealth which are derived from or related to the operation of the state highway system,  
5869 as defined in section 3 of chapter 81B of the General Laws, shall be deemed to be held in trust  
5870 for and shall be transferred and paid over to the Massachusetts Surface Transportation Authority,  
5871 herein after referred to as the Authority, when received without further appropriation to be  
5872 applied to the purposes of the Authority. All amounts of any kind received by the Massachusetts  
5873 Turnpike Authority which are derived from the operation of the turnpike, as defined in said  
5874 chapter 3 of said chapter 81B, shall be deemed to be held in trust for and shall be transferred and  
5875 paid over to the Massachusetts Surface Transportation Authority when received without further  
5876 appropriation to be applied to the purposes of the Massachusetts Surface Transportation  
5877 Authority.

5878         **SECTION 60.** Notwithstanding any other provision of this act or any other general or  
5879 special law to the contrary, commencing on July 1, 2010, all amounts of any kind received by the  
5880 Massachusetts Port Authority which are derived from or related to the operation of the Tobin  
5881 memorial bridge, as defined in section 3 of chapter 81B of the General Laws, shall be deemed to  
5882 be held in trust for and shall be transferred and paid over to the Massachusetts Surface  
5883 Transportation Authority , hereinafter referred to as the Authority, when received without

5884 further appropriation to be applied to the purposes of the said Massachusetts Surface  
5885 Transportation Authority . All amounts of any kind received by the Massachusetts Turnpike  
5886 Authority which are derived from the operation of the metropolitan highway system, as defined  
5887 in said section 5 of said chapter 81B, shall be deemed to be held in trust for and shall be  
5888 transferred and paid over to the Massachusetts Surface Transportation Authority when received  
5889 without further appropriation to be applied to the purposes of the Massachusetts Surface  
5890 Transportation Authority.

5891           **SECTION 61.** All amounts of any kind received by the Massachusetts Bay  
5892 Transportation Authority which are derived from the operation of the state public transit system,  
5893 as defined in section 3 of chapter 81B of the General Laws, shall be deemed to be held in trust  
5894 for and shall be transferred and paid over to the Massachusetts Surface Transportation Authority  
5895 when received without further appropriation to be applied to the purposes of the Massachusetts  
5896 Surface Transportation Authority.

5897           **SECTION 61A.** Notwithstanding any general or special law to the contrary, any fees  
5898 formerly pledged to the Highway Fund shall be pledged to the Surface Transportation Trust  
5899 Fund.

5900           **SECTION 62.** (a) Upon transfer of control of all roads, driveways, parkways, boulevards  
5901 and bridges by the department of conservation and recreation to the division of roads and bridges  
5902 of the Massachusetts Surface Transportation Authority, the employees in the department of  
5903 conservation and recreation whose work is directly related to projects to be administered by the  
5904 division shall be transferred to the division.

5905           (b) The employees of the department of conservation and recreation including those who,  
5906 immediately before the effective date of this act, hold permanent appointment in positions

5907 classified under chapter 31 of the General Laws or have tenure in their positions as provided in  
5908 section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential  
5909 positions, are hereby transferred to the division of roads and bridges, without interruption of  
5910 service within the meaning of said section 9A of said chapter 30, without impairment of  
5911 seniority, retirement or other rights of the employee, and without reduction in compensation or  
5912 salary grade, notwithstanding any change in title or duties resulting from such reorganization and  
5913 without loss of accrued rights to holidays, sick leave, vacation and further benefits, and without  
5914 change in union representation or certified collective bargaining unit as certified by the state  
5915 labor relations commission or in local union representation or affiliation. Any collective  
5916 bargaining agreement in effect immediately before the transfer date shall continue in effect and  
5917 the terms and conditions of employment therein shall continue as if the employees had not been  
5918 so transferred. The transfer shall not impair the civil service status of reassigned employee who  
5919 immediately before the effective date of this act either holds a permanent appointment in a  
5920 position classified under chapter 31 of the General Laws or has tenure in a position by reason of  
5921 section 9A of chapter 30 of the General Laws. Notwithstanding any general or special law to the  
5922 contrary, all such employees shall continue to retain their right to collectively bargain pursuant to  
5923 chapter 150E of the General Laws and shall be considered employees for the purposes of said  
5924 chapter 150E. Nothing in this section shall be construed to confer upon any employee any right  
5925 not held immediately before the date of the transfer or to prohibit any reduction of salary or  
5926 grade transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited  
5927 before such date.

5928 (c) All petitions, requests, investigations and other proceedings appropriately and duly  
5929 brought or duly begun and pending before the effective date of this act, shall continue unabated  
5930 and remain in force, but shall be assumed and completed by the division of roads and bridges.

5931 (d) All orders, rules and regulations duly made and all approvals duly granted by the  
5932 department of conservation and recreation, which are in force immediately before the effective  
5933 date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised,  
5934 rescinded or canceled, in accordance with law, by the division of roads and bridges.

5935 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other  
5936 property, both personal and real, including all such property held in trust, which immediately  
5937 before the effective date of this act are in the custody of each transferor agency shall be  
5938 transferred to the respective transferee agency.

5939 All questions regarding the identification of such property and of the agencies to which  
5940 custody thereof is transferred shall be determined by the secretary of transportation.

5941 (f) All duly existing contracts, leases and obligations of the department of conservation  
5942 and recreation as they related to any property transferred to the division of roads and bridges  
5943 pursuant to this section shall continue in effect but shall be assumed by the division of roads and  
5944 bridges. No existing right or remedy of any character shall be lost, impaired or affected by this  
5945 act; provided, however, that the department of conservation and recreation may approve  
5946 construction requests and curb cut permitting for parkways under the control of the department  
5947 as of January 1, 2009.

5948

5949 **SECTION 63.** (a) On July 1, 2009, each employee of the Massachusetts Turnpike  
5950 Authority whose salary is paid out of revenue generated by the authority as defined in section 3



5951 of chapter 81A of the General Laws, and whose salary is accounted for on the books of the  
5952 Massachusetts Turnpike Authority as arising from revenue generated that authority shall become  
5953 an employee of the Massachusetts Surface Transportation Authority, hereinafter referred to as  
5954 the Authority.

5955 (b) On July 1, 2010, all remaining employees of the Massachusetts Turnpike Authority  
5956 shall become employees of the Massachusetts Surface Transportation Authority.

5957 All officers and employees of the Massachusetts Turnpike Authority transferred to the  
5958 service of the Massachusetts Surface Transportation Authority shall be transferred without  
5959 impairment of seniority, civil service status, retirement or other statutory rights of employees,  
5960 without reduction in compensation or salary grade, notwithstanding any change in job titles or  
5961 duties, without loss of accrued rights to holidays, sick leave, vacation and other benefits, and  
5962 without change in union representation, except as otherwise provided in this act. Terms of  
5963 service of employees of the Massachusetts Turnpike Authority shall not be deemed to be  
5964 interrupted by virtue of transfer to the Massachusetts Surface Transportation Authority.

5965 (d) Rights and obligations under collective bargaining agreements with respect to  
5966 employees transferred from the Massachusetts Turnpike Authority, except to the  
5967 extent expressly inconsistent with this act, shall be assumed by and imposed upon the  
5968 Massachusetts Surface Transportation Authority. Except to the extent expressly  
5969 inconsistent with this act, any collective bargaining agreement in effect for such  
5970 transferred employees immediately before the transfer date shall continue as if the  
5971 employees had not been so transferred, until the expiration date of such collective  
5972 bargaining agreement. The Massachusetts Surface Transportation Authority shall  
5973 negotiate in good faith pursuant chapter 150E of the General Laws with respect to

5974 wages, hours and other terms and conditions of employment to become effective as of  
5975 the expiration date of such collective bargaining agreement. Any expired collective  
5976 bargaining agreement covering employees transferred to the Massachusetts Surface  
5977 Transportation Authority for which successor contract negotiations are on-going as of  
5978 March 1, 2009 will be extended for 6 months after the effective date of the act, unless  
5979 mutually agreed otherwise by the employees' exclusive bargaining representative and  
5980 the Massachusetts Surface Transportation Authority, to permit the successful  
5981 completion of successor negotiations. Nothing in this section shall be construed to  
5982 confer upon any employee any right not held immediately prior to the date of the  
5983 transfer or to prohibit any reduction of salary or grade, transfer, reassignment,  
5984 suspension, discharge, layoff or abolition of position not prohibited before such date.

5985

5986 (e) Notwithstanding any general or special law to the contrary, an employee of the  
5987 Massachusetts Turnpike Authority who is hired on or after the effective date of this act shall only  
5988 be eligible for health care coverage under the group insurance commission, provided that the  
5989 employee meets the eligibility requirements of the group insurance commission.

5990 (f) Notwithstanding any general or special law to the contrary, an employee of the  
5991 Massachusetts Turnpike Authority whose salary is paid out of revenue generated by the  
5992 authority, as defined in section 3 of chapter 81A of the General Laws, and whose salary is  
5993 accounted for on the books of the Massachusetts Turnpike Authority as arising from revenue  
5994 generated by the authority who is employed by the Massachusetts Turnpike Authority on the  
5995 effective date of this act and who becomes an employee of the Massachusetts Surface  
5996 Transportation Authority on July 1, 2009 and who is eligible for group insurance coverage under

5997 insurance plans offered by the Massachusetts Turnpike Authority or who is insured under such a  
5998 plan, shall have his eligibility and coverage transferred to the jurisdiction of the group insurance  
5999 commission effective on July 1, 2009 and such person shall cease to be eligible or insured under  
6000 the plans previously offered by the Massachusetts Turnpike Authority.

6001 (g) Notwithstanding any general or special law to the contrary, an employee of the  
6002 Massachusetts Turnpike Authority who is employed by the Massachusetts Turnpike Authority on  
6003 the effective date of this act and who becomes an employee of the Authority on July 1, 2010 and  
6004 who is eligible for group insurance coverage under insurance plans offered by the Massachusetts  
6005 Turnpike Authority or who is insured under such a plan, shall have his eligibility and coverage  
6006 transferred to the jurisdiction of the group insurance commission effective on July 1, 2010 and  
6007 such person shall cease to be eligible or insured under the plans previously offered by the  
6008 Massachusetts Turnpike Authority.

6009 (h) The group insurance commission shall provide uninterrupted coverage for group life  
6010 and accidental death and dismemberment insurance and group general or blanket insurance  
6011 providing hospital, surgical, medical, dental and other health insurance benefits to the extent  
6012 authorized under chapter 32A of the General Laws; provided, however, that an employee who  
6013 was covered by a collective bargaining agreement on the date of the transfer to the  
6014 Massachusetts Surface Transportation Authority shall continue to receive the group insurance  
6015 benefits required by his respective collective bargaining agreement until the expiration date of  
6016 such agreement. All questions relating to group insurance rights, obligations, costs and payments  
6017 shall be determined by the group insurance commission and shall include the manner and method  
6018 for the payment of all required premiums applicable to all such coverage.

6019 (i) If the Massachusetts Turnpike Authority has monies in an employees' group insurance trust  
6020 fund related to the employees transferred to the Massachusetts Surface Transportation Authority,  
6021 these funds shall be transferred to the group insurance commission trust fund established in  
6022 section 9 of said chapter 32A.

6023 (j) Nothing in this section shall be construed to affect the eligibility and coverage of  
6024 retired employees of the Massachusetts Turnpike Authority and the surviving spouses of active  
6025 or retired employees of the Massachusetts Turnpike Authority who are eligible for group  
6026 insurance coverage under a plan offered by the Massachusetts Turnpike Authority or who are  
6027 insured under a plan offered by the Massachusetts Turnpike Authority.

6028 **SECTION 63A.** Notwithstanding any general or special law to the contrary, any  
6029 employee who retires from the executive office of transportation, the highway department, the  
6030 registry of motor vehicles, the Massachusetts Turnpike Authority, the Massachusetts Port  
6031 Authority, the Massachusetts Bay Transportation Authority, the Massachusetts Aeronautics  
6032 Commission, or the Massachusetts Surface Transportation Authority is prohibited from  
6033 employment by the agency or authority from which the employee retired or any successor  
6034 agency or authority to the agency or authority from which the employee retired, for a period of  
6035 not less than 1 year.

6036 **SECTION 64.** (a) On July 1, 2010, each employee of the Massachusetts Port Authority  
6037 who is, as of the effective date of this act, employed to work primarily on the Maurice J. Tobin  
6038 Memorial Bridge in the city of Chelsea shall become an employee of the Massachusetts Surface  
6039 Transportation Authority. For purposes of this section, all such employees shall be known as  
6040 "Tobin bridge employees."

6041 (b) All Tobin bridge employees transferred to the service of the Massachusetts Surface  
6042 Transportation Authority shall be transferred without impairment of seniority, civil service  
6043 status, retirement or other statutory rights of employees, without reduction in compensation or  
6044 salary grade, notwithstanding any change in job titles or duties, without loss of accrued rights to  
6045 holidays, sick leave, vacation and other benefits and without change in union representation,  
6046 except as otherwise provided in this act. Terms of service of Tobin bridge employees shall not  
6047 be deemed to be interrupted by virtue of transfer to the Massachusetts Surface Transportation  
6048 Authority.

6049 (c) Rights and obligations under collective bargaining agreements with respect to Tobin  
6050 bridge employees, except to the extent expressly inconsistent with this act, shall be assumed by  
6051 and imposed upon the Massachusetts Surface Transportation Authority. Except to the extent  
6052 expressly inconsistent with this act, any collective bargaining agreement in effect for such  
6053 transferred employees immediately before the transfer date shall continue as if the employees  
6054 had not been so transferred, until the expiration date of such collective bargaining agreement.  
6055 The Massachusetts Surface Transportation Authority shall negotiate in good faith beginning on  
6056 April 1, 2010 to the end of the collective bargaining agreement with Teamsters Local #25  
6057 pursuant to chapter 150E of the General Laws with respect to wages, hours and other terms and  
6058 conditions of employment to become effective as of the expiration date of such collective  
6059 bargaining agreement. Any expired collective bargaining agreement covering employees  
6060 transferred to the Massachusetts Surface Transportation Authority for which successor contract  
6061 negotiations are on-going as of March 1, 2009 will be extended for 6 months after the effective  
6062 date of the act, unless mutually agreed otherwise by the employees' exclusive bargaining

6063 representative and the Massachusetts Surface Transportation Authority, to permit the successful  
6064 completion of successor negotiations.

6065 (d) Nothing in this section shall be construed to confer upon any employee any right not  
6066 held immediately prior to the date of the transfer or to prohibit any reduction of salary or grade,  
6067 transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited  
6068 before such date.

6069 (e) Notwithstanding any general or special law to the contrary, a Tobin bridge employee  
6070 who is employed by the Massachusetts Port Authority on the effective date of this act and who  
6071 becomes an employee of the Massachusetts Surface Transportation Authority on July 1, 2010  
6072 and who is eligible for group insurance coverage under insurance plans offered by the  
6073 Massachusetts Port Authority or who is insured under such a plan, shall have his eligibility and  
6074 coverage transferred to the jurisdiction of the group insurance commission effective on July 1,  
6075 2010 and such a person shall cease to be eligible or insured under the plans previously offered by  
6076 the Massachusetts Port Authority.

6077 (f) The group insurance commission shall provide uninterrupted coverage for group life  
6078 and accidental death and dismemberment insurance and group general or blanket insurance  
6079 providing hospital, surgical, medical, dental and other health insurance benefits to the extent  
6080 authorized under chapter 32A of the general laws; provided, however, that a Tobin bridge  
6081 employee who was covered by a collective bargaining agreement on the date of the transfer to  
6082 the Massachusetts Surface Transportation Authority shall continue to receive the group insurance  
6083 benefits required by his respective collective bargaining agreement until the expiration date of  
6084 such agreement. All questions relating to group insurance rights, obligations, costs and payments

6085 shall be determined by the group insurance commission and shall include the manner and method  
6086 for the payment of all required premiums applicable to all such coverage.

6087 (g) If the Massachusetts Port Authority has monies in an employees' group insurance  
6088 trust fund related to the Tobin bridge employees transferred to the Massachusetts Surface  
6089 Transportation Authority, these funds shall be transferred to the group insurance commission  
6090 trust fund established in section 9 of said chapter 32A.

6091 (h) Nothing in this section shall be construed to affect the eligibility and coverage of  
6092 retired Tobin bridge employees and the surviving spouses of active or retired Tobin bridge  
6093 employees who are eligible for group insurance coverage under a plan offered by the  
6094 Massachusetts Port Authority or who are insured under a plan offered by the Massachusetts Port  
6095 Authority.

6096 (i) On and after the effective date of this act, the Massachusetts Port Authority shall not  
6097 hire any employee to work primarily on the Maurice J. Tobin Memorial Bridge in the city of  
6098 Chelsea.

6099 **SECTION 65.** (a) On July 1, 2011, each employee of the Massachusetts Bay  
6100 Transportation Authority shall become an employee of the Massachusetts Surface Transportation  
6101 Authority.

6102 (b) All officers and employees of the Massachusetts Bay Transportation Authority  
6103 transferred to the service of the Massachusetts Surface Transportation Authority shall be  
6104 transferred without impairment of seniority, civil service status, retirement or other statutory  
6105 rights of employees, without reduction in compensation or salary grade, notwithstanding any  
6106 change in job titles or duties, without loss of accrued rights to holidays, sick leave, vacation and  
6107 benefits and without change in union representation, except as otherwise provided in this act.

6108 Terms of service of employees of the Massachusetts Bay Transportation Authority shall not be  
6109 deemed to be interrupted the transfer to the Massachusetts Surface Transportation Authority.

6110 (c) Rights and obligations under collective bargaining agreements with respect to  
6111 employees transferred from the Massachusetts Bay Transportation Authority, except to the extent  
6112 expressly inconsistent with this act, shall be assumed by and imposed upon the Massachusetts  
6113 Surface Transportation Authority. Except to the extent expressly inconsistent with this act, any  
6114 collective bargaining agreement in effect for such transferred employees immediately before the  
6115 transfer date shall continue as if the employees had not been so transferred, until the expiration  
6116 date of such collective bargaining agreement. The Massachusetts Surface Transportation  
6117 Authority shall negotiate in good faith pursuant to chapter 150E of the General Laws with  
6118 respect to wages, hours and other terms and conditions of employment to become effective as of  
6119 the expiration date of such collective bargaining agreement. To permit the successful completion  
6120 of successor negotiations, any expired collective bargaining agreement covering employees  
6121 transferred to the Massachusetts Surface Transportation Authority for which successor contract  
6122 negotiations are on-going as of March 1, 2009 shall be extended for 6 months after the effective  
6123 date of this act, unless mutually agreed otherwise by such employees' exclusive bargaining  
6124 representative and the Massachusetts Surface Transportation Authority.

6125 (d) Nothing in this section shall be construed to confer upon any employee any right not  
6126 held immediately prior to the date of the transfer, or to prohibit any reduction of salary or grade,  
6127 transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior  
6128 to such date.



6129 (e) Prior to July 1, 2011, the Massachusetts Bay Transportation Authority shall be subject  
6130 to regulations adopted by the secretary of administration and finance creating a process to  
6131 evaluate the Massachusetts Bay Transportation Authority's future cost of providing health  
6132 benefits to its active employees. Within 30 days after the regulations have been adopted, and in  
6133 subsequent years as determined by the regulations, the group insurance commission and the  
6134 Massachusetts Bay Transportation Authority shall submit to the secretary all documentation  
6135 necessary for this evaluation. The evaluation shall be based on an actuarial analysis that  
6136 compares: (1) the Massachusetts Bay Transportation Authority's projected total net cost of  
6137 providing health benefits to its active employees, including both administrative costs and the  
6138 employer premium contributions; to (2) the projected total net cost of providing health benefits,  
6139 including both administrative costs and the employer premium contributions, to the same  
6140 member group under the group insurance commission.

6141 In estimating the total net cost for health benefits provided under the Massachusetts Bay  
6142 Transportation Authority, the secretary shall assume that the benefit level and premium  
6143 contribution ratio are consistent with the most current collective bargaining agreement. In  
6144 estimating the total net cost for health benefits provided under the group insurance commission,  
6145 the secretary shall assume that the benefit level and premium contribution ratio are consistent  
6146 with other active state employees covered through the group insurance commission.

6147 If the secretary determines that the total projected net cost of providing health benefits  
6148 under the Massachusetts Bay Transportation Authority exceeds the total projected net cost of  
6149 providing health benefits under the group insurance commission by more than a percentage  
6150 determined in the regulations, the secretary shall notify the Massachusetts Bay Transportation  
6151 Authority that on December 31, 2011 the active employees covered by the Massachusetts Bay

6152 Transportation Authority shall have their eligibility and health care coverage and any other  
6153 future eligible post-retirement benefits transferred to the group insurance commission. In this  
6154 event, all questions relating to group insurance rights, obligations, costs and payments shall be  
6155 determined by the group insurance commission and shall include the manner and method for the  
6156 payment of all required premiums applicable to all such coverage. Benefit levels and premium  
6157 contribution ratios for transferred employees shall be consistent with other state employees  
6158 covered through the group insurance commission.

6159 The secretary may contract with another entity with the requisite objective financial and  
6160 actuarial expertise to assist the secretary in conducting this evaluation.

6161 (f) Nothing in this section shall be construed to affect the eligibility, coverage, and  
6162 premium contribution ratios of retired employees of the Massachusetts Bay Transportation  
6163 Authority and the surviving spouses of active or retired employees of the Massachusetts Bay  
6164 Transportation Authority who are eligible for group insurance coverage under a plan offered by  
6165 the Massachusetts Bay Transportation Authority or who are insured under a plan offered by the  
6166 Massachusetts Bay Transportation Authority.

6167 SECTION 65A. (a) There shall be in the division of roads and bridges within the  
6168 Massachusetts Surface Transit Authority a tollpayer advocate. The tollpayer advocate shall serve  
6169 without compensation and may attend all meetings of the board of the authority and all meetings  
6170 of any subsidiary board. The tollpayer advocate shall advocate on behalf of the tollpayers to  
6171 ensure that their interests are fully understood and considered by the board in its deliberations  
6172 and decisions.

6173 (b) There shall be the division of public transit within the Massachusetts Surface Transit  
6174 Authority a ridership advocate. The ridership advocate shall serve without compensation and

6175 may attend all meetings of the board of the authority and all meetings of any subsidiary board.  
6176 The ridership advocate shall advocate on behalf of the riders of the public transit system to  
6177 ensure that the public transit system maintains high standards of quality and punctuality.

6178         **SECTION 65B.** The Massachusetts Surface Transportation Authority, established by  
6179 section 1 of chapter 81B of the General Laws, shall develop an inventory of all real property  
6180 owned by the authority. The inventory shall be filed with the clerks of the house and senate not  
6181 later than 180 days after the effective date of this act.

6182         **SECTION 66.** Notwithstanding any other general or special law to the contrary, the  
6183 Massachusetts Surface Transportation Authority may enter into contracts to create and permit  
6184 employee contributions to individual retirement accounts for employees of the Authority  
6185 pursuant to sections 64A to 64C, inclusive, of chapter 29 of the General Laws.

6186         **SECTION 67.** Notwithstanding any general or special law to the contrary, the  
6187 Massachusetts Turnpike Authority shall not enter into any contract to employ a person as an  
6188 employee or officer for a fixed term of more than 1 year, nor shall it extend any employment  
6189 contract for a term of more than 1 year.

6190         **SECTION 68.** Notwithstanding section 2 of chapter 81A of the General Laws or of any  
6191 other general or special law to the contrary, the Massachusetts Bay Transportation Authority  
6192 shall not enter into any contract to employ a person as an employee or officer for a fixed term of  
6193 more than 1 year, nor shall it extend any employment contract for a term of more than 1 year.

6194         **SECTION 69.** Notwithstanding any general or special law to the contrary, the  
6195 Massachusetts Turnpike Authority shall not extend the term of any collective bargaining

6196 agreement to a date after December 31, 2010 and shall not enter into any collective bargaining  
6197 agreement with an expiration date after December 31, 2010.

6198         **SECTION 70.** Notwithstanding any general or special law to the contrary, on and after  
6199 the effective date of this act, the Massachusetts Bay Transportation Authority shall not extend  
6200 the term of any collective bargaining agreement to a date after December 31, 2011, and shall not  
6201 enter into any collective bargaining agreement with an expiration date after December 31, 2011.  
6202 Any collective bargaining agreement necessary solely to conform the requirements of the  
6203 Massachusetts Bay Transportation Authority retirement system to the requirements of this  
6204 legislation shall not be subject to the restriction set forth in the preceding sentence.

6205         **SECTION 71.** (a) Notwithstanding any general or special law to the contrary, employees  
6206 of the Massachusetts Turnpike Authority who: (i) are employed by or have retired from the  
6207 Massachusetts Turnpike Authority on or before the effective date of this act; or (ii) are inactive  
6208 members of the Massachusetts Turnpike Authority's retirement system shall be members of the  
6209 Massachusetts Turnpike Authority's retirement system. The Massachusetts Turnpike  
6210 Authority's retirement system shall pay the cost of benefits to the employees and retirees  
6211 identified in this subsection and their survivors. The Massachusetts Turnpike Authority's  
6212 retirement system shall be responsible for the accrued pension liability attributable to the service  
6213 of such employees, retirees and inactive members.

6214         (b) Notwithstanding paragraph (c) of subsection (8) of the section 3 of chapter 32 of  
6215 General Laws or any other general or special law to the contrary, employees of the  
6216 Massachusetts Turnpike Authority who are hired by the Massachusetts Turnpike Authority after  
6217 the effective date of this act shall become members of the state retirement system. The state  
6218 retirement system shall be responsible for all liability attributable to the service of such

6219 employees. The liabilities attributable to the service of such employees shall be recoverable by  
6220 the commonwealth pursuant to said subdivision 8 of said section 3 of said chapter 32.

6221 Employees hired by the Massachusetts Turnpike Authority after the effective date of this act  
6222 shall not be members of the Massachusetts Turnpike Authority's retirement system.

6223         **SECTION 72.** (a) Notwithstanding any general or special law to the contrary, employees  
6224 of the Massachusetts Bay Transportation Authority who: (i) are employed by, or had retired  
6225 from, the Massachusetts Bay Transportation Authority on or before the effective date of this act  
6226 or (ii) are inactive members of the Massachusetts Bay Transportation Authority's retirement  
6227 system shall be members of the Massachusetts Bay Transportation Authority's retirement  
6228 system. The Massachusetts Bay Transportation Authority's retirement system shall pay the cost  
6229 of benefits to such the employees and retirees identified in this subsection and their survivors.  
6230 The Massachusetts Bay Transportation Authority's retirement system shall be responsible for the  
6231 accrued pension liability attributable to the service of such employees, retirees and inactive  
6232 members.

6233         (b) Notwithstanding any general or special law to the contrary, the Massachusetts Bay  
6234 Transportation Authority or any successor authority, shall enter into an agreement to establish or  
6235 amend existing retirement or pension benefits only if any employee hired after the effective date  
6236 of the agreement or amendment may not receive a retirement or pension benefit prior to the  
6237 completion of 25 years of credited pension service and attained 55 years of age. The  
6238 Massachusetts Bay Transportation Authority is not prohibited by this section from permitting  
6239 retirement prior to attaining age 55, provided however, that either: (i) the employee is entitled to  
6240 a disability pension under the Massachusetts Bay Transportation Authority retirement system; or  
6241 (ii) the employee has earned the maximum percentage allowed under the retirement formula of

6242 the Massachusetts Bay Transportation Authority retirement system and that the employee waives  
6243 the ability to collect a pension and retirement benefit due until attaining age 55.

6244         **SECTION 72A.** Notwithstanding any general or special law to the contrary, members of  
6245 the Massachusetts Bay Transportation Authority police retirement system pursuant sections 1 to  
6246 28, inclusive, of chapter 32 of the General Laws, who (i) are employed by, or have retired from,  
6247 the Massachusetts Bay Transportation Authority police retirement system on or before the  
6248 effective date of this act; or (ii) are inactive members of the Massachusetts Bay Transportation  
6249 Authority's police retirement system, shall be members of the Massachusetts Bay Transportation  
6250 Authority's police retirement system. The Massachusetts Bay Transportation Authority's police  
6251 retirement system shall pay the cost of benefits to the employees and retirees identified in this  
6252 section and their survivors. The Massachusetts Bay Transportation Authority's police retirement  
6253 system shall be responsible for the accrued pension liability attributable to the service of such  
6254 employees, retirees and inactive members.

6255         **SECTION 73.** (a) Notwithstanding the provisions of any general or special law to the  
6256 contrary, employees of the Massachusetts Port Authority who: (i) on the effective date of this  
6257 act, are employed to work primarily on the Maurice J. Tobin Memorial Bridge in the city of  
6258 Chelsea, or who had been so employed and have retired from the Massachusetts Port Authority  
6259 on or before the effective date of this act; or (ii) are or have been employed to work primarily on  
6260 said Maurice J. Tobin Memorial Bridge in the city of Chelsea, and are inactive members of the  
6261 Massachusetts Port Authority's retirement system shall be members of the Massachusetts Port  
6262 Authority's retirement system. The Massachusetts Port Authority's retirement system shall pay  
6263 the cost of benefits to such the employees and retirees identified in this section and their  
6264 survivors. The Massachusetts Port Authority's retirement system shall be responsible for the

6265 accrued pension liability attributable to the service of such employees, retirees and inactive  
6266 members.

6267 (b) Notwithstanding paragraph (c) of subdivision 8 of section 3 of chapter 32 of the  
6268 General Laws and any other general or special law to the contrary, employees of the  
6269 Massachusetts Port Authority who are hired by the Massachusetts Port Authority to work  
6270 primarily on the Maurice J. Tobin Memorial Bridge in the city of Chelsea after the effective date  
6271 of this act shall become members of the state retirement system and notwithstanding the any  
6272 general or special law to the contrary including, but not limited to, , the system shall be  
6273 responsible for all liability attributable to the service of such employees. The liabilities  
6274 attributable to the service of such employees shall be recoverable by the commonwealth pursuant  
6275 to the terms of said subdivision 8 of said section 3 of said chapter 32. Employees hired by the  
6276 Massachusetts Port Authority after the effective date of this act shall not be members of the  
6277 Massachusetts Port Authority's retirement system.

6278 (c) Nothing in this section shall be considered to decrease or abridge the annuities,  
6279 pensions, retirement allowances, refunds or accumulated total deductions or any right or benefit  
6280 to which an employee was entitled immediately before the effective date of this act.

6281 (d) Except as otherwise expressly provided by this section, employees of said authority  
6282 shall become members of the state retirement system.

6283 **SECTION 74.** (a) When all payments due on account of the turnpike and the  
6284 metropolitan highway system, both as defined in section 3 of chapter 81B of the General Laws,  
6285 shall have been made, and when all bonds issued under chapter 81A of the General Laws and the  
6286 interest thereon shall have been paid or a sufficient amount of the payment of all such bonds and  
6287 the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the

6288 bondholders, and contributions shall have been made to the several funds of the Massachusetts  
6289 Turnpike Authority employees' retirement system established in sections 1 to 28, inclusive, of  
6290 chapter 32 of the General Laws such as are sufficient, in the opinion of the actuary, as defined in  
6291 said section 1 of said chapter 32, to provide for the payment of all amounts payable by the  
6292 system after that date with respect to all persons then receiving allowances from the  
6293 Massachusetts Turnpike Authority employees' retirement system and with respect to all persons  
6294 who are then employees, as defined in said section 1 of said chapter 32, of the Massachusetts  
6295 Turnpike Authority, whether or not any such amount is or becomes payable to any such person  
6296 or the spouse or other beneficiary of any such person, such opinion to be based upon the  
6297 assumption, among others, that such persons who are then employees are then or thereafter  
6298 become entitled to receive retirement allowances in the amounts then provided by sections 5, 6  
6299 and 7 of said chapter 32 on the basis of the regular compensation received by, and the years of  
6300 creditable service of, such persons at such date, all projects then under the control of the  
6301 Massachusetts Turnpike Authority shall be operated and maintained by the division of roads and  
6302 bridges in the Massachusetts Surface Transportation Authority.

6303 (b) Upon the transfer provided in subsection (a), the members of the Massachusetts  
6304 Turnpike Authority employees' retirement system on the effective date of the dissolution of the  
6305 authority who do not then transfer to or enter service in a governmental unit in which a  
6306 contributory retirement system established under sections 1 to 28, inclusive, of said chapter 32,  
6307 or under corresponding provisions of earlier laws or of any special law, shall continue to be  
6308 members of the Massachusetts Turnpike Authority employees' retirement system and shall then  
6309 be entitled to apply for and receive retirement allowances from such system in the amounts, upon



6310 the terms, subject to the conditions and with all of the related rights provided by and under  
6311 sections 6, 7, 10 and 12 of said chapter 32.

6312 (c) Effective upon the date of dissolution of the Massachusetts Turnpike Authority: (1)  
6313 the Massachusetts Turnpike Authority employees' retirement system shall continue under  
6314 sections 1 to 28, inclusive of said chapter 32; (2) the management of the Massachusetts Turnpike  
6315 Authority employees' retirement system shall be transferred to the state board of retirement  
6316 provided for in section 18 of chapter 10 of the General Laws which board shall have with respect  
6317 thereto the general powers and duties set forth in subdivision (5) of section 20 of chapter 32 of  
6318 the General Laws; (3) all data, files, papers and records and other materials of the retirement  
6319 board provided for in paragraph (b) of subdivision (4 1/2) of said section 20 of said chapter 32  
6320 shall be transferred to and held by the state board of retirement; (4) the funds of the  
6321 Massachusetts Turnpike Authority employees' retirement system in the custody of the secretary-  
6322 treasurer of said Authority shall be transferred to the state treasurer who shall be the custodian of  
6323 such funds to be held by him for the exclusive benefit and use of the members of the  
6324 Massachusetts Turnpike Authority employees' retirement system and their beneficiaries; and (5)  
6325 the retirement board provided for in said paragraph (b) of said subdivision (4 1/2) of said section  
6326 20 of said chapter 32 shall be abolished; provided, however, that the members and officers  
6327 thereof shall continue to be authorized to do all such things and take all such action as may be  
6328 necessary or desirable to be done or taken by them to effectuate the transfers to be made pursuant  
6329 to this section.

6330 (d) Effective upon the date of dissolution of the Massachusetts Turnpike Authority or a  
6331 default in its obligations under said chapter 32, the payment of all annuities, pensions, retirement  
6332 allowances and refunds of accumulated total deductions and of any other benefits granted under

6333 the provisions of sections 1 to 28, inclusive, of said chapter 32 shall obligations of the  
6334 commonwealth in the case of any such payments from funds of the Massachusetts Turnpike  
6335 Authority employees' retirement system.

6336         **SECTION 75.** Notwithstanding any general or special law to the contrary, the authority,  
6337 in consultation with the commissioner of conservation and recreation and the Massachusetts  
6338 historical commission, shall promulgate regulations and procedures within 1 year after the  
6339 effective date of this act relative to the design, construction, reconstruction, maintenance, repair,  
6340 improvement and operation of all roadways, driveways, parkways, boulevards and bridges, and  
6341 land thereunder, and all appurtenant facilities, works and systems, machinery and equipment  
6342 related to the operation and maintenance of such roadways, driveways, parkways, boulevards  
6343 and bridges, and land thereunder, and appurtenant facilities, works and systems related thereto  
6344 transferred to the division of roads and bridges in the Massachusetts Surface Transportation  
6345 Authority pursuant to section 55, and such regulations and procedures shall comply with the  
6346 Historic Parkways Preservation Treatment guidelines except to the extent that compliance with  
6347 such guidelines is waived by the commissioner of conservation and recreation, in consultation  
6348 with the Massachusetts historical commission. The authority shall establish in the regulations  
6349 and procedures a process for public input into the development of plans and projects relating to  
6350 the parkways, bridges and other assets transferred to the division of roads and bridges pursuant to  
6351 said section 55 consistent with the Historic Parkways Preservation Treatment guidelines.

6352         **SECTION 75A.** In order to promote transparency, accountability and equity, the  
6353 executive office of transportation and public works, in coordination with the Massachusetts  
6354 Surface Transportation Authority, shall not later than October 31, submit an annual revenue and  
6355 expenditure report, not later than October 31, to the house and senate chairs of the joint

6356 committee on transportation and the chairpersons of the house and senate committees on ways  
6357 and means. The report also shall be posted on the websites for the executive office of  
6358 transportation and public works and the Massachusetts Surface Transportation Authority.

6359         The annual revenue and expenditure report shall provide a full accounting of the  
6360 operational and capital revenues received and expended by the executive office of transportation  
6361 and public works, the registry of motor vehicles, the Massachusetts aeronautics commission and  
6362 the Massachusetts Surface Transportation Authority, including the Division of Roads and  
6363 Bridges and the Division of Public Transit, during the preceding fiscal year ending the preceding  
6364 June 30, including fiscal activity during the accounts payable period for that fiscal year.

6365         The report shall include, among other information necessary to provide a full accounting,  
6366 the following information relative to revenues: revenues raised by the various state motor fuels  
6367 taxes, broken down by category, such as gasoline, special fuels and aviation fuel; revenues raised  
6368 through fares, which shall be broken down to reflect fares collected for commuter rail, rapid  
6369 transit, bus service, water transportation, regional transit service and any other similar fares;  
6370 tolls, broken down by those collected for travel on the metropolitan highway system, for travel  
6371 on the turnpike and any other similar tolls; fees collected by the registry of motor vehicles, which  
6372 shall be broken down by each specific fee; revenues raised by the portion of the sales tax  
6373 credited to the Surface Transportation trust fund; assessments deposited into the Surface  
6374 Transportation Trust Fund, broken down by source; federal funds received from the Federal  
6375 Highway Administration, funds received from the Federal Transit Administration and any other  
6376 similar federal funds; and any other revenues received by the executive office of transportation  
6377 and public works, the registry of motor vehicles, the Massachusetts aeronautics commission and  
6378 the Massachusetts Surface Transportation Authority and any of its divisions.

6379           The report shall also include, amongst other information necessary to provide a full  
6380 accounting, the following information relative to the expenditures: expenditures by the executive  
6381 office of transportation and public works, including expenditures for operations, capital planning  
6382 and rail; expenditures by the registry of motor vehicles, including operations and capital  
6383 expenditures; expenditures by the Massachusetts aeronautics commission, including operations  
6384 and capital expenditures; and expenditures by the Massachusetts Surface Transportation  
6385 Authority and its divisions of roads and bridges and division of public transit, including  
6386 operating and capital expenditures. In addition to the above-referenced expenditures, the report  
6387 shall also detail the overall expenditures for commuter rail, rapid transit, water transportation,;  
6388 regional transit services; the state-wide road and bridge program, the chapter 90 program, which  
6389 funds town and county ways; the accelerated bridge program, and any other capital programs  
6390 administered by the executive office of transportation and public works or the Massachusetts  
6391 Surface Transportation Authority.

6392           The report shall include an accounting of debt of the Massachusetts Surface  
6393 Transportation Authority, including those projects and programs for which the debt was incurred,  
6394 and what revenues have been pledged to repay that debt.

6395           **SECTION 76.** This act provides additional, alternative and complete methods for  
6396 accomplishing the purpose of this act and shall be construed to be supplemental and additional  
6397 to, and not in derogation of any powers conferred upon the Massachusetts Surface Transportation  
6398 Authority and others by law; provided, however, that insofar as the provisions of this act are  
6399 inconsistent with any general or special law, administrative order or regulation, the provisions of  
6400 this act shall be controlling.

6401           **SECTION 77.** Any order, rule, or regulation duly promulgated, or any license, permit,  
6402 certificate or approval duly granted, by or on behalf of the Massachusetts Turnpike Authority  
6403 shall continue in full force and effect to the extent consistent with this act and the laws of the  
6404 commonwealth, and, from and after the date of dissolution of that authority, shall continue to be  
6405 enforced, until superseded, revised, rescinded or cancelled by the chief operating officer of the  
6406 Massachusetts Surface Transportation Authority, with the approval of the secretary of  
6407 transportation.

6408           **SECTION 77A.** All uncommitted and unexpended funds and authorizations, which have  
6409 been appropriated from time to time to the executive office of transportation and public works,  
6410 including any agency and authority within said executive office, including but not limited to,  
6411 funds authorized in chapter 15 of the acts of 1988, chapter 33 of the acts of 1991, chapter 102 of  
6412 the acts of 1994, chapter 273 of the acts of 1994, chapter 28 of the acts of 1996, chapter 113 of  
6413 the acts of 1996, chapter 205 of the acts of 1996, chapter 11 of the acts of 1997, chapter 55 of the  
6414 acts of 1999, chapter 87 of the acts of 2000, chapter 235 of the acts of 2000, chapter 246 of the  
6415 acts of 2002, chapter 40 of the acts of 2003, chapter 291 of the acts of 2004, chapter 27 of the  
6416 acts of 2007, chapter 86 of the acts of 2008, chapter 233 of the acts of 2008, and chapter 303 of  
6417 the acts of 2008, shall be transferred to the Massachusetts Surface Transportation Authority for  
6418 use by the authority or any of its divisions for purposes consistent with such authorizations.

6419           **SECTION 77B.** The human resources division, in consultation with the secretary of  
6420 transportation and the Massachusetts Surface Transportation Authority, shall develop and  
6421 implement a revised salary structure for positions within the commonwealth requiring licensure  
6422 as a professional engineer. That salary structure shall be competitive with salaries earned in the

6423 private industry for similar employment requiring licensure as a professional engineer and shall  
6424 be collectively bargained once implemented.

6425           **SECTION 77C.** The Massachusetts Surface Transportation Authority shall, in  
6426 consultation with the Federal Highway Administration, inventory the requirements for, and  
6427 assume the responsibilities of, rehabilitating and reconstructing the turnpike and metropolitan  
6428 highway system in compliance with Title 23 of the United States Code. The inventory shall  
6429 include operational and safety considerations associated with direct access to the mainline  
6430 roadway from: (i) maintenance, administration, and state police facilities, (ii) emergency median  
6431 crossovers, and (iii) adjacent local roadways and service plazas.

6432           **SECTION 77D.** Notwithstanding any general or special law to the contrary, the division  
6433 of roads and bridges of the Massachusetts Surface Transportation Authority shall enter into an  
6434 agreement with the Massachusetts Bay Transportation Authority to assume all bridge inspection  
6435 responsibilities for any bridges owned and operated by the Massachusetts Bay Transportation  
6436 Authority over the roads of the commonwealth.

6437           **SECTION 77E.** The secretary of transportation shall submit a report on the progress and  
6438 all expenditures related to state transportation infrastructure projects undertaken through use of  
6439 federal funds received under the American Recovery and Reinvestment Act of 2009 to the clerks  
6440 of the senate and house of representatives, the chairs of the senate and house committees on  
6441 ways and means, the senate and house chairs of the joint committee on transportation and the  
6442 chairs of the senate and house committees on bonding, capital expenditures and state assets. The  
6443 report shall include, but not be limited to: the total estimated cost of each project; the amount  
6444 expended for the planning and design of each project up to the time the report is filed; the  
6445 amount expended on construction of each project up to the time the report is filed; the timeline

6446 from advertisement through contract award and from the start of actual design and construction  
6447 by the design build team to project completion; the time saved, if any, by employing the design  
6448 build procurement method; and the estimated lifetime maintenance schedule and cost of each  
6449 project, the original estimated completion date of each project and the current anticipated  
6450 completion date of each project. The report shall also include the total number of employees and  
6451 outside contractors and amount expended on the salaries and benefits for such employees and  
6452 outside contractors that are specifically working on projects to be carried out as part of projects  
6453 funded through said American Recovery and Reinvestment Act of 2009. The report shall be  
6454 submitted on December 31 of each year until the culmination of any project constructed with  
6455 funds authorized by said American Recovery and Reinvestment Act of 2009.

6456 **SECTION 77F.** Section 77E of this act shall expire on July 1, 2011.

6457 **SECTION 77G.** The healthy transportation compact established by subsection (g) of  
6458 section 19 of chapter 6A of the General Laws shall complete, in consultation with the department  
6459 of public health, not later than September 30, 2010, a comprehensive baseline study of the health  
6460 effects of particulate air pollution from surface transportation in Massachusetts. The study shall  
6461 focus on understanding the health impacts from fine and ultrafine particulate matter upon  
6462 populations that are located within 500 feet of any roadway with 50,000 or more motor vehicle  
6463 trips per day, or any rail line regularly used by diesel locomotives as reported between January 1,  
6464 2007 and January 1, 2008; provided, however, that the study may include, but shall not be  
6465 limited to, examining respiratory and cardiovascular disease and cancer incidence that may be  
6466 affected by exposure to traffic-related particles. The following departments and agencies shall  
6467 provide information relevant to this study: the department of environmental protection, the

6468 department of public health, and the central transportation planning staff of the Boston  
6469 metropolitan planning organization.

6470           **SECTION 77H.** The Massachusetts Surface Transportation Authority shall develop and  
6471 implement the integrated management system required under section 5 of chapter 81B of the  
6472 General Laws not later than January 1, 2012.

6473           **SECTION 77I.** The initial progress report required under subsection (d) of section 8 of  
6474 chapter 81B of the General Laws shall be filed by the Massachusetts Surface Transportation  
6475 Authority on December 15, 2009.

6476           **SECTION 77J.** The Massachusetts Surface Transportation Authority shall file the initial  
6477 report required by subsection (a) of section 29 of chapter 81B of the General Laws shall apply to  
6478 the fiscal year of the said authority commencing July 1, 2009.

6479           **SECTION 77K.** The parkway advisory board established by section 60 of chapter 81C  
6480 of the General Laws shall convene its first meeting within 60 days after the transfer of parkways  
6481 and bridges from the department of conservation and recreation to the division of roads and  
6482 bridges of the Massachusetts surface transportation authority

6483           **SECTION 77L.** The members of the special public-private infrastructure oversight  
6484 commission established in section 70 of chapter 7 of the General Laws, shall be appointed not  
6485 later than August 30, 2009.

6486           **SECTION 77M.** On June 30, 2009, the state comptroller shall transfer the balance of the  
6487 Central Artery and Statewide Road and Bridge Infrastructure Fund, established in section 63 of  
6488 chapter 10 of the General Laws, and the Infrastructure Fund, established in section 20 of chapter  
6489 29 of the General Laws, into the Surface Transportation Trust Fund, established pursuant to  
6490 section 35LL of chapter 10 of the General Laws, to be used for transportation-related purposes;



6491 provided, however, that if either such repealed fund has a negative balance as of June 30, 2009,  
6492 the comptroller shall first transfer positive balances from funds that contribute to the  
6493 consolidated net surplus, as defined in section 1 of chapter 29 of the General Laws, to eliminate  
6494 the negative balance.

6495         **SECTION 77N.** On June 30, 2011, the state comptroller shall transfer the balance of the  
6496 MBTA Infrastructure Renovation Fund, established by section 35U of chapter 10 of the General  
6497 Laws, to the Surface Transportation Trust Fund, established in section 35LL of said chapter 10,  
6498 to be used for transportation-related purposes.

6499         **SECTION 77O.** In order to provide for the successful completion of successor  
6500 negotiations pursuant to section 13 of chapter 81B of the General Laws, inserted by section 20,  
6501 any expired collective bargaining agreement covering employees transferred to the  
6502 Massachusetts Surface Transportation Authority for which successor contract negotiations are  
6503 ongoing as of March 1, 2009, shall be extended for 6 months after the effective date of this act  
6504 unless otherwise agreed upon by the employees' exclusive bargaining representative and the  
6505 authority.

6506         **SECTION 77P.** (a) Upon transfer of assets within the custody and control the  
6507 department of highways to the division of roads and bridges of the Massachusetts Surface  
6508 Transportation Authority, established by chapter 81B of the General Laws, the employees in the  
6509 department of highways shall be transferred to the division of roads and bridges.

6510         (b) The employees of the department of highways, including those who, immediately  
6511 before the effective date of this act: hold permanent appointment in positions classified under  
6512 chapter 31 of the General Laws; have tenure in their positions as provided in section 9A of

6513 chapter 30 of the General Laws; do not hold such tenure; or hold confidential positions, are  
6514 hereby transferred to the division of roads and bridges, without interruption of service within the  
6515 meaning of said section 9A of said chapter 30, without impairment of seniority, retirement or  
6516 other rights of the employee, and without reduction in compensation or salary grade,  
6517 notwithstanding any change in title or duties resulting from such reorganization and without loss  
6518 of accrued rights to holidays, sick leave, vacation and further benefits, and without change in  
6519 union representation or certified collective bargaining unit as certified by the state labor relations  
6520 commission or change in local union representation or affiliation. Any collective bargaining  
6521 agreement in effect immediately before July 1, 2009 shall continue in effect and the terms and  
6522 conditions of employment therein shall continue as if the employees, to whom such agreement  
6523 applies, had not been so transferred. The transfer shall not impair the civil service status of  
6524 reassigned employees who, immediately before the effective date of this act, either hold a  
6525 permanent appointment in a position classified under said chapter 31 or have tenure in a position  
6526 by reason of said section 9A said chapter 30. Notwithstanding any general or special law to the  
6527 contrary, such employees shall continue to retain their right to collectively bargain pursuant to  
6528 chapter 150E of the General Laws and shall be considered employees for the purposes of said  
6529 chapter 150E. This section shall not confer upon any employee any right not held immediately  
6530 before July 1, 2009 or prohibit any reduction of salary or grade transfer, reassignment,  
6531 suspension, discharge, layoff or abolition of position not prohibited before said date.

6532 (c) All petitions, requests, investigations and other proceedings appropriately and duly  
6533 brought or duly begun and pending before the effective date of this act, shall continue unabated  
6534 and remain in force, but shall be assumed and completed by the division of roads and bridges.

6535 (d) All orders, rules and regulations duly made and all approvals duly granted by the  
6536 department of highways, which are in force immediately before the effective date of this act,  
6537 shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or  
6538 canceled, in accordance with law, by the division of roads and bridges.

6539 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other  
6540 property, both personal and real, including all such property held in trust, which immediately  
6541 before the effective date of this act are in the custody of the department of highways shall be  
6542 transferred to division of roads and bridges.

6543 All questions regarding the identification of such property and of the agencies to which  
6544 custody thereof is transferred shall be determined by the secretary of transportation.

6545 (f) All duly existing contracts, leases and obligations of the department of highways as  
6546 they relate to property transferred to the division of roads and bridges pursuant to this section  
6547 shall continue in effect but shall be assumed by the division of roads and bridges. No existing  
6548 right or remedy of any character shall be lost, impaired or affected by this section.

6549 **SECTION 77Q.** The Massachusetts Bay Transportation Authority and the Massachusetts  
6550 Turnpike Authority may enter into an agreement with the attorney general whereby the attorney  
6551 general may assume the representation of the authority or any of its officers and employees sued  
6552 in their official or individual capacities for acts or omissions within the scope of their office or  
6553 employment, in such judicial proceedings, whether pending on the effective date of this act or  
6554 commenced thereafter, as the attorney general deems appropriate, in the same manner as the  
6555 attorney general provides to other state agencies and their officers and employees; provided,  
6556 however, that any such agreement shall provide for payment to the attorney general of all direct  
6557 and indirect costs of such representation, and the attorney general may retain and expend such

6558 funds without further appropriation for the purpose of defraying such costs; and provided further,  
6559 that when providing such representation, employees of the attorney general shall remain public  
6560 employees acting within the scope of their employment for purposes of chapter 258 of the  
6561 General Laws.

6562         **SECTION 77R.** The secretary of transportation, in consultation with the secretary of the  
6563 executive office of labor and workforce development and director of workforce development  
6564 shall institute a workforce retraining initiative to mitigate potential impacts to employees  
6565 displaced by the organizational efficiencies and agency restructuring directed by this act. The  
6566 secretary of transportation and the secretary of labor and workforce development, or their  
6567 designees, shall establish a committee to coordinate the workforce retraining initiative and adopt  
6568 policies that identify and categorize displaced employees, while advancing workforce  
6569 development opportunities for those displaced employees whose lack of skills may prevent or  
6570 limit their successful employment. That committee shall include representatives from labor  
6571 unions likely to be affected by this act, representatives from the business industry, and  
6572 representatives from the human resources division of the executive office for administration and  
6573 finance. The committee shall outline and recommend various retraining programs available to  
6574 employees identified as being displaced by this act, establish eligibility criteria and base skills  
6575 requirements for the administration of these programs, promote program accountability and job  
6576 placement through the division of career services and one stop career centers, identify available  
6577 professional development and technical assistance needs and resources, and encourage economic  
6578 diversification and industry growth through technology-focused training.

6579         The director of workforce development together with agencies and other entities that  
6580 provide employment or training services in the commonwealth, shall utilize existing state and

6581 federal grant funding, including funding for workforce retraining programs at existing  
6582 institutions, community colleges, labor organizations, and administrative entities to implement  
6583 the workforce retraining initiative. Where applicable, the director may utilize any funds received  
6584 pursuant to the federal Workforce Investment Act of 1998, 112 Stat. 936, 29 U.S.C. § 2801, as  
6585 amended, to provide additional funding for the workforce retraining initiative.

6586 In the event an employee displaced by the operation of this act does not have severance  
6587 or other termination benefits, the department of transportation shall pay, for a period not to  
6588 exceed 2 months following the date of termination of employment, the then current salary for  
6589 that employee.

6590 This section shall expire 18 months after the effective date of this act.

6591 **SECTION 78.** Section 67 is hereby repealed.

6592 **SECTION 79.** Section 68 is hereby repealed.

6593 **SECTION 80.** Section 69 is hereby repealed.

6594 **SECTION 81.** Section 70 is hereby repealed.

6595 **SECTION 82.** Sections 1, 1A, 2, 2A, 4A, 5, 8, 10 through 12, inclusive, 14 through 18,  
6596 inclusive, 20, 30 through 40, inclusive, 42A, 42B, 42C, 45, 46, 54, 55, 59, 62, 63, 63A, 77B,  
6597 77C, 77D, 77G, 77H, 77I, 77J, 77K, 77L, 77P and 77R, shall take effect on July 1, 2009.

6598 **SECTION 83.** Section 3, 9, 19, 21, 23, 25, 27, 43, 56, 57, 60, 64, 77, 78 and 80 shall  
6599 take effect on July 1, 2010.

6600 **SECTION 84.** Sections 4, 6, 7, 13, 22, 24, 26, 28, 29, 42, 58, 61, 65, 79 and 81 shall  
6601 take effect on July 1, 2011.

6602           **SECTION 85.** Except as otherwise provided for in this act, this act shall take effect  
6603 upon its passage.