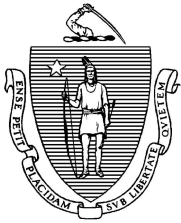


Senate, No. 2087

[Senate, June 17, 2009 - Report of the committee of conference on the disagreeing votes of the two branches, with reference to the House amendments to the Senate Bill modernizing the transportation systems of the Commonwealth (Senate, No. 2024) (*amended by the House* by striking out all after the enacting clause and inserting in place thereof the text of House document numbered 4051)]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND NINE

AN ACT MODERNIZING THE TRANSPORTATION SYSTEMS OF THE COMMONWEALTH

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

Be it enacted by the Senate and House of Representatives in General Court assembled,

And by the authority of the same, as follows:

- 1 SECTION 1. Section 17 of chapter 6 of the General Laws, as appearing in the 2006
- 2 Official Edition, is hereby amended by striking out, in line 13, the words ”, the Massachusetts
- 3 aeronautics commission”.

4 SECTION 2. The second sentence of section 17A of said chapter 6, as most recently
5 amended by section 1 of chapter 27 of the acts of 2008, is hereby amended by striking out the
6 words “secretary of transportation and public works” and inserting in place thereof the
7 following words:- “secretary of transportation”.

8 SECTION 3. Sections 57, 58 and 59 of said chapter 6 are hereby repealed.

9 SECTION 4. Section 8C of chapter 6A of the General Laws, inserted by section 6 of
10 chapter 233 of the acts of 2008, is hereby amended by striking out subsection (a) and inserting
11 in place thereof the following subsection:-

12 (a) There shall be established a structurally deficient bridge improvement program
13 coordination and oversight council. The council shall consist of a chair appointed by the
14 governor, the secretary of administration and finance, the secretary of transportation, the
15 secretary of energy and environmental affairs, the administrator of the division of highways of
16 the Massachusetts Department of Transportation, and the commissioner of capital asset
17 management and maintenance, or their designees.

18 SECTION 5. Sections 19, 19 1/2 and 19A of said chapter 6A are hereby repealed.

19 SECTION 6. Section 103 of said chapter 6A is hereby repealed.

20 SECTION 7. Section 104 of said chapter 6A is hereby repealed.

21 SECTION 8. The General Laws are hereby amended by inserting after chapter 6A the
22 following chapter:-

23 Chapter 6C

24

MASSACHUSETTS DEPARTMENT of TRANSPORTATION

25

Section 1. As used in this chapter, the following words shall, unless the context clearly

26

requires otherwise, have the following meanings:-

27

”Board”, the board of directors of the Massachusetts Department of Transportation

28

established pursuant to section 2.

29

“Boston extension”, all roadways and tunnels for vehicular traffic that constitute that

30

portion of interstate highway route 90 beginning at and including the interchange of interstate

31

highway route 90 and state highway route 128 in the town of Weston and ending in the city of

32

Boston at the interchange of interstate highway route 90 and interstate highway route 93 and

33

such additional highway and bridge components as the general court may from time to time

34

determine and including such real property and any improvements thereon, personal property,

35

equipment, licenses, appurtenances and interests in land acquired or leased in connection with

36

or incident to the construction, ownership, operation, rehabilitation, reconstruction,

37

improvement, repair, maintenance or administration of such roadways and tunnels as are

38

necessary for their safe and efficient operation and maintenance or which are otherwise

39

convenient or desirable to carry out the purposes of this chapter.

40

“Callahan tunnel”, the tunnel for vehicular traffic constructed under chapter 598 of the

41

acts of 1958 between the North End section of the city of Boston and the East Boston section of

42

said city and including such real property and any improvements thereon, personal property,

43

equipment, licenses, appurtenances and interests in land acquired or leased in connection with

44

or incident to the construction, ownership, operation, rehabilitation, reconstruction,

45

improvement, repair, maintenance or administration of such tunnel as are necessary for its safe

46 and efficient operation and maintenance or which are otherwise convenient or desirable to carry
47 out the purposes of this chapter.

48 “Central artery”, all roadways and tunnels for vehicular traffic constructed by the
49 highway division that constitute that portion of interstate highway route 93 beginning at a point
50 immediately south of the Southampton street interchange, so-called, and continuing to and
51 including the interchange of interstate highway route 93 and Massachusetts avenue in the South
52 End section of the city of Boston and continuing to and including the interchange of interstate
53 highway route 90 and interstate highway route 93 in the South Bay section of the city of Boston,
54 so-called, and continuing to and including the interchange of state highway route 1 and
55 interstate highway route 93 in the Charlestown section of the city of Boston including, but not
56 limited to, the so-called Charles river crossing portion of interstate highway route 93 and such
57 additional highway and bridge components as the general court may from time to time
58 determine, but excluding the central artery north area. ”Central artery” shall also include such
59 real property and any improvements thereon, personal property, equipment, licenses,
60 appurtenances and interests in land acquired or leased in connection with or incident to the
61 construction, ownership, operation, rehabilitation, reconstruction, improvement, repair,
62 maintenance or administration of such roadways and tunnels as are necessary for their safe and
63 efficient operation and maintenance or which are otherwise convenient or desirable to carry out
64 the purposes of this chapter.

65 “Central artery north area”, all roadways and tunnels for vehicular traffic constructed by
66 the highway division consisting of a portion of state highway route 1 beginning at, but not
67 including, the southern boundary of the Tobin memorial bridge and continuing to the
68 interchange of interstate highway route 93 and state highway route 1, including such real

69 property and any improvements thereon, personal property, equipment, licenses, appurtenances
70 and interests in land acquired or leased in connection with or incident to the construction,
71 ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or
72 administration of such roadways and tunnels as are necessary for their safe and efficient
73 operation and maintenance or which are otherwise convenient or desirable to carry out the
74 purposes of this chapter.

75 “Cost”, as applied to any project of the department any or all costs, whenever incurred,
76 of carrying out and placing such projects in operation, including, without limiting the generality
77 of the foregoing, amounts for the following: acquisition, construction expansion improvement
78 and rehabilitation of facilities; acquisition of real or personal property; demolitions and
79 relocations; labor, materials, machinery and equipment; services of architects, engineers and
80 environmental and financial experts and other consultants; feasibility studies, plans,
81 specifications and surveys; interest prior to and during the carrying out of any project and for a
82 reasonable period thereafter; reserves for debt service or other capital or current expenses; costs
83 of issuance; and working capital, administrative expenses; legal expenses and other expenses
84 necessary or incidental to the aforesaid, to the financing thereof and to the issuance therefor of
85 bonds under this chapter.

86 “Costs of issuance”, any amounts payable or reimbursable directly or indirectly by the
87 department and related to the sale and issuance of bonds and the investment of the proceeds
88 thereof and of revenues securing the same including, without limiting the generality of the
89 foregoing, printing costs, filing and recording fees, fees and charges of trustees, depositories,
90 authenticating agents and paying agents, legal and auditing fees and charges, financial
91 consultant fees, costs of credit ratings, premiums for insurance of the payment of bonds and fees

92 payable for letters or lines of credit or other credit facilities securing bonds, underwriting or
93 placement costs, fees and charges for execution, transportation and safekeeping of bonds, costs
94 and expenses of refunding and other costs, fees and charges in connection with the foregoing.

95 “Current expenses”, the department's current expenses, whether or not annually
96 recurring, of maintaining, repairing and operating the assets under the possession, custody and
97 control of the department and engaging in other activities authorized by this chapter including,
98 without limiting the generality of the foregoing, amounts for administrative expenses of the
99 department including costs of salaries and benefits, as provided in this chapter, cost of
100 insurance, payments for engineering, financial, accounting, legal and other services rendered to
101 the department, taxes upon the department or its income, operations or property and payments
102 in lieu of such taxes, costs incurred or payable by the department with respect to the assets
103 under the possession, custody and control of the department, costs of issuance not financed in
104 the cost of a project, and other current expenses required or permitted by law to be paid by the
105 department, including the funding of reasonable reserves for upgrading, maintenance, repair,
106 replacements, insurance, emergency contingencies or operations.

107 “Department”, the Massachusetts Department of Transportation established in section 2.

108 “Designated parkways,” McGrath and O’Brien Highways in the cities of Cambridge and
109 Somerville, the Carrol parkway, Middlesex avenue in the city of Medford, William Casey
110 highway overpass in the Jamaica Plain section of the city of Boston, Columbia road in the South
111 Boston section of the city of Boston, Morton Street in Boston and Gallivan boulevard in the
112 Dorchester section of the city of Boston, all formerly operated and maintained by the
113 department of conservation and recreation.

114 “Fund”, the Massachusetts Transportation Trust Fund established in section 4.

115 “Independent agencies”, shall include, without limitation, the Massachusetts Bay
116 Transportation Authority, the Massachusetts Port Authority, the Woods Hole, Martha’s
117 Vineyard, and Nantucket Steamship Authority, and the Massachusetts association of regional
118 transit authorities.

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

121 “Massachusetts Bay Transportation Authority”, the Massachusetts bay transportation
122 authority; established by chapter 161A.

123 “Maurice J. Tobin Memorial Bridge”, the bridge formerly known as the Mystic River
124 Bridge in the cities of Chelsea and Boston.

125 “Metropolitan highway system”, the integrated system of roadways, bridges, tunnels,
126 overpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways,
127 service stations, restaurants, tourist information centers and administration, storage,
128 maintenance and other buildings that the department owns, constructs or operates and maintains
129 pursuant to this chapter which consists of the Boston extension, the Callahan tunnel, the central
130 artery, the central artery north area, the Tobin memorial bridge, the Sumner tunnel and the Ted
131 Williams tunnel and any additional highway, tunnel and bridge components as the general court
132 may from time to time determine.

133 “Metropolitan highway system revenues”, (i) all rates, fees, tolls, rentals or other
134 charges and other earned income and receipts as derived from or with respect to the ownership,

135 operation, lease, rent or other use or disposition of the metropolitan highway system or any part
136 thereof; and (ii) all other funds received by the department, from whatever source, relating to
137 the metropolitan highway system.

138 “Notes or bonds”, the notes, bonds or other evidences of indebtedness of the department
139 issued pursuant to this chapter.

140 “Revenues”, all charges and other receipts derived by the department from operation of
141 the assets under the possession, custody and control of the department and all other activities or
142 properties of the Office of Planning and Programming including, without limiting the generality
143 of the foregoing, proceeds of grants, gifts or appropriations to the department, investment
144 earnings and proceeds of insurance or condemnation and the sale or other disposition of real or
145 personal property.

146 “Secretary”, the secretary of the Massachusetts Department of Transportation.

147 “State agencies”, shall include, without limitation, the department, the department of
148 conservation and recreation and such other state agencies as may be involved in transportation
149 related functions from time to time.

150 “State highway system”, all roadways, bridges, tunnels, overpasses, interchanges,
151 parking facilities, entrance plazas, approaches, connecting highways, service stations,
152 restaurants, tourist information centers and administration, storage, maintenance and other
153 buildings that the department owns, constructs or operates and maintains pursuant to this
154 chapter, including the designated parkways, and any additional highway, tunnel and bridge
155 components as the general court may from time to time determine.

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

158 “Sumner tunnel”, the vehicular tunnel under Boston harbor, heretofore constructed and
159 financed by the city of Boston under chapter 297 of the acts of 1929, including such real
160 property and any improvements thereon, personal property, equipment, licenses, appurtenances
161 and interests in land acquired or leased in connection with or incident to the construction,
162 ownership, operation, rehabilitation, reconstruction, improvement, repair, maintenance or
163 administration of such tunnel as are necessary for its safe and efficient operation and
164 maintenance or which are otherwise convenient or desirable to carry out the purposes of this
165 chapter.

166 “Ted Williams tunnel”, all or any segments of the roadways, bridges, viaducts and
167 tunnels for vehicular traffic constructed by the highway department that constitute the interstate
168 highway route 90 extension and its connecting roadways and tunnels, including: (i) the harbor
169 tunnel crossing beneath Boston harbor, beginning at and including the interchanges of state
170 highway route 1A and the Logan airport access and egress roadways with interstate highway
171 route 90 and continuing beneath Boston harbor to and including the interchange of interstate
172 highway route 90 and South Boston bypass road, but excluding the Logan airport access and
173 egress roadways owned by the Massachusetts Port Authority on March 1, 1997 and any
174 additional access and egress roadways acquired by the Massachusetts Port Authority after
175 March 1, 1997; (ii) the seaport access highway, so-called, beginning at the interchange of
176 interstate highway routes 90 and 93 and continuing to the interchange of interstate highway
177 route 90 and South Boston bypass road; and (iii) South Boston bypass road, a portion of which
178 is also known as South Boston haul road, beginning at the interchange of interstate highway

179 route 93 and South Boston bypass road and continuing to the interchange of the seaport access
180 highway, so-called, in the South Boston section of the city of Boston, including such real
181 property and any improvements thereon, personal property, equipment, licenses, appurtenances
182 and interests in land acquired or leased by the highway department in connection with or
183 incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement,
184 repair, maintenance or administration of such roadways and tunnels as are necessary for their
185 safe and efficient operation and maintenance or which are otherwise convenient or desirable to
186 carry out the purposes of this chapter.

187 “Turnpike”, the limited access express toll highway, designated as interstate highway
188 route 90, and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities,
189 entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
190 information centers and administration, storage, maintenance and other buildings that the
191 department may own, construct or operate and maintain pursuant to this chapter and any
192 additional highway, tunnel and bridge components as the general court may from time to time
193 determine, extending from the town of West Stockbridge on the commonwealth’s border with
194 New York state to, but not including, the interchange of interstate highway route 90 and state
195 highway route 128 in the town of Weston.

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

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

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

203 Section 2. (a) There is hereby created a body politic and corporate to be known as the
204 Massachusetts Department of Transportation. The department is hereby constituted a public
205 instrumentality and the exercise by the department of the powers conferred by this chapter shall
206 be considered to be the performance of an essential governmental function.

207 The department is hereby placed in the executive office of the governor but shall not be
208 subject to the supervision or control of said office, or of any board, bureau, department or other
209 center of the commonwealth, except as specifically provided in this chapter.

210 (b) The authority shall be governed and its corporate powers exercised by a board of
211 directors. The board shall consist of 5 members appointed by the governor for a term of 4 years,
212 2 of whom shall be experts in the field of public or private transportation finance; 2 of whom
213 shall have practical experience in transportation planning and policy; and 1 of whom shall be a
214 registered civil engineer with at least 10 years experience. One of the members shall be
215 appointed by the governor to serve as chairperson of the board; provided, however, that said
216 designee shall not be an employee of the department, department or any division thereof. Not
217 more than 3 of the directors shall be members of the same political party. Each director shall
218 serve without compensation but may be reimbursed for actual and necessary expenses
219 reasonably incurred in the performance of their duties, including reimbursement for reasonable
220 travel; provided, however that that such reimbursement shall not exceed \$500 annually. Any
221 person appointed to fill a vacancy in the office of a member of the board shall be appointed in a
222 like manner and shall serve for only the unexpired term of such former member. Any director

223 shall be eligible for reappointment. Any director may be removed from his appointment by the
224 governor for cause. The board shall annually elect 1 of its members to serve as vice-chairperson.

225 (c) Four directors shall constitute a quorum and the affirmative vote of a majority of
226 directors present at a duly called meeting, if a quorum is present, shall be necessary for any
227 action to be taken by the board. Any action required or permitted to be taken at a meeting of the
228 directors may be taken without a meeting if all of the directors' consent in writing to such action
229 and such written consent is filed with the records of the minutes of the meetings of the board.
230 Such consent shall be treated for all purposes as a vote at a meeting. Each director shall make
231 full disclosure, under subsection (d), of his financial interest, if any, in matters before the board
232 by notifying the state ethics commission, in writing, and shall abstain from voting on any matter
233 before the board in which he has a financial interest, unless otherwise permissible under chapter
234 268A.

235 (d) Chapters 268A and 268B shall apply to all ex-officio directors or their designees and
236 employees of the department. Said chapters 268A and 268B shall apply to all other directors of
237 the department, except that the department may purchase from, sell to, borrow from, loan to,
238 contract with or otherwise deal with any person in which any director of the department is in
239 any way interested or involved; provided, however, that such interest or involvement is
240 disclosed in advance to the members of the board and recorded in the minutes of the board; and
241 provided, further, that no director having such an interest or involvement may participate in any
242 decision of the board relating to such person. Employment by the commonwealth or service in
243 any agency thereof shall not be deemed to be such an interest or involvement.

244 (e) The governor shall have the power to appoint and employ a secretary of the
245 department, whose term of service shall be coterminous with the term of the governor, and to
246 fix his compensation and conditions of employment. The secretary shall be the chief executive,
247 administrative and operational officer of the department and shall direct and supervise the
248 administrative affairs and the general management of the department. The secretary shall
249 appoint and employ a chief financial and accounting officer and may, subject to the general
250 supervision of the board, employ other employees, consultants, agents, including legal counsel
251 and advisors, and shall attend meetings of the board. The chief financial and accounting officer
252 of the department shall be in charge of its funds, books of account and accounting records. No
253 funds shall be transferred by the department without the approval of the board and the
254 signatures of the chief financial and accounting officer and the treasurer, as elected by the board
255 pursuant to subsection (f).

256 (f) The board shall bi-annually elect 1 of its members as treasurer and 1 of its members
257 as secretary. The secretary of the board shall keep a record of the proceedings of the board and
258 shall be custodian of all books, documents, and papers filed by the board and of its minute book
259 and seal. The secretary of the board shall cause copies to be made of all minutes and other
260 records and documents of the department and shall certify that such copies are true copies, and
261 all persons dealing with the department may rely upon such certification.

262 (g) All officers and employees of the department having access to its cash or negotiable
263 securities shall give bond to the department at its expense in such amounts and with such surety
264 as the board may prescribe. The persons required to give bond may be included in 1 or more
265 blanket or scheduled bonds.

266 (h) Board members and officers who are not compensated employees of the department
267 shall not be liable to the commonwealth, to the department or to any other person as a result of
268 their activities, whether ministerial or discretionary, as such board members or officers except
269 for willful dishonesty or intentional violations of law. Neither members of the department nor
270 any person executing bonds or policies of insurance shall be liable personally thereon or be
271 subject to any personal liability or accountability by reason of the issuance thereof. The board of
272 directors may purchase liability insurance for board members, officers and employees and may
273 indemnify such persons against claims of others.

274 (i) The department shall continue as long as it shall have bonds or insurance or guarantee
275 commitments outstanding and until its existence is terminated by law. Upon the termination of
276 the existence of the department, all right, title and interest in and to all of its assets and all of its
277 obligations, duties, covenants, agreements and obligations shall vest in and be possessed,
278 performed and assumed by the commonwealth.

279 (j) Any action of the department may take effect immediately and need not be published
280 or posted unless otherwise provided by law. Meetings of the department shall be subject to
281 section 11A 1/2 of chapter 30A, except that said section 11A 1/2 shall not apply to any meeting
282 of members of the department serving ex officio in the exercise of their duties as officers of the
283 commonwealth so long as no matter relating to the official business of the department is
284 discussed and decided at the meeting. The department shall be subject to all other provisions of
285 said chapter 30A, and records pertaining to the administration of the department shall be subject
286 to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the department shall be
287 considered to be public funds for purposes of chapter 12A.

288 Section 3. The department shall have all powers necessary or convenient to carry out and
289 effectuate its purposes including, without limiting the generality of the foregoing, the power to:

290 (1) adopt and amend by-laws, regulations and procedures for the governance
291 of its affairs and the conduct of its business for the administration and enforcement of this
292 chapter; provided, however, that regulations adopted by the department shall be adopted
293 pursuant to chapter 30A;

294 (2) adopt an official seal and a functional name;

295 (3) exercise any powers necessary for the commonwealth to be in
296 compliance with 23 U.S.C. section 302;

297 (4) maintain offices at places within the commonwealth as it may determine
298 and to conduct meetings of the department in accordance with the by-laws of the department
299 and the second paragraph of section 59 of chapter 156B;

300 (5) direct, operate, administer and implement the programs of roadway,
301 general aviation, rail and transit, and vehicular registration and regulation and, in cooperation
302 with the office of planning and programming for the design, construction, repair, maintenance,
303 capital improvements, development, and planning of the transportation facilities throughout the
304 department, as appropriate;

305 (6) direct, coordinate and supervise the administration of the department to
306 promote economy and efficiency and to leverage federal funding and private sector investment;

307 (7) develop and administer a long-term statewide transportation plan for the
308 commonwealth, in conjunction with the executive office of administration and finance, that
309 includes planning for intermodal and integrated transportation;

310 (8) develop and administer procedures to be used for transportation project
311 selection;

312 (9) establish criteria, including criteria to reduce greenhouse gases, for
313 project selection for use in the procedures developed pursuant to clause (7);

314 (10) enter into agreements and transactions with federal, state and municipal
315 agencies and other public institutions and private individuals, partnerships, firms, corporations,
316 associations and other entities on behalf of the department;

317 (11) institute and administer the Massachusetts Transportation Trust Fund for
318 the purposes of making appropriations, allocations, grants or loans to leverage development and
319 investments in transportation investment;

320 (12) sue and be sued in its own name, plead and be impleaded;

321 (13) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use,
322 police, administer, control and operate the state highway system, the metropolitan highway
323 system and the turnpike, or any part thereof; provided, however, that chapter 91 shall not apply
324 to the department, except for any parts or areas thereof subject to said chapter 91 on March 1,
325 1997;

326 (14) acquire sites abutting the state highway system, the metropolitan highway
327 system or the turnpike, and to construct or contract for the construction of buildings and

328 appurtenances for gasoline stations, restaurants, parking facilities, tourist information centers
329 and other services and to lease such facilities in such manner and under such terms as it may
330 determine;

331 (15) issue notes or bonds for any of its corporate purposes related to the
332 turnpike payable solely from turnpike revenues or portions thereof pledged for their payment
333 and to refund its notes or bonds pertaining to the turnpike or any part thereof or payable from
334 such revenues, as provided in this chapter;

335 (16) issue notes or bonds for any of its corporate purposes related to the
336 metropolitan highway system payable solely from the metropolitan highway system revenues or
337 portions thereof pledged for their payment and to refund its notes or bonds pertaining to the
338 metropolitan highway system or any part thereof or payable from such revenues, as provided in
339 this chapter;

340 (17) issue bonds, notes and other evidences of indebtedness as provided in this
341 chapter;

342 (18) fix and revise from time to time and charge and collect tolls for transit
343 over the metropolitan highway system and the turnpike; provided, however, that it shall furnish
344 upon request to a user of the metropolitan highway system and turnpike a toll receipt showing
345 the amount of toll paid, the classification of the vehicle, the date of payment and place of exit
346 from said metropolitan highway system and turnpike; provided, further, that the department
347 shall convene at least 2 public hearings, each to be held in a community within the turnpike
348 corridor, at least 30 days prior to the effective date of any proposed change in toll structure on

349 the turnpike and shall allow for a 1 week comment period, after each such hearing, during
350 which written testimony and comments shall be accepted;

351 (19) appoint officers and employees and to engage accountants, architects,
352 attorneys, engineers, planners, real estate experts and other consultants as may be necessary in
353 its judgment to carry out the purposes of this chapter and fix their compensation; provided,
354 however, that the department shall engage consultants to perform only those services for the
355 department which regular employees of the department are unable to perform owing to lack of
356 special expertise or other inability to perform such services on the schedule or in the manner
357 required by the department;

358 (20) acquire, lease, hold and dispose of real and personal property or any
359 interest therein in the exercise of its powers and the performance of its duties pursuant to this
360 chapter; provided, however, that the department shall issue semi-annual reports to the secretary
361 of administration and finance, the house and senate committees on ways and means, the joint
362 committee on transportation and the house and senate committees on bonding, capital
363 expenditures and state assets, detailing the financial transactions and revenues associated with
364 the sale, concession or lease of real property held in the name of or under the control of the
365 department, whether by purchase or otherwise, and any transactions relating to real property
366 currently pending; and provided further, that the semi-annual report shall include the current
367 market value of the real properties related to the transactions;

368 (21) place and maintain or grant permission by easement or otherwise to any
369 public utility, corporation or person to place and maintain on or under or within the state
370 highway system, the metropolitan highway system or the turnpike, or any part thereof, ducts,

371 pipes, pipelines, mains, conduits, cables, wires, towers, poles or other structures to be so located
372 as not to interfere with the safe and convenient operation and maintenance of the state highway
373 system, the metropolitan highway system or the turnpike, and to contract with any such public
374 utility, corporation or person for such permission on such terms and conditions as may be fixed
375 by the department; provided, however, that in case of any such relocation or removal of
376 facilities, the public utility, corporation or person owning or operating the same, its successors
377 or assigns may maintain and operate such facilities, with the necessary appurtenances, in the
378 new location for as long a period and upon the same terms and conditions as it had the right to
379 maintain and operate such facilities in their former location; and provided further, that
380 otherwise, the department shall have the power to grant such easements over any real property
381 held by the department as will not, in the judgment of the department, unduly interfere with the
382 operation of any of its mass transportation facilities;

383 (22) designate the locations and establish, limit and control such points of
384 ingress to and egress from the state highway system, the metropolitan highway system or the
385 turnpike, as may be necessary, convenient or desirable, in the judgment of the department, to
386 insure the proper operation and maintenance of the state highway system, the metropolitan
387 highway system or the turnpike, and to prohibit entrance to the state highway system, the
388 metropolitan highway system or the turnpike from any point or points not so designated;

389 (23) (i) construct grade separations at locations where the state highway
390 system, the metropolitan highway system or the turnpike, intersect with or abut public highways
391 or rail lines and to change and adjust the lines and grades of such highways or rail lines so as to
392 accommodate the same to the design of such grade separation; and (ii) change the location of
393 any portion of any public highway or rail line which intersects or abuts the state highway

394 system, the metropolitan highway system or the turnpike, in order to improve the safety or
395 efficiency of the state highway system, the metropolitan highway system or the turnpike;
396 provided, however, that if the department shall find it necessary to change the location of a
397 public highway, it shall reconstruct the same in as good a condition as the original highway and
398 at such location as the department deems most favorable; provided, however, that all costs
399 incident to construction, realignment or reconstruction conducted pursuant to this clause shall be
400 borne by the department;

401 (24) enter upon any lands, waters and premises in the commonwealth, after 30
402 days notice by registered or certified mail and without the necessity of any judicial orders or
403 other legal proceedings, for the purpose of making surveys, soundings, drillings and
404 examinations as the department may deem necessary, convenient or desirable for carrying out
405 the purposes of this chapter and such entry shall not be deemed a trespass nor shall an entry for
406 such purposes be deemed an entry under any condemnation proceedings which may be then
407 pending; provided, however, that the department shall provide reimbursement for any actual
408 damage resulting to such lands, waters and premises as a result of such activities; and provided,
409 further, that the commonwealth hereby consents to the use of all lands owned by it, including
410 lands lying underwater, which are deemed by the department to be necessary, convenient or
411 desirable for the construction, operation or maintenance of the state highway system, the
412 metropolitan highway system or the turnpike;

413 (25) make and enter into all contracts and agreements necessary, convenient or
414 desirable in the performance of its duties and the execution of its powers under this chapter;
415 provided, however, that sections 26 to 29, inclusive, and sections 44A to 44J, inclusive, of
416 chapter 149 and sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of the

417 department to the same extent and in the same manner as they are applicable to the
418 commonwealth; provided, however, that notwithstanding this clause, the department may, with
419 the approval of the secretary of administration and finance, without competitive bids and
420 notwithstanding any general or special law to the contrary, award a contract, otherwise subject
421 to this section, limited to the performance of emergency repairs necessary to preserve the safety
422 of persons or property;

423 (26) invest any funds held in reserves or sinking funds, or the Massachusetts
424 Transportation Trust Fund, or any funds not required for immediate disbursement, in such
425 investments as may be provided in any financing document relating to the use of such funds or,
426 if not so provided, as the board may determine;

427 (27) review and recommend changes in laws, rules, programs and policies of
428 the commonwealth and its agencies and subdivisions to further transportation financing,
429 infrastructure and development within the commonwealth;

430 (28) appear in its own behalf before boards, commissions, departments or
431 other agencies of municipal, state or federal government;

432 (29) obtain insurance;

433 (30) apply for and accept subventions, grants, loans, advances and
434 contributions from any source of money, property, labor or other things of value to be held, used
435 and applied for its corporate purposes;

436 (31) adopt a fiscal year to conform with the fiscal year of the commonwealth;

437 (32) receive and apply its revenues to the purposes of the department without
438 appropriation or allotment by the commonwealth or any political subdivision thereof;

439 (33) enter into agreements with other parties including, without limiting the
440 generality of the foregoing, government agencies, municipalities, authorities, private
441 transportation companies, railroads, and other concerns, providing: (i) for construction,
442 operation and use of any mass transportation facility and equipment held or later acquired by the
443 department; provided, however, that any agreement entered into by the department for the
444 construction or acquisition of mass transportation facilities or equipment of more than
445 \$1,000,000, which is financed in whole or in part from the proceeds of bonds, the debt service
446 payments on which are assisted by the commonwealth or made from the dedicated revenue
447 source, shall not become effective until approved by the secretary of administration and finance;
448 (ii) for joint or cooperative operation of any mass transportation facility and equipment with
449 another party; (iii) for operation and use of any mass transportation facility and equipment for
450 the account of the department, for the account of another party or for their joint account; or (iv)
451 for the acquisition of any mass transportation facility and equipment of another party if the
452 whole or any part of the operations of such other party takes place within the area constituting
453 the department; provided, further, that any such other party may enter into any such agreements,
454 subject to such provisions of law as may be applicable; and provided, further, that any
455 agreement with a private company under this chapter which is to be financed from the proceeds
456 of bonds or bond anticipation notes and which provides for the rendering of transportation
457 service by such company and for financial assistance to such company by subsidy, lease or
458 otherwise shall include such service quality standards for such service as the department may
459 deem appropriate and shall not bind the department for a period of longer than 1 year from its

460 effective date, but this shall not prohibit agreements for longer than 1 year if the department's
461 obligations thereunder are subject to annual renewal or annual cancellation by the board's
462 authority; and provided, further, that such agreements may provide for cash payments for
463 services rendered, but not more than will permit any private company a reasonable return;

464 (34) establish transit facilities and related infrastructure, including terminals,
465 stations, access roads, and parking, pedestrian access facilities and bicycle parking and access
466 facilities as may be deemed necessary and desirable; and provided, further, that the department
467 may charge reasonable fees for the use of such facilities as it deems desirable;

468 (35) lend money to and to acquire or hold obligations issued by public bodies
469 or other users at such prices and in such manner as the department shall deem advisable and sell
470 such bonds acquired or held by it at prices without relation to cost and in such manner as the
471 department shall deem advisable and to secure its own issues of bonds with such obligations
472 held by it;

473 (36) act as the central entity and coordinating organization for transportation
474 initiatives on behalf of the commonwealth and to work in collaboration with governmental
475 entities, bodies, centers, institutes and facilities to advance the commonwealth's interests and
476 investments in transportation;

477 (37) enter into agreements with public and private entities that deal primarily
478 with transportation and infrastructure development, in order to distribute and provide leveraging
479 of monies or services for the purposes of furthering transportation development in the
480 commonwealth and promoting overall economic growth within the commonwealth by fostering
481 collaboration and investments in transportation initiatives in the commonwealth;

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

484 (39) establish and collect such fees and charges as the department without
485 further appropriation shall determine to be reasonable and consistent with this chapter; and to
486 receive and apply revenues from fees and charges to the purposes of the department or allotment
487 by the commonwealth or any political subdivision thereof;

488 (40) disburse, appropriate, grant, loan or allocate funds for the purposes of
489 investing in transportation initiatives as directed in this chapter;

490 (41) provide assistance to local entities, local authorities, public bodies and
491 private corporations for the purposes of maximizing opportunities for transportation and
492 development initiatives in the commonwealth;

493 (42) prepare, publish and distribute, with or without charge, as the department
494 may determine, such studies, reports and bulletins and other material as the department deems
495 appropriate;

496 (43) exercise any other powers of a corporation organized under chapter
497 156B;

498 (44) take any actions necessary or convenient to the exercise of any power or
499 the discharge of any duty provided for by this chapter;

500 (45) enter into agreements or other transactions with any person including,
501 without limitation, any public entity or other governmental instrumentality or agency in
502 connection with the powers and duties provided the department under this chapter;

503 (46) delegate any of the foregoing powers to an administrator or to a director
504 having charge of an administrative unit within the department;

505 (47) ensure regional equity related to transportation planning, construction,
506 repair, maintenance, capital improvement, development and funding; and

507 (48) designate a representative to act in its interest in labor relations matters with
508 its employees.

509 Section 4. There shall be established and placed within the department a separate fund
510 to be known as the Massachusetts Transportation Trust Fund which shall be used for financing
511 transportation-related purposes of the Massachusetts Department of Transportation. The
512 secretary shall be authorized to enter into agreements with the Massachusetts Bay
513 Transportation Authority, the Massachusetts Port Authority, the regional transit authorities and,
514 for so long as it shall continue to exist, the Massachusetts Turnpike Authority to commit any
515 funds generated from fares, fees, tolls or any other revenue sources including, but not limited to,
516 from federal sources of these authorities to the fund. There shall be credited to the fund all
517 turnpike revenues and other toll and non-toll revenue collected by the department after
518 assumption of the assets, obligations and liabilities of the Massachusetts Turnpike Authority, all
519 tolls collected by the department after transfer of the Maurice J. Tobin Memorial Bridge by the
520 Massachusetts Port Authority to the department, all refunds and rebates made on account of
521 expenditures on ways by the department, any revenues from appropriations or other monies
522 authorized by the general court and specifically designated to be credited to the fund, any gifts,
523 grants, private contributions, investment income earned on the fund's assets, all monies received
524 by the department for the sale or lease of property, all monies received by the department in

525 satisfaction of claims by the department for damage to highway and bridge safety signs, signals,
526 guardrails, curbing and other highway and bridge related facilities, and other receipts of the
527 department. Money remaining in the fund at the end of the year shall not revert to the General
528 Fund.

529 The fund, which shall be under the control of the department and not subject to
530 appropriation, shall be used as follows:

531 (a) for expenditures to meet any debt obligations of the department following the
532 dissolution of the Massachusetts Turnpike Authority and assumption of assets, obligations and
533 liabilities by the department;

534 (b) for expenditure by the department for maintaining, repairing, improving and
535 constructing municipal ways and bridges, sidewalks adjacent to such ways and bridges,
536 bikeways and other projects eligible for funding as a transportation enhancement project as
537 described in the Intermodal Surface Transportation Efficiency Act of 1991, P.L. 102-240, salt
538 storage sheds, bikeways and public use off-street parking facilities related to mass
539 transportation, for engineering services and expenses related to highway transportation
540 enhancement and mass transportation purposes, for care, repair, storage, replacement, purchase
541 and long-term leasing of road building machinery, equipment and tools, for the erection and
542 maintenance of direction signs and warning signs and for necessary or beneficial improvements
543 to unpaved municipal ways together with any money which any municipality may appropriate
544 for such purposes to be used on the same ways, sheds, bikeways, bridges, machinery,
545 equipment, tools and facilities. Such engineering services, including surveying services, shall
546 only be performed by architectural, engineering or surveying firms prequalified by the

547 department; provided, however, that a municipality may seek a waiver of this requirement from
548 the department if the municipality demonstrates to the satisfaction of the department that it is
549 cost prohibitive to use a prequalified firm. Such ways, sheds, bikeways, bridges, machinery,
550 equipment, tools and facilities shall remain municipal ways, sheds, bikeways, bridges,
551 machinery, equipment, tools and facilities. The department shall withhold or withdraw the
552 unexpended balance of any funds assigned by it under this clause if the municipality fails to
553 comply with the official standards for traffic control established by the department or with any
554 provision of a traffic control agreement negotiated between the department and the
555 municipality, as required by the United States Secretary of Commerce under section 109 of Title
556 23 of the United States Code;

557 (c) for expenditure by the department for maintaining, repairing and improving state
558 highways and bridges in the state highway system designated parkways and for the turnpike and
559 the metropolitan highway system managed by the Massachusetts Turnpike Authority until its
560 dissolution ;

561 (d) for expenditure by the department, in addition to federal aid payments received
562 under section 30 of chapter 81, for construction of state highways;

563 (e) for expenditure by the department for engineering services and expenses, for care,
564 repair, storage, replacement and purchase of road building machinery and tools, for snow
565 removal, for the erection and maintenance of direction signs and warning signs, for the care of
566 shrubs and trees on state highways and for expenses incidental to the foregoing or incidental to
567 the purposes specified in clause (b), (c) or (d);

568 (f) for expenditure for the operations of the department and any divisions thereof;

569 (g) for expenditure by the department for infrastructure improvements to transportation
570 facilities throughout the commonwealth;

571 (h) for regional expenditure by the department for highway division projects in the 5
572 geographic regions of the commonwealth consistent with the boundaries of the 5 highway
573 division districts as existing on July 1, 2009;

574 (i) for expenditure for highway field services and transportation support programs
575 including, but not limited to, state police highway patrols and accident teams; and

576 (j) for any other expense of the department necessary to carry out its purposes.

577 Section 5. (a) The department shall be organized and shall function as a single state
578 agency for administrative purposes including, but not limited to, for the purposes of the
579 accounting and financial system of the commonwealth. The secretary shall, notwithstanding any
580 general or special law to the contrary, identify and consolidate administrative activities and
581 functions common to the separate offices, and divisions within the department and may
582 designate such functions 'core administrative functions' in order to improve administrative
583 efficiency and preserve fiscal resources; provided, however, that common functions that shall be
584 designated core administrative functions shall include, but shall not be limited to, human
585 resources, financial management, information technology, legal, procurement and asset
586 management. All employees performing functions so designated shall be employed directly by
587 the secretary.

588 The department may enter into agreements under section 22A and 22B of chapter 7 and
589 in all respects not governed by general or special laws expressly made applicable to the

590 department shall adhere to good business practices to be determined by the department in its
591 procurement of equipment, materials, property, supplies and services.

592 (b) On December 15 and at 6-month intervals thereafter, the secretary shall report to the
593 joint committee on transportation, the house and senate committees on bonding, capital
594 expenditures and state assets and the house and senate committees on ways and means on the
595 department's progress in implementing the requirements of this section, the operating and
596 capital expenditures made by the department in implementing the requirements of this section
597 and on the administrative savings that have been achieved through the implementation of the
598 requirements of this section.

599 (c) The secretary shall appoint a manager to serve as director of system integration,
600 whose primary responsibility shall be to develop a plan and oversee the implementation of the
601 merger and integration of the organizations and assets comprising the department.

602 In advance of each fiscal year, the director of system integration shall develop an annual
603 information technology plan concerning the topics identified in the preceding sentence, the
604 development of new systems for the department and the development of applications for
605 existing systems at the department. The plan shall be delivered to the chief executive officer of
606 the department, the chief information officer of the commonwealth, the chairs of the house and
607 senate committees on ways and means, the chairs of the house and senate committees on
608 bonding, capital expenditures and state assets and the house and senate chairs of the joint
609 committee on transportation.

610 Section 6. (a) The secretary shall operate and administer an office of performance
611 management and innovation within the department that shall, without limitation, administer this

612 section. The divisions of the department shall report to the office of performance management
613 and innovation with regard to setting goals and establishing performance measures to improve
614 the department and divisions' operations and the delivery of transportation services and projects
615 in the commonwealth.

616 (b) The secretary shall establish a performance measurement system for the divisions of
617 the department, which shall establish program goals, measure program performance against
618 those goals and report publicly on progress to improve the effectiveness of transportation design
619 and construction, service delivery and policy decision making. Performance measurements shall
620 include, for at least the then current fiscal year and the previous 5 fiscal years, all modes of
621 transportation. Performance measurements shall include the number of projects completed, the
622 percentage of projects completed early or on time, the percentage of projects completed under
623 budget or on-budget, the number of projects in construction phase and the percentage of projects
624 advertised early or on time. Performance measurements shall include usage information for all
625 modes of transportation, including measures of throughput, utilization and ridership. This
626 information shall be presented with measurements of congestion, on-time performance, if
627 appropriate, and incidents that have caused delays or closures. Performance measurements shall
628 include assessments of maintenance performance by asset class, mode and region, including a
629 breakdown of highway pavement, bridge and track, for subway, commuter and commonwealth-
630 owned freight rail, by condition level, with an explanation of current year and future year
631 planned maintenance expenditures and the expected result thereof. Reporting on planned
632 maintenance programming shall include an assessment of the categories of maintenance-related
633 activity as described in the American Association of Highway and Transportation Officials'
634 Maintenance Manual for Roadways and Bridges. The division of highways shall expand and

635 enhance its project information system and shall develop additional means to establish a
636 centralized system, available on the internet, to document performance measurements and the
637 progress and status of all planning, design, construction and maintenance projects undertaken by
638 the department, and all road and bridge projects of any city or town that are funded, in whole or
639 in part, by the commonwealth. A municipality shall have access to the system at no cost, shall
640 enter such information into the system as may be required by the division of highways and shall
641 otherwise fully participate in the system as a condition of receiving financial assistance from the
642 commonwealth. All information in the project information system shall be a public record
643 unless otherwise exempted by law. A report of the project information system and performance
644 measurements shall be published annually and made available to the public not later than
645 December 31. The report shall also be filed annually with the clerks of the senate and house of
646 representatives, the chairs of the house and senate committees on ways and means and the
647 senate and house chairs of the joint committee on transportation. The performance
648 measurement system shall require each division to develop a strategic plan for program
649 activities and performance goals. The system shall require annual program performance reports
650 which shall be submitted to the house and senate committees on ways and means and the joint
651 committee on transportation.

652 (c) The office of performance management and innovation shall be charged with
653 evaluating the goals and measures established by the department and its divisions and
654 monitoring the results reported. The office shall recommend changes to proposed goals and
655 measures as are appropriate to align goals and measures with the strategic priorities of the
656 secretary. The office shall report regularly to the public on the progress the department and its
657 divisions are making at achieving stated goals. The office shall be responsible for the

658 establishment and, in cooperation with each of the divisions, operation of an asset management
659 system for all divisions and shall report regularly on the condition of assets and infrastructure.
660 Reports on performance shall include measures of: (i) maintenance activity and results; (ii)
661 usage on all modes of transportation; (iii) operational performance; and (iv) planning, design
662 and construction, including on-time and on-budget project delivery.

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

668 The office shall be responsible for reporting publicly and transparently and making all
669 reports available through an on-line system.

670 The secretary shall use the performance criteria established in this section to determine
671 the quality of service of all private entities, including commuter rail providers, that perform
672 transportation services on behalf of the department. The results of such performance measures
673 shall be criteria used in negotiating any contracts.

674 Section 7. Unless otherwise required by section 6A of chapter 31 or any other general or
675 special law to the contrary, the secretary shall design and implement a program for performance
676 evaluation of employees. The sole purpose of the program shall be the improvement of the
677 performance of individual employees and the department and, notwithstanding any general or
678 special law to the contrary, all information compiled by said program shall be confidential and
679 shall not be public records under section 10 of chapter 66 or clause Twenty-sixth of section 7 of

680 chapter 4. The department may consult with individuals and organizations and may contract for
681 technical assistance for the purpose of the program to the extent it deems necessary.

682 Section 8. All moneys received pursuant to this chapter, whether as proceeds from the
683 issue of refunding bonds or as revenues or otherwise, shall be deemed to be trust funds to be
684 held and applied solely as provided in this chapter. The resolution authorizing the refunding
685 bonds or the trust agreement securing such notes or bonds shall provide that any officer with
686 whom, or any bank or trust company with which, such moneys shall be deposited shall act as
687 trustee of such moneys and shall hold and apply the same for the purposes hereof, subject to
688 such regulations as this chapter and such resolution or trust agreement may provide.

689 Section 9. (a) There shall be within the department, but not subject to the control of the
690 department, an internal special audit unit. The inspector general council established in section 3
691 of chapter 12A shall appoint a director of the internal special audit unit for a term of 6 years.
692 The governor may remove the director only for cause, and shall fill any vacancy for the
693 unexpired term. The director shall devote his full time and attention to the duties of this office.

694 (b) The internal special audit unit shall monitor the quality, efficiency and integrity of
695 the department's operating and capital programs and seek to prevent, detect and correct fraud,
696 waste and abuse in the expenditure of public or private transportation funds.

697 (c) The director may appoint such persons as he shall deem necessary to perform the
698 functions of the internal special audit unit; provided, however, that section 9A of chapter 30 and
699 chapter 31 shall not apply to any person holding any such appointment. Employees of the
700 internal special audit unit shall have experience with accounting, auditing, financial analysis,
701 applicable law, business management and public administration and shall devote their full-time

702 efforts to the unit and shall not be assigned direct operating responsibilities. Every person so
703 appointed to any position in the internal special audit unit shall have experience and skill in the
704 field of such position.

705 (d) The director may report and refer his findings to the inspector general for
706 investigation pursuant to chapter 12A and the results of such investigation may be referred to
707 the attorney general for appropriate action.

708 Section 10. There shall be within the department an office of transportation planning
709 which shall oversee and administer the planning responsibilities of the office of planning and
710 programming, and which shall be under the supervision and control of the secretary. The
711 secretary shall appoint an executive director who shall be skilled and experienced in the field of
712 transportation planning and shall not be subject to chapter 31 or to section 9A of chapter 30.
713 Said director may be removed for cause by the secretary. Said office shall serve as the principal
714 source of transportation planning for state-level transportation projects, and shall develop the
715 commonwealth's transportation-related programs as more particularly set forth in this section. In
716 addition, the office of planning and programming shall work in coordination with regional
717 planning agencies in the commonwealth, which shall serve as the principal source of
718 transportation planning for local and regional transportation projects. Said office shall conduct
719 research, surveys, demonstration projects and studies in cooperation with the federal
720 government, said regional planning agencies, regional transit authorities, municipalities, other
721 governmental agencies, and appropriate private organizations in order to support local and
722 regional planning, deliver transportation programs, and execute demonstration projects.

723 Said office of transportation planning shall be responsible for the preparation of a
724 comprehensive and coordinated intermodal transportation plan for the commonwealth. Said plan
725 shall include planning to improve and maintain facilities and equipment for all modes of
726 transportation in the Commonwealth, including highways and roads, passenger rail and other
727 public transportation, freight rail, aviation, shipping, pedestrian facilities, bicycle facilities, and
728 water transportation. Said plan shall ensure an equitable allocation of investments in
729 transportation across the regions of the commonwealth. Said plan shall include any program for
730 the disposition of capital assets. Said plan shall include transportation improvement projects for
731 the office of planning and programming and all of its constituent divisions and authorities that
732 own or operate transportation facilities, including the Massachusetts Bay Transportation
733 Authority, the regional transit authorities, and the Massachusetts Port Authority. Said plan shall
734 be developed in consultation with said divisions and authorities, the commonwealth
735 development coordinating council, the executive office for administration and finance, the
736 metropolitan planning organizations, the regional planning agencies, and the transportation
737 finance commission. Said plan shall be prepared in coordination with comprehensive urban
738 development plans and in cooperation with said other agencies so far as practicable. Said plan
739 shall include an analysis of the operation of each regional transit authority, with the purpose of
740 identifying ways in which each regional transit authority can improve efficiency of existing
741 service, and provide new or expanded services to the communities. The analysis shall include an
742 examination of the ridership per vehicle in each regional transit authority to determine the
743 feasibility of converting fleets from large buses to smaller, more energy-efficient vehicles. The
744 analysis shall identify the potential reduction in operating costs that such a conversion could
745 provide for each regional transit authority, and shall outline the ways in which costs savings

746 attained by this conversion could then be applied to improve service by expanding service areas
747 and increasing hours of service.

748 The office of transportation planning shall be responsible for planning and programs that
749 promote sustainable transportation, and that will: (i) maintain and expand transportation options
750 that maximize mobility, reduce congestion, conserve fuel, and improve air quality; (ii) prioritize
751 alternative modes including rail, bus, boat, rapid and surface transit, shared-vehicle and shared-
752 ride services, bicycling, and walking; and (iii) invest strategically in existing and new passenger
753 and freight transportation infrastructure that supports sound economic development consistent
754 with established smart growth objectives. The office of transportation planning shall be
755 responsible for bicycle and pedestrian planning, water transportation planning, and the
756 management of transportation programs promoting congestion mitigation and air quality
757 improvements, travel options, safe routes to school, alternative fuels, and other planning
758 initiatives and programs that promote sustainable transportation working in coordination with
759 the regional planning agencies and the metropolitan planning organization.

760 The office of transportation planning shall be responsible for research and planning in
761 support of the implementation of chapter 21N. The office shall undertake planning and research
762 tasks and coordinate with the executive office of energy and environmental affairs on issues
763 related to historic, current, and projected future transportation-generated emissions of carbon
764 dioxide and other greenhouse gases and technology, policy, and legal issues related to
765 developing and implementing market-based compliance mechanisms for transportation-
766 generated greenhouse gases. Such planning shall include comprehensive climate change
767 adaptation planning to ensure that the commonwealth's transportation infrastructure is designed

768 to tolerate increased environmental stress due to climate change, including, but not limited to
769 increased temperatures, increased stormwater runoff, and extreme weather events.

770 The office of transportation planning shall conduct plans and work with the divisions,
771 municipalities, other public agencies, private organizations, and other parties as appropriate in
772 order to ensure the implementation of measures that facilitate equitable bicycle and pedestrian
773 access in the planning and development of all transportation facilities. Consistent with the most
774 current edition of the MassHighway Project Development and Design Guide, or its successor,
775 the office of planning and programming shall in the design, construction, and maintenance of
776 transportation facilities for all new construction and reconstruction projects, including
777 resurfacing, restoring and rehabilitation improvement projects, ensure safe and contiguous
778 routes for all users, including individuals of all ages and abilities, pedestrians, bicyclists, transit
779 vehicles and riders, and motorists.

780 The office of transportation planning shall work with other commonwealth agencies to
781 identify measures that agencies can take to facilitate fuel conservation, travel demand
782 management for agency employees, and sustainable transportation, to develop programs that
783 consolidate and promote these measures in a user-friendly manner, and to provide programmatic
784 support to help other commonwealth agencies implement these measures.

785 The office of transportation planning shall utilize life-cycle cost modeling for all
786 projects. Life-cycle costs shall mean all relevant costs of a transportation asset's lifespan
787 including, but not limited to, planning, study, design, purchase or lease, operation, maintenance,
788 repair, replacement and disposal. The office shall utilize life-cycle cost modeling during the
789 project planning and selection processes for all of its divisions, agencies, and authorities, as

790 defined herein. Life-cycle cost information shall be presented as part of the public disclosure
791 process in all project planning documents in equal proportion to initial delivery cost estimates.
792 Project planning shall include the identification of funding to minimize life-cycle costs
793 throughout the life of each asset.

794 Section 11. Every 5 calendar years, beginning not later than April 30, 2010, the secretary
795 of the department shall, after conducting public hearings, prepare and publish in the
796 Massachusetts Register a comprehensive state transportation plan for the 5 succeeding fiscal
797 years, beginning with the period of fiscal year 2011 to 2015, inclusive. The plan shall be
798 consistent with such priorities as may be established by legislation. The plan shall be designed
799 to ensure construction and maintenance of a safe, sound and efficient public highway, road and
800 bridge system, to relieve congestion, to reduce greenhouse gas emissions, particulates and other
801 pollutants, and to improve the quality of life in the commonwealth by promoting economic
802 development and employment in the commonwealth by meeting, cost effectively, the diverse
803 transportation needs of all residents of the commonwealth, including urban, suburban and rural
804 populations. The plan shall also include an engineering assessment to anticipate highway, road
805 and bridge needs throughout the commonwealth as determined by objective engineering
806 measurements of condition, safety and service. The secretary shall consult with the executive
807 office of environmental affairs, the executive office for administration and finance, and the
808 executive office of housing and economic development in the development of the plan. The
809 plan shall provide for meeting not less than 5 per cent annually of the estimated construction,
810 reconstruction and repair needs of public highways and bridges of the commonwealth, its
811 counties, cities and towns. The department shall determine and certify to the secretary of
812 administration and finance its estimate of the total value of all construction, reconstruction and

813 repair needs of the commonwealth's highway and bridge infrastructure. The total value estimate
814 shall be based on satisfying current safety and maintenance standards of the Federal Highway
815 Administration and the American Association of State Highway and Transportation Officials.
816 The estimate shall be substantiated by documented objective engineering estimates. The
817 secretary of transportation shall make plans, and updates thereto, based upon such certified
818 estimates and make such plans or updates available for public review.

819 The department shall report annually, not later than February 1, to the house and senate
820 committees on ways and means and the joint committee on transportation on their compliance
821 with the plan and their efforts to satisfy the 5 per cent construction, reconstruction and repair
822 needs to the commonwealth's public highways and bridges.

823 The long range transportation plan developed by the secretary of transportation under this
824 section shall ensure that the commonwealth's total 5 year capital expenditures for road and
825 bridge projects across all capital programs for such projects managed by the executive office,
826 excluding competitive grant programs, shall be equitable across the districts established in
827 section 3 of chapter 57. For the purposes of this paragraph, "equitable" shall mean not less than
828 75 per cent of the annual percentage of the total statewide collections of motor vehicle fuel tax
829 generated by each such district; provided, however, that the minimum percentage shall be 85
830 per cent for districts in which the revenue generated by registered vehicles that have a Fast Lane
831 transponder exceeds the average revenue generated by registered vehicles that have a Fast Lane
832 transponder in districts statewide.

833 Section 12. The department shall develop and implement a single integrated asset
834 management system to oversee and coordinate the maintenance, preservation, reconstruction

835 and investment of all of the assets in its possession, custody and control. The department may
836 use programs and services offered by the division of capital asset management and maintenance
837 and the information technology division or separate offices, divisions, and authorities within the
838 department to aid in its development of an integrated asset management system as long as, in
839 the judgment of the department, such programs and services compare favorably with those
840 available from private vendors and are offered at competitive prices.

841 Section 13. (a) The department may charge and collect and, from time to time, fix and
842 revise tolls for transit over the turnpike and the different parts or sections thereof, subject to
843 such classifications of vehicles and manners of collection as the department determines
844 desirable and subject to section 3. Such tolls shall be so fixed and adjusted as to provide, at a
845 minimum, funds sufficient with other revenues, if any, to pay: (i) costs incurred in furtherance
846 of this chapter related to the turnpike including, but not limited to, the cost of owning,
847 maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering,
848 controlling and operating the turnpike; and (ii) the principal of, redemption premium, if any, and
849 the interest on notes or bonds relating to the turnpike as the same shall become due and payable
850 and to create and maintain reserves established for any of the department's corporate purposes.
851 Such tolls shall not be subject to supervision, regulation, approval or disapproval by any
852 department, division, commission, board, bureau or agency of the commonwealth or any
853 political subdivision thereof. The department shall maintain the confidentiality of all
854 information including, but not limited to, photographs or other recorded images and credit and
855 account data relative to account holders who participate in its electronic toll collection system.
856 Such information shall not be a public record under clause Twenty-sixth of section 7 of chapter
857 4 or section 10 of chapter 66 and shall be used for enforcement purposes only with respect to

858 toll collection regulations. An account holder may, upon written request to the department, have
859 access to all information pertaining solely to the account holder. For each violation of applicable
860 department regulations related to electronic toll collection, a violation notice shall be sent to the
861 registered owner of the vehicle in violation. The notice shall include the registration number of
862 the vehicle, the state of issuance of such registration and the date, time and place of the
863 violation. The notice may be based, in whole or in part, upon inspection of any photographic or
864 other recorded image of a vehicle and the written certification by a state police officer or other
865 person employed by or under contract with the department or its electronic toll collection
866 system contractor that it is so based shall be prima facie evidence of the facts contained therein
867 and shall be admissible in any administrative or judicial proceeding to adjudicate the liability
868 for such violation.

869 (b) The department may charge and collect and, from time to time, fix and revise tolls
870 for transit over or through the metropolitan highway system or any part thereof subject to such
871 classifications of vehicles and manners of collection as the department determines desirable and
872 subject to clause (j) of section 4. Such tolls shall be so fixed and adjusted as to provide, at a
873 minimum, a fund sufficient with other revenues, if any, to pay: (i) costs incurred in furtherance
874 of this chapter related to the metropolitan highway system including, but not limited to, the cost
875 of owning, constructing, maintaining, repairing, reconstructing, improving, rehabilitating,
876 policing, using, administering, controlling and operating the metropolitan highway system; and
877 (ii) the principal of, redemption premium, if any, and the interest on notes or bonds relating to
878 the metropolitan highway system as the same shall become due and payable and to create and
879 maintain reserves established for any of the department's corporate purposes. The department
880 shall not charge or collect a toll for transit through the Callahan tunnel or the Sumner tunnel or

881 over the Tobin memorial bridge or through the Ted Williams tunnel by official emergency
882 vehicles of the commonwealth or any municipality, political subdivision or instrumentality
883 thereof, while such vehicles are on official business; provided, however, that the department
884 may not charge and collect tolls for transit through the Callahan tunnel, the Sumner tunnel or
885 the Ted Williams tunnel by private passenger vehicles registered in the East Boston section of
886 the city of Boston or the South Boston section of the city of Boston, as the Boston transportation
887 department has determined the geographical boundaries of said sections of Boston, that are
888 greater than the tolls in effect for such vehicles registered in said East Boston section at existing
889 tunnel toll facilities on the effective date of section 14 of chapter 102 of the acts of 1995;
890 provided, further, that the department may not charge and collect tolls for transit through the
891 Callahan or Sumner tunnels to private passenger vehicles registered in the North End section of
892 the city of Boston, as the Boston transportation department has determined the geographical
893 boundaries of such section, that are greater than the tolls in effect for such transit through either
894 the Sumner tunnel or Callahan tunnel for such vehicles on the effective date of said section 14
895 of said chapter 102; provided further, that the department shall continue operation of the 50 per
896 cent toll discount program for account holders who participate in the department's electronic
897 toll collection system approved by the Massachusetts Turnpike Authority board of directors on
898 June 28, 2002 and provided in section 45 of chapter 246 of the acts of 2002 and such 50 per
899 cent discount shall be applied to all toll increases implemented after the effective date of this
900 act; and provided further, that the tolls collected for transit over or through the Maurice J. Tobin
901 Memorial Bridge by private passenger vehicles registered in the city of Chelsea or the
902 Charlestown neighborhood of the city of Boston, as the Boston transportation department has
903 determined the geographical boundaries of such section, shall not be greater than the tolls in

904 effect for such vehicles as of January 1, 2009 pursuant to the Resident Commuter Permit
905 Program, so called. The department shall maintain the confidentiality of all information
906 including, but not limited to, photographs or other recorded images and credit and account data,
907 relative to account holders who participate in its electronic toll collection system. Such
908 information shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or
909 section 10 of chapter 66 and shall be used for enforcement purposes only with respect to toll
910 collection regulations. An account holder may, upon written request to the department, have
911 access to all information pertaining solely to the account holder. For each violation of applicable
912 department regulations related to electronic toll collection, a violation notice shall be sent to the
913 registered owner of the vehicle in violation. The notice shall include the registration number of
914 the vehicle, the state of issuance of such registration and the date, time and place of the
915 violation. The notice may be based, in whole or in part, upon inspection of any photographic or
916 other recorded image of a vehicle and the written certification by a state police officer or other
917 person employed by or under contract with the department or its electronic toll collection
918 system contractor that it is so based shall be prima facie evidence of the facts contained therein
919 and shall be admissible in any administrative or judicial proceeding to adjudicate the liability
920 for such violation.

921 (c) All revenue received from tolls, rates, fees, rentals and other charges for transit over
922 or through all tolled roads, bridges or tunnels shall be applied exclusively to: (i) the payment of
923 existing debt service on such tolled roads; and (ii) the cost of owning, maintaining, repairing,
924 reconstructing, improving, rehabilitating, policing, using, administering, controlling and
925 operating such tolled roads.

926 Section 14. The department shall be deemed to be a public agency for purposes of, and
927 shall be subject to, section 39M of chapter 30 and sections 44A to 44H, inclusive, of chapter
928 149 and shall comply with requirements applicable to an independent public authority for
929 publication of contract information in the central register established pursuant to section 20A of
930 chapter 9.

931 Section 15. The department shall, for the purposes of compliance with state finance law,
932 operate as a state agency as defined in section 1 of chapter 29 and shall be subject to the
933 provisions applicable to agencies under the control of the governor including, but not limited to,
934 chapter 29, chapter 7A, chapter 7 and chapter 10; provided, however, that the comptroller may
935 identify any additional instructions or actions necessary for the department to manage fiscal
936 operations in the state accounting system and meet statewide and other governmental
937 accounting and audit standards. The department shall properly classify the department's
938 operating and capital expenditures, and shall not include any salaries of employees in the
939 department's capital expenditures. Unless otherwise exempted by law or the applicable central
940 service agency, the department shall participate in any other available commonwealth central
941 services including, but not limited, to the state payroll system pursuant to section 31 of chapter
942 29, and may purchase other goods and services provided by state agencies in accordance with
943 comptroller provisions. This section shall not apply to the Massachusetts Bay Transportation
944 Authority, the Massachusetts Port Authority or the regional transit authorities. The comptroller
945 may chargeback the department for the transition and ongoing costs for participation in the state
946 accounting and payroll systems and may retain and expend such costs without further
947 appropriation for the purposes of this section. The department shall be subject to section 5D of
948 chapter 29 and subsection (f) of section 6B of chapter 29.

949 Section 16. Each fiscal year the department shall submit an annual finance plan to the
950 secretary of administration and finance, and updates to such plan, in accordance with
951 instructions issued by said secretary.

952 Section 17. (a) The department may provide by resolution at 1 time or from time to time
953 for the issuance of bonds of the department to refinance the bonds issued prior to July 1, 2009
954 pursuant to chapter 81A and the financing obligations of the Massachusetts Turnpike Authority
955 relating to the turnpike and the metropolitan highway system. Any such bonds shall be special
956 obligations of the department payable solely from monies credited to the fund. Bonds issued
957 pursuant to this section shall not be general obligations of the commonwealth or any political
958 subdivision thereof and shall not constitute a debt or a pledge of the faith and credit of the
959 commonwealth or any such political subdivision.

960 (b) Bonds may be issued and sold in such manner and on such terms and conditions as
961 the department may determine, with the approval of the secretary of administration and finance.
962 The bonds shall be signed by the chairperson and treasurer of the department or shall bear their
963 facsimile signature and shall bear the official seal of the department or a facsimile thereof,
964 attested to by the signature of a duly appointed officer of the department.

965 (c) Bonds may be secured by a trust agreement entered into by the department, which
966 trust agreement may pledge or assign all or part of the monies credited to the fund and rights to
967 receive the same, whether existing or coming into existence and whether held or thereafter
968 acquired, and the proceeds thereof. The department may enter into additional security, insurance
969 or other forms of credit enhancement which may be secured on a parity or subordinate basis
970 with the bonds. A pledge in any such trust agreement or credit enhancement agreement shall be

971 valid and binding from the time such pledge shall be made without any physical delivery or
972 further act, and the lien of such pledge shall be valid and binding as against all parties having
973 claims of any kind in tort, contract or otherwise, whether or not such parties have received
974 notice thereof.

975 Any such pledge shall be perfected by filing of the trust agreement or credit
976 enhancement agreement in the records of the department, and no filing need be made pursuant
977 to chapter 106. Any such trust agreement or credit enhancement agreement may establish
978 provisions defining defaults and establishing remedies and other matters relating to the rights
979 and security of the holders of the bonds or other secured parties as may be reasonable and
980 proper, including provisions relating to the establishment of reserves, acceleration of maturities,
981 restrictions on the individual right of action by bondholders and covenants setting forth the
982 duties of and limitations on the department, and may regulate the custody, investment and
983 application of monies.

984 (d) Any such bonds shall be deemed to be investment securities pursuant to chapter 106,
985 shall be securities in which any public officer, fiduciary, insurance company, financial
986 institution or investment company may properly invest funds and shall be securities which may
987 be deposited with any public custodian for any purpose for which the deposit of bonds is
988 authorized by law.

989 (e) Any such bonds, their transfer and the income therefrom, including profit on the sale
990 thereof, shall at all times be exempt from taxation by and within the commonwealth.

991 (f) The provisions hereof relating to bonds shall also be applicable to the issuance of
992 notes insofar as such provisions may be appropriate therefore.

993 (g) Notwithstanding the foregoing, no existing rights of the holders of the bonds issued
994 by the Massachusetts Turnpike Authority pursuant to chapter 81A shall be impaired hereby, and
995 the department, as successor in interest to the Massachusetts Turnpike Authority, shall maintain
996 the covenants of the trust indentures pertaining to such bonds so long as such bonds shall
997 remain outstanding.

998 (h) The department shall be subject to section 98 of chapter 6.

999 Section 18. The office of the attorney general shall appear for the department, its
1000 divisions, departments, agencies and officers, but not including the Massachusetts Bay
1001 Transportation Authority, the regional transit authorities and the Massachusetts Port Authority
1002 and their officers, in all suits and other civil proceedings in which the department is a party or
1003 interested, or in which the official acts and doings of said divisions, departments, agencies and
1004 officers are called into question, to the same extent and in the same manner as provided to the
1005 commonwealth and state departments, officers and commissions under section 3 of chapter 12.
1006 The department and its divisions, departments and agencies, but not including the
1007 Massachusetts Bay Transportation Authority, the regional transit authorities and the
1008 Massachusetts Port Authority, shall be generally considered to be an agency of the
1009 commonwealth for purposes of chapter 12.

1010 Section 19. (a) The department may take by eminent domain in accordance with the
1011 provisions of chapter 79 or any alternative method now or hereafter provided by general law,
1012 any public land and any fee simple absolute or lesser interest in private property or part thereof
1013 or rights therein as it may deem necessary for carrying out the provisions of this chapter.

1014 (b) Whenever a parcel of private property so taken is used in whole or in part for
1015 residential purposes, the owner of such parcel may, within 30 days of the date of the
1016 department's notice to vacate such parcel, appeal to the department for a postponement of the
1017 date set for such vacating, whereupon the department shall grant to the owner a postponement
1018 of 3 months from the date of such appeal; provided, however, that the appeal for such
1019 postponement shall be in the form of a written request to the department sent by registered mail,
1020 return receipt requested; and provided, further, that section 40 of said chapter 79 shall govern
1021 the rights of the department and of any person whose property shall be so taken.

1022 (c) The department shall have power, in the process of constructing, reconstructing,
1023 repairing, rehabilitating, improving, policing, using or administering all or any part of the state
1024 highway system to take by eminent domain pursuant to chapter 79, such land abutting the state
1025 highway system as it may deem necessary or desirable for the purposes of removing or
1026 relocating all or any part of the facilities of any public utility, including rail lines, and may
1027 thereafter lease the same or convey an easement or any other interest therein to such utility
1028 company upon such terms as it, in its sole discretion, may determine. Notwithstanding any
1029 general or special law to the contrary, the relocation of the facilities of any public utility,
1030 including rail lines, in accordance with this section shall be valid upon the filing of the plans
1031 thereof with the department of telecommunications and energy, if applicable.

1032 Section 20. Except as otherwise provided by law, any sale of real property shall be
1033 awarded, after advertisement for bids, to the bidder who is the highest responsible bidder. The
1034 department shall have the right to reject all bids and to read-advertise for bids. Before any real
1035 property shall be so sold or conveyed, notice that such real property is for sale shall be publicly
1036 advertised in 2 daily newspapers of general circulation published in the city of Boston and, if

1037 such real property is located in any other city or town, in a newspaper of general circulation
1038 published in such other city or town, once a week for 3 successive weeks. Such advertisements
1039 shall state the time and place where all pertinent information relative to the real property to be
1040 sold or conveyed may be obtained and the time and place of opening the bids in answer to such
1041 advertisements and that the department reserves the right to reject any or all such bids. All bids
1042 in response to advertisements shall be sealed and shall be publicly opened by the department.
1043 The department may require, as evidence of good faith, that a deposit of a reasonable sum, to be
1044 fixed by the department, accompany the proposals. This paragraph shall not be applicable to any
1045 sale of real property by the department to the commonwealth or any city, town or public
1046 instrumentality nor to a sale of real property which is determined by the department to have a
1047 fair market value of \$5,000 or less.

1048 The department may sell buildings or other structures upon any lands taken by it or may
1049 remove the same and shall sell, if a sale be practicable or, if not, shall lease, if a lease be
1050 practicable, any lands or rights or interest in lands or other property taken or purchased for the
1051 purposes of this chapter, whenever the same shall, in the opinion of the department, cease to be
1052 needed for such purpose.

1053 Section 21. Notwithstanding chapters 134 and 147, if money, goods or other property
1054 which has been abandoned, mislaid or lost on the premises of the department comes into the
1055 possession of the department and remains unclaimed for a period of 120 days, the department
1056 may sell the same, excepting money so unclaimed, at public auction after notice of such sale has
1057 been published for 3 successive weeks in a newspaper published in the city or town wherein
1058 such sale shall occur. The net proceeds of such sale, after deducting the cost of storage and the
1059 expenses of the sale, and all money so unclaimed, shall be paid into and become the property of

1060 the department and may be deposited in the Massachusetts Transportation Trust Fund. If such
1061 property is in the possession of the department and remains unclaimed for a period of 120 days
1062 and is of the value of \$3 or less, the department may donate the same to a charitable
1063 organization.

1064 Section 22. The superior court department of the trial court shall have jurisdiction to
1065 enforce rights and duties created by this chapter and, on complaint of the department, may
1066 restrain violations of the department's regulations and otherwise enforce by any appropriate
1067 remedy including, without limiting the generality of the foregoing, injunctive relief, the
1068 regulations, licenses, permits, orders, penalties and charges of the department. Penalties and
1069 charges established by or under authorization of this chapter shall be collected for the account of
1070 the department and paid over to the department. Except for rights of action expressly conferred
1071 upon the department, no provision of this chapter shall create private rights of action in
1072 enforcement proceedings.

1073 Section 23. The department and its corporate existence shall continue until terminated
1074 by law; provided, however, that no such law shall take effect so long as the department shall
1075 have bonds outstanding without adequate provision for the complete payment or satisfaction
1076 thereof. Upon termination of the department, the title to all funds and other properties owned by
1077 it which remain after the payment or satisfaction of all bonds of the department shall vest in the
1078 commonwealth. The obligations, debts and liabilities of the department shall be assumed by
1079 and imposed upon the commonwealth.

1080 Section 24. (a) All local bodies and all public agencies, instrumentalities, commissions
1081 and authorities of the commonwealth may undertake activities, programs and projects in

1082 conjunction with the department in furtherance of the purposes of this chapter including,
1083 without limiting the generality of the foregoing, to join in investigations and studies and to
1084 submit grant applications and applications for project approvals.

1085 (b) Except with respect to real property acquired or held for purposes described in
1086 Article XCVII of the amendments to the constitution of the commonwealth, all local bodies and
1087 all public agencies, instrumentalities, commissions and authorities of the commonwealth may
1088 lease, lend, grant or convey to the department, upon such terms and conditions as the proper
1089 authorities of such public bodies, public agencies, instrumentalities, commissions and
1090 authorities of the commonwealth may deem appropriate and without the necessity of any action
1091 or formality other than the regular and formal action of such public bodies, agencies,
1092 instrumentalities, commissions and authorities of the commonwealth, any interest in any real or
1093 personal property which may be necessary or convenient to effect the purposes of the
1094 department.

1095 Section 25. The secretary, administrators, and directors of the department shall be sworn
1096 to the faithful performance of their official duties. The secretary and each administrator, and
1097 director shall: conduct themselves in a manner so as to render decisions that are fair and
1098 impartial and in the public interest; avoid impropriety and the appearance of impropriety in all
1099 matters under their jurisdiction; avoid all prohibited communications; require staff and
1100 personnel subject to their direction and control to observe the same standards of fidelity and
1101 diligence; disqualify themselves from proceedings in which their impartiality might reasonably
1102 be questioned; refrain from financial or business dealings which would tend to reflect adversely
1103 on impartiality, although the secretary, administrators, and directors may hold and manage

1104 investments which are not incompatible with the duties of their office or of this section; and
1105 conform to such additional rules as may be prescribed by the secretary from time to time.

1106 Section 26. Chapter 12A shall apply to the department.

1107 Section 27. (a) The exercise of the powers granted by this chapter shall be in all respects
1108 for the benefit of the people of the commonwealth and for the improvement of their health and
1109 living conditions and as the operation and of the department shall constitute the performance of
1110 essential governmental functions, the department shall not be required to pay any taxes or
1111 assessments, except as otherwise provided by this chapter and the notes or bonds issued under
1112 this chapter, their transfer and the income therefrom, including any profit made on the sale
1113 thereof, at all times shall be free from taxation by and within the commonwealth.

1114 (b) The lands and tangible personal property of the department shall be deemed to be
1115 public property used for essential public and governmental purposes and shall be exempt from
1116 taxation and from betterments and special assessments.

1117 Section 28. In order to promote transparency, accountability and equity, the
1118 Massachusetts Department of Transportation, shall not later than October 31, submit an annual
1119 revenue and expenditure report to the house and senate chairs of the joint committee on
1120 transportation and the chairpersons of the house and senate committees on ways and means. The
1121 report shall also be posted on the Massachusetts Department of Transportation's website.

1122 The annual revenue and expenditure report shall provide a full accounting of the
1123 operational and capital revenues received and expended by the Massachusetts Department of
1124 Transportation, the registry of motor vehicles, the aeronautics division and the division of

1125 highways and the division of mass transit during the preceding fiscal year ending the preceding
1126 June 30, including fiscal activity during the accounts payable period for that fiscal year.

1127 The report shall include, among other information necessary to provide a full
1128 accounting, the following information relative to revenues: (i) revenues raised by the various
1129 state motor fuels taxes, broken down by category, such as gasoline, special fuels and aviation
1130 fuel; (ii) revenues raised through fares, which shall be broken down to reflect fares collected for
1131 commuter rail, rapid transit, bus service, water transportation, regional transit service and any
1132 other similar fares; (iii) tolls collected, broken down by those collected for travel on the
1133 metropolitan highway system, for travel on the turnpike and any other similar tolls; (iv) fees
1134 collected by the registry of motor vehicles, which shall be broken down by each specific fee; (v)
1135 revenues raised by the portion of the sales tax credited to the Massachusetts Transportation
1136 Trust Fund and the Commonwealth Transportation Fund; (vi) assessments deposited into the
1137 Massachusetts Transportation Trust Fund and the Commonwealth Transportation Fund, broken
1138 down by source; (vii) federal funds received from the Federal Highway Administration, funds
1139 received from the Federal Transit Administration and (viii) any other similar federal funds; and
1140 any other revenues received by the Massachusetts Department of Transportation and any of its
1141 divisions.

1142 To provide a full accounting, the report shall also provide the following information
1143 relative to expenditures: expenditures by the Massachusetts Department of Transportation and
1144 its divisions of highways, division of mass transit, registry of motor vehicles, and aeronautics
1145 division, including operating and capital expenditures. In addition to the above-referenced
1146 expenditures, the report shall also detail the overall expenditures for commuter rail, rapid
1147 transit, water transportation; regional transit services; the statewide road and bridge program,

1148 the chapter 90 program, which funds town and county ways; the accelerated bridge program,
1149 and any other capital programs administered by the Massachusetts Department of
1150 Transportation.

1151 The report shall include an accounting of debt of the Massachusetts Department of
1152 Transportation, including those projects and programs for which the debt was incurred, and
1153 what revenues have been pledged to repay that debt.

1154 Section 29. (a) There shall be within the department an office of planning and
1155 programming which shall be under the supervision, direction and control the secretary. The
1156 secretary shall be appointed by the governor pursuant to paragraph 2 of section 2. The secretary
1157 shall be the executive and administrative head of the department and shall be responsible for
1158 administering and enforcing the provisions of law relative to the department and to each
1159 administrative unit thereof. The secretary shall act as the executive officer in all matters
1160 pertaining to the administration, management, operation, regulation, planning, fiscal and policy
1161 development functions and affairs of the departments, agencies, commissions, offices, boards,
1162 divisions, and other agencies within the executive office. The secretary shall serve at the
1163 pleasure of the governor, shall receive such salary as may be determined by law, and shall
1164 devote his full time to the duties of his office. In the case of an absence or vacancy in the office
1165 of the secretary, or in the case of disability as determined by the board, the board may designate
1166 an acting secretary to serve as secretary until the vacancy is filled or the absence or disability
1167 ceases. The acting secretary shall have all the powers and duties of the secretary and shall have
1168 similar qualifications as the secretary.

1169 (b) The office of planning and programming shall contain the following administrative
1170 units: the highway division, the mass transit division, the aeronautics division; and the registry
1171 of motor vehicles.

1172 (c) The secretary shall, notwithstanding the provisions of chapter 30 and section 9A of
1173 chapter 31 and subject to the approval of the governor, appoint 4 administrators: 1 of whom
1174 shall be the administrator for highways and shall be a person of skill and experience in the fields
1175 of highway management and public works; 1 of whom shall be the administrator for mass
1176 transit and shall be a person of skill and experience in the fields of rail transportation or mass
1177 transit; 1 of whom shall be the administrator for aeronautics and shall be a person of skill and
1178 experience in the field of aeronautics; and 1 of whom shall be the administrator for motor
1179 vehicle enforcement, who shall be known as the registrar of motor vehicles and shall be a
1180 person of skill and experience in management and motor vehicle law. Each administrator shall
1181 receive such salary as the secretary shall determine, subject to the approval of the board, and
1182 shall devote his full time to the duties of his office.

1183 (d) Subject to appropriation and consistent with subsection (e), the secretary may
1184 appoint such persons as he shall deem necessary to perform the functions of the department;
1185 provided, however, that section 9A of chapter 30 and chapter 31 shall not apply to any person
1186 holding any such appointment. Every person so appointed to any position in the department
1187 shall have experience and skill in the field of such position. So far as practicable in the
1188 judgment of the secretary, appointments to such positions in the executive office shall be made
1189 by promoting or transferring employees of the commonwealth serving in positions which are
1190 classified under said chapter 31, and such appointments shall at all times reflect the professional
1191 needs of the administrative unit affected. If an employee serving in a position which is classified

1192 under said chapter 31 or in which an employee has tenure by reason of said section 9A of said
1193 chapter 30 shall be appointed to a position within this office which is not subject to the
1194 provisions of said chapter 31, the employee shall upon termination of his service in such
1195 position be restored to the position which he held immediately prior to such appointment;
1196 provided, however, that his service in such position shall be determined by the civil service
1197 commission in accordance with the standards applied by said commission in administering said
1198 chapter 31. Such restoration shall be made without impairment of his civil service status or
1199 tenure under said section 9A of said chapter 30 and without loss of seniority, retirement or other
1200 rights to which uninterrupted service in such prior position would have entitled him. During the
1201 period of such appointment, each person so appointed from a position in the classified civil
1202 service shall be eligible to take any competitive promotional examination for which he would
1203 otherwise have been eligible.

1204 Section 30. (a) The office of planning and programming shall serve as the principal
1205 agency of the executive department for the following purposes: (1) developing, coordinating,
1206 administering and managing transportation policies, planning and programs related to design,
1207 construction, maintenance, operations and financing; (2) supervising and managing the
1208 organization and conduct of the business affairs of the divisions, agencies, commissions,
1209 offices, boards, divisions, and other entities within the department to improve administrative
1210 efficiency and program effectiveness and to preserve fiscal resources; (3) developing and
1211 implementing effective policies and programs to assure the coordination and quality of
1212 roadway, transit, airport and port infrastructure and security provided by the secretary and all of
1213 the divisions, agencies, commissions, offices, boards, divisions, authorities and other entities
1214 within the department.

1215 (b) The following state agencies shall be within the office of planning and programming:
1216 the highway division, including the government center commission established by section 1 of
1217 chapter 635 of the acts of 1960, the mass transit division, the aeronautics division, the registry
1218 of motor vehicles division and all other state agencies within the department, except the division
1219 of motorboats and the division of waterways. The Massachusetts Bay Transportation Authority,
1220 the the Massachusetts Turnpike Authority and any regional transportation authorities
1221 established under chapter 161 or 161B shall also be within the jurisdiction of the department.

1222 (c) Subject to the approval of the board the secretary may: (1) operate and administer the
1223 programs of roadway design, construction, repair, maintenance, capital improvement,
1224 development, and planning through the division of highways and other agencies within the
1225 department, as appropriate; (2) coordinate and supervise the administration of the department
1226 and its agencies to promote economy and efficiency and to leverage federal funding; (3)
1227 develop, in consultation with the commonwealth development coordinating council, and
1228 administer a long-term state-wide transportation plan for the commonwealth that includes
1229 planning for intermodal and integrated transportation; (4) develop, based on a public hearing
1230 process, procedures to be used for transportation project selection; (5) establish criteria for
1231 project selection to be used in the procedures developed pursuant to clause (4); (6) enter into
1232 agreements with commissions, offices, boards, divisions, authorities and other entities within
1233 the department to improve divisions, agencies, administrative efficiency and program
1234 effectiveness and to preserve fiscal resources; (7) pursuant to chapter 30A, make, amend and
1235 repeal rules and regulations for the management and administration of the department and
1236 agencies within the department; (8) execute all instruments necessary for carrying out the
1237 business of the department and its agencies; (9) acquire, own, hold, dispose of, lease and

1238 encumber property in the name of the department and its agencies; (10) enter into agreements
1239 and transactions with federal, state and municipal agencies and other public institutions and
1240 private individuals, partnerships, firms, corporations, associations and other entities on behalf of
1241 the department or its agencies; and (11) apply for and accept funds, including grants, on behalf
1242 of the commonwealth in accordance with applicable law. The secretary may delegate any of the
1243 foregoing powers to an officer having charge of a division, office, division or other
1244 administrative unit within the executive office.

1245 (e) The secretary shall collaborate with other state agencies to reduce greenhouse gas
1246 emissions to achieve the greenhouse gas emission limits established in chapter 21N.

1247 Section 31. (a) The secretary may from time to time, subject to appropriation, establish
1248 within the office of planning and programming such administrative units as may be necessary
1249 for the efficient and economical administration of the office of planning and programming, and
1250 when necessary for such purpose, may abolish any such administrative unit, or may merge any 2
1251 or more units, as the secretary deems advisable. The secretary shall prepare and keep current a
1252 statement of the organization of the office of planning and programming, of the assignment of
1253 its functions to its various administrative units, offices and employees, and of the places at
1254 which and the methods whereby the public may receive information or make requests. Such
1255 statement shall be known as the department's description of organization. A current copy of the
1256 description of organization shall be kept on file in the office of the secretary of state and in the
1257 office of the secretary of administration.

1258 Section 32. The secretary shall apply for, accept and expend, subject to appropriation, on
1259 behalf of the commonwealth, any gift, loan or grant-in-aid from the federal government, or any

1260 agency or instrumentality thereof for demonstration projects and programs as may become
1261 available to the commonwealth for the purpose of energy conservation for improved
1262 transportation management systems or for improved transportation management systems.

1263 Section 33. There shall be established within the department a healthy transportation
1264 compact. The secretary and the secretary of health and human services shall work cooperatively
1265 to adopt best practices to increase efficiency to achieve positive health outcomes through the
1266 coordination of land use, transportation and public health policy. The compact shall consist of
1267 the secretary or his designee, the secretary of health and human services or his designee, the
1268 secretary of energy and environmental affairs or his designee, the administrator of transportation
1269 for highways or his designee, the administrator of transportation for mass transit or his designee,
1270 and the commissioner of public health or his designee.

1271 The secretary and the secretary of health and human services, or their designees, shall
1272 serve as co-chairpersons of the compact. The chairpersons shall convene and preside at
1273 meetings of the compact, determine the agenda of the compact, direct its work and, as
1274 appropriate to particular subject matters, establish and direct subgroups of the compact, which
1275 shall consist exclusively of the compact's members. The compact shall: (i) promote inter-
1276 secretariat cooperation and the establishment of a healthy transportation policy, including
1277 appropriate mechanisms to minimize duplication and overlap of state and federal programs and
1278 services; (ii) develop a healthy transportation framework that increases access to healthy
1279 transportation alternatives that reduce greenhouse gas emissions, improves access to services for
1280 persons with mobility limitations and increases opportunities for physical activities; (iii)
1281 develop methods to increase bicycle and pedestrian travel, incorporate the principles, findings
1282 and recommendations of the Massachusetts bicycle transportation plan and establish a

1283 framework for implementation of the Bay State Greenway Network; (iv) develop and
1284 implement, in consultation with the bicycle and pedestrian advisory board established in section
1285 11A of chapter 21A, administrative and procedural mechanisms, including the promulgation of
1286 rules and regulations, consistent with the most current edition of the Project Development and
1287 Design Guide, or its successor, to encourage the construction of complete streets, designed and
1288 operated to enable safe access for pedestrians, bicyclists, motorists and bus riders of all ages to
1289 safely move along and across roadways in urban and suburban areas; (v) establish methods to
1290 implement the use of health impact assessments to determine the effect of transportation
1291 projects on public health and vulnerable populations; (vi) facilitate access to the most
1292 appropriate, cost-effective transportation services within existing resources for persons with
1293 mobility challenges; (vii) expand service offerings for the Safe Routes to Schools program;
1294 (viii) explore opportunities and encourage the use of public-private partnerships with private
1295 and nonprofit institutions; (ix) seek to establish an advisory council with private and nonprofit
1296 advocacy groups as the compact sees fit; (x) institute a health impact assessment for use by
1297 planners, transportation administrators, public health administrators and developers; and (xi)
1298 develop and implement a method for monitoring progress on achieving the goals of this section
1299 and provide any other recommendations that would, in the judgment of the compact, advance
1300 the principles set forth in this section.

1301 Section 34. Prior to the final approval of a transportation infrastructure project, including
1302 mass transit expansion or the construction of new roadways with a projected capital cost of
1303 more than \$15,000,000, and prior to expending any funds for the planning, design and
1304 construction of any such project, the secretary of transportation shall request that the
1305 administrator of the appropriate division of the Massachusetts Department of Transportation

1306 prepare a fiscal analysis, including life cycle costs, demonstrating that sufficient revenues exist
1307 or will be generated to operate and maintain in good repair a new transportation asset. This
1308 analysis shall be also be submitted to any advisory boards to the respective divisions of the
1309 Massachusetts Department of Transportation.

1310 If a project for the expansion of mass transit has a projected total cost in excess of
1311 \$200,000,000, the secretary of transportation shall submit the analysis to the secretary of
1312 administration and finance for a determination as to which costs, if any, will become part of the
1313 commonwealth's plan of capital expenditures.

1314 Section 35. The secretary shall annually submit a complete and detailed report of the
1315 department's activities within 90 days after the end of the fiscal year to the clerk of the house of
1316 representatives, the clerk of the senate, the chairs of the joint committee on transportation and
1317 the chairs of the house and senate committees on ways and means.

1318 Section 36. As used in sections 41 to 56, inclusive, the following words shall, unless the
1319 context clearly requires otherwise, have the following meanings:-

1320 'Division', the division of highways.

1321 'Administrator', the administrator of transportation for highways.

1322 Section 37. There shall be within the department a division of highways, which shall
1323 perform such functions as the secretary may determine in relation to the administration,
1324 implementation and enforcement of the department's authority over state highways. The
1325 division shall be under the supervision and control of the administrator. The administrator shall
1326 be the executive and administrative head of the division and shall be responsible for

1327 administering and enforcing the provisions of law relative to the division and to each
1328 administrative unit thereof. The duties given to the administrator in this chapter and in any other
1329 general or special law shall be exercised and discharged subject to the direction, control and
1330 supervision of the secretary.

1331 The administrator shall be exempt from chapter 31 and the position of administrator
1332 shall be classified in accordance with section 45 of chapter 30 and the salary shall be
1333 determined in accordance with section 46C of said chapter 30. The administrator shall be
1334 appointed with due regard to his fitness, by reason of his experience in matters relating to
1335 transportation infrastructure, including roads and bridges, such as the construction, operations or
1336 financing thereof or other relevant experience relative to the efficient exercise of his powers and
1337 duties. The administrator shall administer this section and the General Laws, rules and
1338 regulations that grant powers to or impose duties upon the division, subject to the supervision of
1339 the secretary.

1340 Section 38. The division shall be responsible for the administration and enforcement of
1341 chapter 81 and for the administration and management of the state highway system. The
1342 division shall: (1) administer the design, construction, reconstruction, repair, rehabilitation,
1343 improvement, operation and maintenance of roads and bridges within the commonwealth; (2)
1344 enter into any contracts and agreements necessary or desirable to carry out its purposes; (3)
1345 make, and from time to time revise, regulations for the conduct of the business of the division
1346 and all regulations otherwise required by law; (4) collaborate with other agencies and authorities
1347 as may be appropriate in fields related to transportation, development, public safety and
1348 security; (5) prepare and submit to the governor, the board and the general court an annual
1349 report describing the organization of the division, and with the approval of the secretary,

1350 reviewing the work of the division, recommending legislation and other action by the governor
1351 and the general court, and (6) submit such other reports as the secretary or the general court may
1352 require from time to time.

1353 Section 39. (a) The administrator may from time to time, subject to the approval of the
1354 secretary, establish within the division such administrative units, district or other offices as may
1355 be necessary for the efficient and economical administration of the division, and when
1356 necessary for such purpose, may abolish any such administrative unit, or may merge any 2 or
1357 more units, as the administrator deems advisable; provided, however, that the administrator
1358 shall establish the following units: highway engineering, highway construction and highway
1359 maintenance. Each such unit shall be under the direction, control and supervision of the
1360 administrator. The administrator shall assign to all officials, agents and employees of the units
1361 their respective duties. The administrator shall prepare and keep current a statement of the
1362 organization of the division, of the assignment of its functions to its various administrative
1363 units, offices and employees and of the places at which and the methods whereby the public
1364 may receive information or make requests. Such statement shall be known as the division's
1365 description of organization. A current copy of the description of organization shall be kept on
1366 file in the office of the secretary of state and in the office of the secretary of administration.

1367 (b) The administrator may appoint and remove without regard to chapter 31, but with the
1368 approval of the secretary: a chief engineer; 5 deputy chief engineers; an assistant chief engineer;
1369 a highway and structures engineer; a bridge engineer; highway engineers; district highway
1370 engineers; a general counsel to serve in the office of the administrator; a director to serve in the
1371 division of administrative services; 4 executive assistants to the administrator; a personnel
1372 director; a director of the right of way bureau; and a director of public information. The total

1373 number of appointments to be made by the administrator under this subsection shall not exceed
1374 35. No person holding an appointment under this subsection shall be subject to section 9A of
1375 chapter 30 or chapter 31. Nothing in this section shall be deemed to exempt the positions named
1376 herein from sections 45 to 50, inclusive, of said chapter 30. So far as practicable in the judgment
1377 of the administrator, appointments to said positions not classified under said chapter 31 shall be
1378 made by promoting employees of the commonwealth serving in positions so classified. Any
1379 person appointed to the position of chief engineer, deputy chief engineer, assistant chief
1380 engineer, highway and structures engineer, bridge engineer, highway engineer or district
1381 highway engineer shall be a person of experience and skill as an engineer and shall be: (i) an
1382 employee of the division holding an office or position classified under said chapter 31 with
1383 permanent status of senior civil engineer or higher; (ii) a registered professional engineer; or
1384 (iii) a person who has received the degree of bachelor of science in an appropriate engineering
1385 discipline from an accredited college or university. If an employee of the commonwealth having
1386 permanent status in a position classified under or having tenure by reason of section 9A of said
1387 chapter 30 is so promoted to such unclassified position, upon termination of service in such
1388 unclassified position, the employee shall: be restored to the position from which he was
1389 promoted or to a position equivalent thereto in the salary grade in the same state agency; or if he
1390 had been promoted in accordance with said chapter 31 in the unclassified position, to the
1391 position to which he was so promoted or to a position equivalent thereto in salary grade in the
1392 same state agency. In cases of restoration under said section 9A of said chapter 30 or said
1393 chapter 31, such restoration shall be without impairment of civil service status or tenure under
1394 said section 9A of said chapter 30, and without loss of the seniority, retirement and other rights
1395 to which uninterrupted service in the position would have entitled the employee; provided,

1396 however, that if his service in such unclassified position has been terminated for cause, the
1397 employee's right to be restored shall be determined by section 43 of said chapter 31. During the
1398 period of such appointment the person so appointed shall be eligible to take any competitive
1399 promotional examination for which he would otherwise have been eligible.

1400 Section 40. The administrator shall establish a procedure for recommending to the
1401 secretary approval or disapproval of all contracts, including specifications, made by the division
1402 and any changes, alterations, amendments or modifications thereof and for contract appeals of
1403 all claims made under any contract with the division with the exception of claims subject to
1404 section 39Q of chapter 30. Any person aggrieved by a decision of the secretary acting in regard
1405 to contract appeals may bring suit against the commonwealth for recovery of damages based on
1406 such claim under chapter 258.

1407 To assist the secretary and administrator in performing this function, the governor may
1408 appoint and remove a person of legal training and experience, who shall be a member of the bar
1409 of the commonwealth, to the position of hearing examiner. The hearing examiner shall devote
1410 his full time during business hours to the duties of this position. The position shall be classified
1411 in accordance with section 45 of chapter 30 and the salary shall be determined in accordance
1412 with section 46C of said chapter 30. The secretary may refer any dispute concerning contracts,
1413 contract specifications or the execution of contracts not subject to said section 39Q of said
1414 chapter 30 to the hearing examiner for a report on the matter, including a recommendation as to
1415 the disposition of the dispute.

1416 The hearing examiner shall hear all claims by contractors from determinations of the
1417 division with the exception of claims subject to said section 39Q of said chapter 30 and shall,

1418 after hearing, render to the secretary a report of the matter including a recommendation as to the
1419 disposition of the claim. The examiner shall, at the request of the contractor or of the division or
1420 on his own motion, summon witnesses and require the production of books and records and take
1421 testimony under oath. Such reports shall be maintained as public records in a place and form
1422 fully accessible to the public.

1423 Section 41. With the approval of the personnel administrator, the administrator may
1424 establish in the division a program of engineering internship and may recruit qualified persons
1425 to serve in the division as highway engineer interns. Every effort shall be made to recruit
1426 qualified persons who reflect the diversity of the commonwealth.

1427 The number of persons employed in the division as highway engineer interns shall at no
1428 time exceed 7, nor may such highway engineer interns employed by the division be placed in a
1429 salary grade higher than that of a junior civil engineer in the division.

1430 No person shall be appointed or employed as a highway engineer intern except upon
1431 requisition made by the administrator and upon certification by the personnel administrator
1432 from an eligible list prepared in accordance with chapter 31 and the rules made thereunder;
1433 provided, however, that the administrator shall establish such eligible list before June 1 in each
1434 calendar year by holding a competitive examination which shall be open only to persons who,
1435 as candidates for the degree of bachelor of science in engineering are enrolled in at least the
1436 junior year as students in any college of the commonwealth, or are Massachusetts residents
1437 attending a college of recognized standing outside the commonwealth and to persons who,
1438 within the 4 years next preceding, have been awarded the degree of bachelor of science in
1439 engineering from a college of recognized standing. The eligible list established each year shall

1440 expire upon the establishment of the eligible list in the following year. No person shall be
1441 certified for appointment as a highway engineer intern unless he has been awarded the degree of
1442 bachelor of science in engineering.

1443 Upon appointment as a highway engineer intern, made in accordance with chapter 31
1444 and the rules made thereunder, the appointee shall sign an agreement binding him to serve as
1445 highway engineer intern for a minimum of 2 years unless his employment is sooner terminated
1446 by the administrator. It shall be the duty of the administrator to rotate the assignments of each
1447 intern during his period of employment in order that such intern may acquire diversified
1448 experience in the engineering programs of the department.

1449 The names of persons appointed as highway engineer interns shall be entered in order of
1450 date of appointment on a list to be known as "highway engineer intern list" in the division of
1451 civil service.

1452 Upon completion of 2 years of employment as interns under agreements provided for in
1453 this section, persons shall be eligible without further examination for appointment as junior civil
1454 engineers, providing a vacancy exists in said title in the department and, upon requisition of the
1455 administrator, the names of such persons shall be certified for appointment by the personnel
1456 administrator from the highway engineer intern list in accordance with the rules of the civil
1457 service commission, except that the basis of certification shall be the order of appointment to
1458 such highway engineer intern list.

1459 Section 42. The administrator may establish a co-operative engineer program and may
1460 enter into agreements with colleges of recognized standing within the commonwealth, including
1461 colleges which have summer programs, which have established a curriculum leading to a degree

1462 of bachelor of science in engineering on a co-operative basis, contemplating regularly rotating
1463 work activity in the field of engineering and an equal period of classroom training. The
1464 administrator may employ persons enrolled as candidates for the degree of bachelor of science
1465 in engineering in any such college to serve in the department in the position of student engineer;
1466 provided, however, that the position of student engineer shall be in a grade lower than that of
1467 junior civil engineer in the department; and provided, further, that at no time shall the number of
1468 persons employed in the department as student engineers exceed 8. Upon completion of not less
1469 than 2 years of employment as student engineer, a person shall be eligible to apply for the
1470 examination for highway engineer intern. No person shall be employed as a student engineer for
1471 more than 6 years.

1472 Section 43. (a) There shall be within the division a real estate appraisal review board.
1473 The board shall consist of not less than 3 nor more than 5 members to be appointed by the
1474 governor, 2 of whom shall be certified general real estate appraisers licensed by the board of
1475 real estate appraisers pursuant to section 92 of chapter 13. Members of the board shall be
1476 appointed for terms of 3 years or until a successor is appointed. Members shall be eligible to be
1477 reappointed and may be compensated at a rate to be determined by the division. Members of the
1478 board shall be state employees for the purposes of chapter 268A. A chairman of the board shall
1479 be elected annually from the membership. The division shall provide administrative support to
1480 the council as requested. In the event of a vacancy on the board, the governor shall appoint a
1481 new member consistent with this section to fulfill the remainder of the unexpired term.

1482 (b) The division shall not purchase or acquire by eminent domain any real property or
1483 any interest in real property with a value in excess of \$300,000 without the written approval of
1484 the board.

1485 (c) The board shall meet periodically, but not less than twice each year. The board shall
1486 keep a public record of all meetings, votes and other business.

1487 (d) The board shall submit an annual report of its activities during the preceding fiscal
1488 year not later than September 1 to the governor, the secretary of the Massachusetts Department
1489 of Transportation, the administrator, the chairs of the joint committee on transportation and the
1490 chairs of the house and senate committees on ways and means.

1491 Section 44. (a) The division of highways may provide functional replacement of real
1492 property in public ownership whenever the division has acquired such property, in whole or in
1493 part, under this chapter or when such property is significantly and adversely affected as a result
1494 of the acquisition of property for a highway or highway-related project and whenever the
1495 division determines that functional replacement is necessary and in the public interest. For the
1496 purposes of this section, "functional replacement" shall mean the replacement, pursuant to
1497 chapter 7, requiring authorization of the general court prior to disposition of real property,
1498 including either land or facilities thereon, or both, which shall provide equivalent utility, For
1499 the purposes of this section "real property in public ownership" shall mean any present or
1500 future interest in land, including rights of use, now existing or hereafter arising, held by an
1501 agency, authority, board, bureau, commission, department, division or other unit, body,
1502 instrumentality or political subdivision of the commonwealth. This section shall not constitute
1503 authorization by the general court as required by said chapter 7.

1504 (b) Whenever the division determines it is necessary that a utility or utility facility, as
1505 defined under federal law, be relocated because of construction of a project which is to be
1506 reimbursed federally, in whole or in part, such facility shall be relocated by the division or by

1507 the owner thereof in accordance with an order from the division. The commonwealth shall
1508 reimburse the owner of such utility or utility facility for the cost of relocation subject to the
1509 limitations in subsections (e) and (f) and in accordance with the following formula: (1) for any
1510 utility facility that is to be reimbursed federally, in whole or in part, the division shall reimburse
1511 the owner to the extent that the cost of relocating the utility facility is reimbursed by the federal
1512 government; and (2) for the relocation of any utility facility ,the cost of which exceeds \$50,000,
1513 and that does not qualify for federal reimbursement, the division may reimburse the owner in
1514 accordance with the owner's ability to meet the following schedule: if the utility performs the
1515 relocation in a manner consistent with the division's policies and not later than the target date
1516 established by the division for the project, the division shall reimburse the utility at least 50 per
1517 cent but not more than 80 per cent of the costs of relocating the utility facility. Failure to comply
1518 with an order from the department shall be subject to enforcement under chapter 81.

1519 (c) Any relocation of facilities carried out under this section which is not performed by
1520 employees of the owner shall be subject to sections 26 to 27F inclusive of chapter 149.

1521 (d) Notwithstanding any general or special law to the contrary, any utility facility that is
1522 required to be relocated because of the construction of a project federally funded under the
1523 Federal-Aid Highway Act of 1982 and the Federal-Aid Highway Act of 1987 may be relocated
1524 temporarily above ground during the construction of the project.

1525 (e) The total cost to the commonwealth for reimbursements for utility relocations under
1526 this section that are not reimbursed federally in whole or in part shall not exceed \$25,000,000
1527 annually and shall not be credited toward the costs of the annual statewide road and bridge
1528 program.

1529 (f) A utility relocation shall be eligible for reimbursement under this section only if it is
1530 completed to the satisfaction of the division within target dates established by the division and
1531 in accordance with design criteria set forth by the division for the relocation in a manner that
1532 facilitates the timely completion of the affected project.

1533 Section 45. Notwithstanding clause (f) of section 4 or any other general or special law
1534 to the contrary, the commonwealth, through the division of highways, may reimburse the owner
1535 of an underground utility or utility facility whenever such underground utility or utility facility
1536 has been relocated because of construction of a project which is to be reimbursed federally in
1537 whole or in part. The reimbursement authorized herein shall be to the extent that the cost of
1538 relocating the facility is reimbursed by the federal government.

1539 Section 46. In addition to any other power the department may have to enter into leases,
1540 the department may lease, at 1 time or from time to time, for terms not to exceed 99 years, upon
1541 such terms and conditions as the department in its discretion deems advisable, air rights over
1542 land owned or held by the department in connection with the turnpike and the Boston extension
1543 portion of the metropolitan highway system, including rights for support, access, utilities, light
1544 and air for such purposes as, in the opinion of the department, shall not impair the construction,
1545 full use, safety, maintenance, repair, operation or revenues of the turnpike or the metropolitan
1546 highway system but any such lease for a period of 40 years or more shall be subject to the
1547 approval of the governor. Any lease granted under this section may, with the consent of the
1548 department, be assigned, pledged or mortgaged and the lien of such pledge or mortgage may be
1549 foreclosed by appropriate action.

1550 Use of air rights leased under this section relative to land within the territorial limits of
1551 the city of Boston and the construction and occupancy of buildings or other things erected or
1552 affixed pursuant to any such lease shall be made in accordance with the state building code
1553 enacted pursuant to chapter 143 and such other requirements as the department deems necessary
1554 or advisable to promote the public health, convenience and safety of persons and property, but
1555 shall not be subject to any other building, fire, garage, health or zoning law or any building, fire,
1556 garage, health or zoning ordinance, rule or regulation applicable in the city of Boston.

1557 The department shall not lease any air rights in a particular location unless it shall find
1558 that the construction and use of buildings or other things to be erected or affixed pursuant to any
1559 such lease shall be in no way detrimental to the maintenance, use and operation of the turnpike
1560 or the metropolitan highway system and, in the city of Boston, unless the department shall also
1561 find, after consultation with the mayor of said city of Boston, that the construction and use of
1562 such buildings or other things shall preserve and increase the amenities of the community.

1563 The construction or occupancy of any building or other thing erected or affixed under
1564 any lease under this section of air rights relative to land outside the territorial limits of the city
1565 of Boston shall be subject to the building, fire, garage, health and zoning laws and the building,
1566 fire, garage, health and zoning ordinances, by-laws, rules and regulations applicable in the city
1567 or town in which such building or other thing is located.

1568 A copy of all leases granted by the department under this section shall be filed by the
1569 department with the governor and with the mayor or chairperson of the board of selectmen of
1570 the respective city or town and such leases shall be deemed to be public records within the
1571 meaning of section 10 of chapter sixty-six.

1572 Neither such air rights nor any buildings or other things erected or affixed pursuant to
1573 any such lease nor the proceeds from any such lease shall be taxed or assessed to the department
1574 under any general or special law; provided, however, that buildings and other things erected or
1575 affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same
1576 manner and to the same extent as if such lessee or his assigns were the owners of the land in fee;
1577 provided, further, that no part of the value of the land shall be included in any such assessment;
1578 and provided, further, that payment of any such taxes shall not be enforced by a lien upon or
1579 sale or taking of such land except that the leasehold estate may be sold or taken by the collector
1580 of taxes of the city or town wherein such real estate is situated for the nonpayment of any tax
1581 assessed as aforesaid in the manner provided by law for the sale or taking of real estate for
1582 nonpayment of local taxes. Such collector shall have, for the collection of taxes assessed under
1583 this section, all other remedies provided by the General Laws for the collection of taxes by
1584 collectors of cities and towns.

1585 The department shall include in any lease of such air rights a provision whereby the
1586 lessee agrees, in the event that the foregoing tax provision is determined by any court of
1587 competent jurisdiction to be inapplicable, to pay annually to the city or town wherein such
1588 building or other thing leased is located, a sum of money in lieu of taxes which would otherwise
1589 be assessed for such year.

1590 Section 46A.. In addition to any other power the authority may have to make leases, the
1591 authority may lease at one time or from time to time for terms not to exceed ninety-nine years,
1592 upon such terms and conditions as the authority in its discretion deems advisable, land owned
1593 by the authority and no longer required for the maintenance, repair, reconstruction,
1594 improvement, use, administration or operation of the turnpike or the Boston extension of the

1595 metropolitan highway system; provided, however, that any such lease for a period of forty years
1596 or more shall be subject to the approval of the governor. A lease granted under this section may,
1597 with the consent of the authority, be assigned, pledged or mortgaged and the lien of such pledge
1598 or mortgage may be foreclosed by appropriate action.

1599 The construction or occupancy of any building or other thing erected or affixed under
1600 any lease of land under this section shall be subject to the building, fire and zoning laws,
1601 ordinances or by-laws applicable in the city or town wherein such building or other thing is
1602 located.

1603 A copy of all leases granted by the authority under the provisions of this section shall be
1604 filed by the authority with the governor and with the mayor or chairman of the board of
1605 selectmen of the respective city or town and such leases shall be deemed to be public records
1606 within the meaning of chapter sixty-six.

1607 Neither such land nor any buildings or other things erected or affixed pursuant to any
1608 such lease nor the proceeds from any such lease shall be taxed or assessed to the authority under
1609 any general or special law; provided, however, that such land and buildings and other things
1610 erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in
1611 the same manner and to the same extent as if such lessee or his assigns were the owners of the
1612 land in fee; provided, further, that payment of any such taxes shall not be enforced by a lien
1613 upon or sale or taking of such land except that the leasehold estate may be sold or taken by the
1614 collector of taxes of the city or town wherein such land is situated for the nonpayment of any
1615 tax assessed as aforesaid in the manner provided by law for the sale or taking of real estate for
1616 nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under

1617 this section all other remedies provided by the General Laws for the collection of taxes by
1618 collectors of cities and towns.

1619 The authority shall include in any lease of such land a provision whereby the lessee
1620 agrees, in the event that the foregoing tax provision is determined by any court of competent
1621 jurisdiction to be inapplicable, to pay annually to the city or town in which such leased land is
1622 located a sum of money in lieu of taxes which would otherwise be assessed for such year.

1623 Section 47. (a) The administrator may establish a small town rural assistance program to
1624 assist towns with populations of 7,000 or less in undertaking projects to design, construct,
1625 reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges or for the
1626 construction of chemical storage facilities. The program shall provide grant funds to towns for
1627 projects authorized by this section, and towns shall be eligible to receive one grant every 5 fiscal
1628 years. The amount of the grant shall not exceed \$500,000.

1629 (b) The administrator shall establish rules and regulations to govern the application and
1630 distribution of grants under this section. The rules and regulations shall include provisions for
1631 joint applications by 2 or more eligible towns for a single project serving those towns. Funds so
1632 distributed may be apportioned to reflect the percentage of the project located in each town.
1633 Receipt of a grant which is part of a joint application shall not preclude a town from receiving
1634 additional funds under a separate application; provided, however, that the total amount
1635 distributed to any 1 town shall not exceed the maximum amount allowed under this section.
1636 Any rules or regulations, or any amendment or repeal of any rules or regulations promulgated
1637 pursuant to this section shall be filed with the clerks of the senate and house of representatives.

1638 (c) A town with a population of 7,000 or less may, by vote at an annual town meeting or
1639 at a special town meeting called for that purpose or, in a municipality having a town council
1640 form of government, by the town council, make application to the administrator for financial
1641 assistance in undertaking a project described in this section. The application shall include the
1642 proposed cost of the project, the proposed location of the project and any other information
1643 specified by the rules or regulations.

1644 (d) In evaluating the project and the level of funding, the administrator shall consider,
1645 without limitation, the following: (1) the extent to which the project will have a beneficial
1646 impact upon the economy and public safety of an applicant town; (2) the availability of funds
1647 for the project under other state or federal programs; (3) the likelihood of funding under other
1648 state or federal programs; (4) the financial ability of the town to fund the project from its own
1649 sources; (5) the ability of the town to enter the capital markets to obtain borrowed funds for the
1650 project; and (6) the amount of state and federal highway funds expended or to be expended in
1651 the town.

1652 (e) The administrator shall report annually to the house and senate committees on ways
1653 and means and the joint committee on transportation on the status of all small town rural
1654 assistance applicants.

1655 Section 48. (a) The administrator may establish a program to assist municipalities with
1656 non-federally-reimbursable public works economic development projects, to design, construct,
1657 repair and improve roads, roadways and other related public works facilities, as deemed
1658 necessary for economic development by the administrator upon the petition of an appropriate
1659 local governmental body in accordance with this section and any rules or regulations

1660 promulgated by the secretary in accordance with this section. The rules and regulations shall
1661 govern the criteria by which the funds shall be distributed and the method by which a
1662 municipality may apply for such funds. Any rules or regulations or any amendment or repeal of
1663 any rules or regulations shall be filed with the clerks of the senate and house of representatives.

1664 (b) The administrator may, upon approval of the board, commit the funds pursuant to
1665 this section by executing a grant or other contractual agreement with a municipality and, upon
1666 execution, the funds so committed shall be made available as a grant directly to the municipality
1667 which has entered into an agreement without further review or approval of the department. Each
1668 agreement shall contain assurances satisfactory to the administrator that the municipality will
1669 award a construction contract for the project which is the subject of the agreement not later than
1670 180 days after the date of execution of the agreement.

1671 (c) In the event that a contract is not awarded by the municipality within the period
1672 provided in subsection (b), the administrator may require, by written notification to the
1673 municipality, that the funds paid to it by the commonwealth pursuant to the agreement shall be
1674 returned forthwith to the commonwealth.

1675 (d) The administrator may, through execution of a grant or other contractual agreement
1676 as provided in subsection (b), commit an amount of funds up to but not exceeding the aggregate
1677 amount of funds returned by municipalities under subsection (c) to any other municipality
1678 which has otherwise complied with the applicable requirements for such projects, including the
1679 terms and conditions provided in this section.

1680 (e) The administrator shall report annually to the house and senate committees on ways
1681 and means and the joint committee on transportation on the status of all public works economic
1682 development applicants.

1683 Section 50. (a) The administrator shall establish a regional mobility assistance program
1684 to assist cities and towns in geographic regions of the commonwealth with public works
1685 improvements and enhancements for transportation-related projects as deemed necessary by the
1686 department for the (1) development, rehabilitation, and improvement of tourism expansion
1687 corridors, (2) protection of historic centers, (3) promotion of improved mobility and access from
1688 neighboring states, and (4) promotion of local economic growth and reliability for transportation
1689 facilities in rural and less accessible regions of the commonwealth. The administrator may
1690 promulgate rules or regulations or implement such other procedures in accordance with this
1691 section, which shall govern the criteria by which the funds shall be distributed and the method
1692 by which a regional project shall be selected.

1693 (b) The administrator may, subject to appropriation, commit the funds pursuant to this
1694 section through projects to be undertaken by the division or by executing a grant or other
1695 contractual agreement with a municipality and, upon execution, the funds so committed shall be
1696 made available as a grant directly to the municipality which has entered into an agreement
1697 without further review or approval of the department. Each agreement shall contain assurances
1698 satisfactory to the secretary that the municipality will award a construction contract for the
1699 project which is the subject of the agreement not later than 180 days after the date of execution
1700 of the agreement.

1701 (c) In the event that a contract is not awarded by the municipality within the period
1702 provided in subsection (b), the administrator may require, by written notification to the
1703 municipality, that the funds paid to it by the commonwealth pursuant to the agreement shall be
1704 returned forthwith to the commonwealth.

1705 (d) The administrator may, through execution of a grant or other contractual agreement
1706 as provided in subsection (b), commit an amount of funds up to but not exceeding the aggregate
1707 amount of funds returned by municipalities under subsection (c) to any other municipality
1708 which has otherwise complied with the applicable requirements for such projects, including the
1709 terms and conditions provided in this section.

1710 Section 51. As used in sections 52 to 54, inclusive, the following words shall, unless the
1711 context clearly requires otherwise, have the following meanings:-

1712 “Division”, the Mass Transit division.

1713 “Administrator”, the administrator of transportation for the Mass Transit division.

1714 Section 52. There shall be within the department a Mass Transit division, which shall
1715 perform such functions as the secretary may determine in relation to the administration,
1716 implementation and enforcement of the department’s authority over mass transit systems. The
1717 division shall be under the supervision and control of the administrator. The administrator shall
1718 be the executive and administrative head of the division and shall be responsible for
1719 administering and enforcing the provisions of law relative to the division and to each
1720 administrative unit thereof. The duties of the administrator in this chapter and in any other
1721 general or special law shall be exercised and discharged subject to the direction, control and
1722 supervision of the secretary.

1723 The administrator shall be exempt from chapter 31 and the position of administrator
1724 shall be classified in accordance with section 45 of chapter 30 and the salary shall be
1725 determined in accordance with section 46C of said chapter 30. The administrator shall be
1726 appointed with due regard to his fitness, by reason of his experience in matters relating to
1727 transportation infrastructure, including roads and bridges, such as the construction, operations or
1728 financing thereof or other relevant experience relative to the efficient exercise of his powers and
1729 duties. The administrator shall administer this section and the General Laws, rules and
1730 regulations that grant powers to or impose duties upon the division, subject to the supervision of
1731 the secretary.

1732 Section 53. The division shall be responsible for overseeing, coordinating and planning
1733 all transit and rail matters throughout the commonwealth. The division shall administer and
1734 manage: the freight and rail programs of the department pursuant to chapter 161C and the
1735 intercity bus capital assistance program pursuant to chapter 161D. The division shall oversee
1736 and coordinate the activities of the Massachusetts Bay Transportation Authority established
1737 pursuant to chapter 161A, the regional transit authorities and regional transit authority council
1738 established pursuant to 161B. The division shall take such steps as may be necessary to provide
1739 for the development, promotion, preservation and improvement of an adequate, safe, efficient
1740 and convenient rail system for the movement of passengers. In carrying out the purposes of this
1741 section, the division shall seek to encourage and develop rail services which promote and
1742 maintain the economic well-being of citizens and which preserve the environment and natural
1743 resources.

1744 Section 54. The administrator may from time to time, subject to the approval of the
1745 secretary, establish within the division such administrative units as may be necessary for the

1746 efficient and economical administration of the division and, when necessary for such purpose,
1747 may abolish any such administrative unit or may merge any 2 or more units, as the administrator
1748 deems advisable; provided, however, that the administrator shall establish the following units:
1749 highway engineering, highway construction and highway maintenance. Each such unit shall be
1750 under the direction, control and supervision of the director. The director shall assign to all
1751 officials, agents and employees of the units their respective duties. The administrator shall
1752 prepare and keep current a statement of the organization of the division, of the assignment of its
1753 functions to its various administrative units, offices and employees, and of the places at which
1754 and the methods whereby the public may receive information or make requests. Such statement
1755 shall be known as the division's description of organization. A current copy of the description
1756 of organization shall be kept on file in the office of the state secretary and in the office of the
1757 secretary of administration and finance.

1758 Section 55. As used in sections 56 to 57, inclusive, the following words shall, unless the
1759 context clearly requires otherwise, have the following meanings:-

1760 “Registry”, the registry of motor vehicles.

1761 “Administrator”, the administrator of transportation for motor vehicles.

1762 Section 56. There shall be within the department a registry of motor vehicles, which
1763 shall perform such functions as the secretary may determine in relation to the administration,
1764 implementation and enforcement of the department's authority over motor vehicles. The
1765 registry shall be under the supervision and control of the administrator, who shall be known as
1766 the registrar of motor vehicles. The administrator shall be the executive and administrative head
1767 of the registry and shall be responsible for administering and enforcing the provisions of law

1768 relative to the registry and to each administrative unit thereof. The duties given to the
1769 administrator in this chapter and in any other general or special law shall be exercised and
1770 discharged subject to the direction, control and supervision of the secretary. The administrator
1771 shall appoint a deputy registrar, assistant to the registrar, hearings officers and supervising
1772 inspectors and may appoint such other officers and employees as may be necessary to carry out
1773 the work of the registry. In the event of a vacancy in the office of registrar, his powers and
1774 duties shall be exercised and performed by the deputy registrar until a registrar is duly qualified.

1775 The administrator shall be exempt from chapter 31 and the position of administrator
1776 shall be classified in accordance with section 45 of chapter 30 and the salary shall be
1777 determined in accordance with section 46C of said chapter 30. The administrator shall be
1778 appointed with due regard to his fitness, by reason of his experience in matters relating to
1779 transportation infrastructure, including roads and bridges, such as the construction, operations or
1780 financing thereof or other relevant experience relative to the efficient exercise of his powers and
1781 duties. The administrator shall administer this section and the General Laws, rules and
1782 regulations that grant powers to or impose duties upon the division, subject to the supervision of
1783 the secretary.

1784 Section 57. The administrator may from time to time, subject to the approval of the
1785 secretary, establish within the registry such administrative units as may be necessary for the
1786 efficient and economical administration of the registry, and when necessary for such purpose,
1787 may abolish any such administrative unit, or may merge any 2 or more units, as the
1788 administrator deems advisable. The administrator shall assign to all officials, agents and
1789 employees of the units their respective duties. The administrator shall prepare and keep current
1790 a statement of the organization of the registry, of the assignment of its functions to its various

1791 administrative units, offices and employees, and of the places at which and the methods
1792 whereby the public may receive information or make requests. Such statement shall be known
1793 as the registry's description of organization. A current copy of the description of organization
1794 shall be kept on file in the office of the state secretary and in the office of the secretary of
1795 administration and finance.

1796 Section 58. As used in sections 59 to 61, inclusive, the following words shall, unless the
1797 context clearly requires otherwise, have the following meanings:-

1798 "Division", the aeronautics division.

1799 "Administrator", the administrator of transportation for aeronautics.

1800 Section 59. There shall be within the department an aeronautics division, which shall
1801 perform such functions as the secretary may determine in relation to the administration,
1802 implementation and enforcement of the department's authority over aeronautics. The division
1803 shall be under the supervision and control of the administrator. The administrator shall be the
1804 executive and administrative head of the division and shall be responsible for administering and
1805 enforcing the provisions of law relative to the division and to each administrative unit thereof.
1806 The duties given to the administrator in this chapter and in any other general or special law shall
1807 be exercised and discharged subject to the direction, control and supervision of the secretary.

1808 The administrator shall be exempt from chapter 31 and the position of administrator
1809 shall be classified in accordance with section 45 of chapter 30 and the salary shall be
1810 determined in accordance with section 46C of said chapter 30. The administrator shall be
1811 appointed with due regard to his fitness, by reason of his experience in matters relating to
1812 transportation infrastructure, including roads and bridges, such as the construction, operations or

1813 financing thereof or other relevant experience relative to the efficient exercise of his powers and
1814 duties. The administrator shall administer this section and the General Laws, rules and
1815 regulations that grant powers to or impose duties upon the division, subject to the supervision of
1816 the secretary.

1817 Section 60. The division shall be responsible for the administration and enforcement of
1818 sections 35 through 52, inclusive, of chapter 90 and other laws relating to aeronautics.

1819 Section 61. The administrator may from time to time, subject to the approval of the
1820 secretary, establish within the division such administrative units as may be necessary for the
1821 efficient and economical administration of the division and, when necessary for such purpose,
1822 may abolish any such administrative unit, or may merge any 2 or more units, as the
1823 administrator deems advisable. The administrator shall assign to all officials, agents and
1824 employees of the units their respective duties. The administrator shall prepare and keep current
1825 a statement of the organization of the division, of the assignment of its functions to its various
1826 administrative units, offices and employees and of the places at which and the methods whereby
1827 the public may receive information or make requests. Such statement shall be known as the
1828 division's description of organization. A current copy of the description of organization shall be
1829 kept on file in the office of the state secretary and in the office of the secretary of administration
1830 and finance.

1831 Section 62. As used in sections 62 to 73, inclusive, the following words shall have the
1832 following meanings, unless the context clearly requires otherwise:-

1833 “Affected jurisdiction”, any city or town, or other unit of government within the
1834 commonwealth in which all or part of a transportation facility is located or any other public
1835 entity directly affected by the transportation facility.

1836 “Architectural and engineering services”,: (1) professional services of an architectural or
1837 engineering nature, as defined by applicable state law, which are required to be performed or
1838 approved by a person licensed, registered or certified to provide such services as described in
1839 this definition; (2) professional services of an architectural or engineering nature performed by
1840 contract that are associated with research, planning, development, design, construction,
1841 alteration or repair of real property; and (3) such other professional services of an architectural
1842 or engineering nature or incidental services, which members of the architectural and engineering
1843 professions and employees thereof may logically or justifiably perform, including: studies,
1844 investigations, surveying, mapping, tests, evaluations, consultations, comprehensive planning,
1845 program management, conceptual designs, plans and specifications, value engineering,
1846 construction phase services, soils engineering, drawing reviews, preparation of operating and
1847 maintenance manuals and other related services.

1848 “Department”, the Massachusetts Department of Transportation.

1849 “Construction”, the process of building, altering, repairing, improving or demolishing
1850 any transportation facility, including any structure, building or other improvements of any kind
1851 to real property. “Construction” shall not include the routine operation, routine repair or routine
1852 maintenance of any existing transportation facility, including structures, buildings or real
1853 property.

1854 “Force majeure”, an uncontrollable force or natural disaster not within the power of the
1855 operator or the commonwealth.

1856 “Contract”, any agreement, including a public-private agreement for the procurement,
1857 operation or disposal under sections 61 to 73, inclusive, of a transportation facility by the
1858 department.

1859 “Contract modification”, any written alteration in specifications, delivery point, rate of
1860 delivery, period of performance, price, quantity or other provisions of any contract
1861 accomplished by mutual action of the parties to the contract.

1862 “Contractor”, any person having a contract with the department under sections 61 to 73,
1863 inclusive.

1864 “Cooperative purchasing”, procurement conducted by, or on behalf of, an affected
1865 jurisdiction.

1866 “Design-build-finance-operate-maintain”, a project delivery method in which the
1867 department enters into a single contract for design, construction, finance, maintenance and
1868 operation of a transportation facility over a contractually defined period. No public funds shall
1869 be appropriated to pay for any part of the services provided by the contractor during the contract
1870 period.

1871 “Design-build-operate-maintain”, a project delivery method in which the department
1872 enters into a single contract for design, construction, maintenance and operation of a
1873 transportation facility over a contractually defined period. All or a portion of the funds required
1874 to pay for the services provided by the contractor during the contract period shall either be
1875 appropriated by the commonwealth or by the department prior to award of the contract or
1876 secured by the commonwealth or by the department through fare, toll or user charges.

1877 “Design requirements”, the written description of the transportation facility or service to
1878 be procured under sections 61 to 73, inclusive, including:

1879 (1) required features, functions, characteristics, qualities and properties required by the
1880 department;

1881 (2) the anticipated schedule, including start, duration and completion; and

1882 (3) estimated budgets as applicable to the specific procurement for design, construction,
1883 operation and maintenance; provided, however, that design requirements may include drawings
1884 and other documents illustrating the scale and relationship of the features, functions and
1885 characteristics of the project.

1886 “Independent peer reviewer services”, additional architectural and engineering services
1887 provided to the department in design-build-operate-maintain or design-build-finance-operate-
1888 maintain procurements to confirm that the key elements of the professional engineering and
1889 architectural design provided by the contractor are in conformance with the applicable standard
1890 of care.

1891 “Maintenance”, includes routine operation, routine maintenance, routine repair,
1892 rehabilitation, capital maintenance, maintenance replacement and any other categories of
1893 maintenance that may be designated by the department.

1894 “Material default”, failure of a contractor to perform any duties under a public-private
1895 agreement which jeopardizes delivery of adequate service to the public and remains unsatisfied
1896 after a reasonable period of time and after the operator has received written notice from the
1897 department of the failure.

1898 “Operate”, any action to operate, maintain, repair, rehabilitate, improve, equip or modify
1899 a transportation facility, including the design and construction of repairs, improvements or
1900 modifications to a transportation facility.

1901 “Operator”, a private entity that has entered into a public-private agreement to provide
1902 design-build-finance-operate-maintain or design-build-operate-maintain services under sections
1903 61 to 73, inclusive.

1904 “Private entity”, a natural person, corporation, general partnership, limited liability
1905 company, limited partnership, joint venture, business trust, public benefit corporation, non-
1906 profit entity or other business entity.

1907 “Proposal development documents”, drawings and other design-related documents that
1908 are sufficient to fix and describe the size and character of a transportation facility as to
1909 architectural, structural, mechanical and electrical systems, materials and such other elements as
1910 may be appropriate to the applicable project delivery method.

1911 “Public-private agreement”, the contract between a private entity and the department
1912 that relates to the development, financing, maintenance or operation of a transportation facility
1913 subject to sections 61 to 73, inclusive.

1914 “Request for proposals”, all documents, whether attached to or incorporated by
1915 reference, utilized for soliciting proposals for a transportation facility under sections 61 to 73,
1916 inclusive.

1917 “Responsible bidder or offeror”, a person who has the capability in all respects to fully
1918 perform the contract requirements, and the integrity and reliability to assure good faith
1919 performance.

1920 “Responsive bidder”, a person who has submitted a bid which conforms in all material
1921 respects to the invitation for bids.

1922 “Transportation facility”, new or existing highway, road, bridge, tunnel, overpass, ferry,
1923 airport, public transportation facility, terminal facility, vehicle parking facility, seaport facility,

1924 rail facility, intermodal facility or similar facility open to the public and used for the
1925 transportation of persons or goods, and any building, structure or networks of buildings,
1926 structures, pipes, controls and equipment that provide transportation services, including rolling
1927 stock and equipment, and any building, structure, parking area, appurtenances or other property
1928 needed to operate such facility that is subject to a public-private agreement.

1929 “User fees”, the rate, toll, fee or other charges imposed by an operator or by the
1930 department for use of all or part of a transportation facility.

1931 “Utility”, a privately, publicly or cooperatively owned line, facility or system for
1932 producing, transmitting or distributing communications, cable television, power, electricity,
1933 light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with
1934 highway drainage, or any other similar commodity, including any fire or police signal system or
1935 street lighting system, which directly or indirectly serves the public.

1936 Section 63. (a) Notwithstanding any general or special law to the contrary, the board of
1937 directors of the department, in conjunction with the special public-private partnership
1938 infrastructure oversight commission established in section 70, may solicit proposals and enter
1939 into contracts for design-build-finance-operate-maintain or design-build-operate-maintain
1940 services with that responsible and responsive offeror submitting the proposal that is most
1941 advantageous to the department through the sale, lease, operation and maintenance of a
1942 transportation facility within the commonwealth; provided, however, that such proposal shall be
1943 in full compliance with all applicable requirements of federal, state and local law, including
1944 section 26 to 27H, inclusive, of chapter 149; provided further, that any such contract shall not be
1945 subject to the competitive bid requirements set forth in sections 38A½ to 38O, inclusive, section
1946 39M of chapter 30, or sections 44A to 44M, inclusive, of chapter 149; and provided further, that

1947 each such contract shall be awarded pursuant to chapter 30B except for clause (3) of paragraph
1948 (b) and paragraphs (e) and (g) of section 6, clause (4) of section 13 and section 16 of said
1949 chapter 30B.

1950 (b) (1) In soliciting and selecting a private entity with which to enter into a public-
1951 private agreement for design-build-finance-operate-maintain or design-build-operate-maintain
1952 services, the department shall utilize the following competitive sealed proposals procurement
1953 approach:

1954 (2) each request for proposals for design-build-operate-maintain and design-
1955 build-finance-operate-maintain services:

1956 (A) shall include design requirements;

1957 (B) shall solicit proposal development documents; and

1958 (C) may, if the department determines that the cost of preparing proposals
1959 is high, considering the size, estimated price and complexity of the procurement:

1960 (i) prequalify offerors by issuing a request for qualifications in
1961 advance of the request for proposals; and

1962 (ii) select a short list of responsible offerors prior to discussions
1963 and evaluations, if the number of proposals that will be short-listed is
1964 stated in the request for proposals and prompt public notice is provided to
1965 all offerors as to which proposals have been short-listed; or

1966 (iii) pay stipends to unsuccessful offerors; provided, however, that
1967 the amount of such stipends and the terms under which such stipends
1968 shall be paid shall be included in the request for proposals;

1969 (3) adequate public notice of the request for proposals shall be provided;

1970 (4) proposals shall be opened so as to avoid disclosure of contents to competing
1971 offerors during the process of negotiation and a register of proposals shall be prepared
1972 by the department and shall be open for public inspection after contract award; and

1973 (5) (A) The request for proposals shall state the relative importance of price and
1974 other factors and subfactors, if any.

1975 (B) Each request for proposals for design-build-operate-maintain and design-
1976 build-finance-operate-maintain:

1977 (i) shall state the relative importance of: (1) demonstrated compliance
1978 with the design requirements; (2) offeror qualifications; (3) financial capacity;
1979 (4) project schedule; (5) elimination of existing public debt with respect to the
1980 transportation facility; (6) lowest user charges or price over the term of the
1981 design-build-operate-maintain and design-build-finance-operate-maintain
1982 contract; and (7) other factors, if any;

1983 (ii) shall, if the contract price is estimated to exceed \$10,000,000, if the
1984 contract period of operations and maintenance is 5 years or longer or if
1985 circumstances established by the department require each offeror to identify an
1986 independent peer reviewer whose competence and qualifications to provide such
1987 services shall be an additional evaluation factor in the award of the contract; and

1988 (iii) shall not include, as an evaluation factor in the award of the contract,
1989 the amount, if any, paid by a contractor to the department for procurement using
1990 design-build-operate-maintain and design-build-finance-operate-maintain .

1991 (6) As provided in the request for proposals and under regulations issued by the
1992 department, discussions may be conducted with responsible offerors who submit

1993 proposals determined to be reasonably susceptible of being selected for award for the
1994 purpose of clarification to assure full understanding of, and responsiveness to, the
1995 solicitation requirements. Offerors shall be accorded fair and equal treatment with
1996 respect to any opportunity for discussion and revision of proposals, and such revisions
1997 may be permitted after submissions and prior to award for the purpose of obtaining best
1998 and final offers. In conducting discussions, there shall be no disclosure of any
1999 information derived from proposals submitted by competing offerors.

2000 (7) Award shall be made to the responsible offeror whose proposal conforms to
2001 the solicitation and is determined in writing to be the most advantageous to the acquiring
2002 agency, taking into consideration the price and the evaluation factors set forth in the
2003 request for proposals. No other factors or criteria shall be used in the evaluation. The
2004 contract file shall contain the basis upon which the award is made. Written notice of the
2005 award of a contract to the successful offeror shall be promptly provided to all offerors.

2006 (8) The department may provide debriefings that furnish the basis for the source
2007 selection decision and contract award.

2008 (c) (1) A private entity may request a review, prior to submission of a solicited
2009 proposal, by the department of information that the private entity has identified as
2010 confidential or proprietary to determine whether such information is subject to
2011 disclosure under section 10 of chapter 66 or clause Twenty-sixth of section 7 of chapter
2012 4.

2013 (2) The department shall take appropriate action to protect confidential or
2014 proprietary information that a private entity provides as part of a solicited proposal and

2015 that is exempt from disclosure under said section 10 of chapter 66 and said clause
2016 Twenty-sixth of said section 7 of said chapter 4.

2017 Section 64. (a) The request for proposals shall contain the proposed form of contract or
2018 public-private agreement to be executed between the successful offeror and the department
2019 upon award, and shall have been approved as to content and form by the special public-private
2020 infrastructure oversight commission and by the department before the request for proposals is
2021 issued, pursuant to section 63. The inspector general and the attorney general shall have 30 days
2022 from the receipt of a draft of the proposed form of contract to notify the special public-private
2023 infrastructure oversight commission in writing of any material objections to the draft form of
2024 contract. Before issuing any request for proposal, the department shall prepare a written
2025 response to reports submitted to it by the special public-private infrastructure oversight
2026 commission which response shall state the basis for any substantial divergence between the
2027 actions of the department and the recommendations contained in such reports of said
2028 commission. The department and the successful offeror shall only make non-material changes
2029 in the content and form of the public-private agreement contained in the request for proposals.

2030 (b) (1) After selecting a solicited or unsolicited proposal for a public-private initiative,
2031 the department shall enter into the public-private agreement for the subject transportation
2032 facility with the selected private entity.

2033 (2) An affected jurisdiction may be a party to a public-private agreement entered into by
2034 the department and a selected private entity or combination of private entities.

2035 (c) A public-private agreement under sections 62 to 73, inclusive, shall provide for the
2036 following:

2037 (1) the planning, acquisition, engineering, financing, development, design,
2038 construction, reconstruction, replacement, improvement, maintenance, management,
2039 repair, leasing or operation of a transportation facility including provisions for the
2040 replacement and relocation of utility facilities;

2041 (2) the term of the public-private agreement, which shall not exceed 50 years
2042 without written approval of the governor;

2043 (3) the type of property interest, if any, the private entity shall have in the
2044 transportation facility;

2045 (4) a description of the actions the department may take to ensure proper
2046 maintenance of the transportation facility;

2047 (5) whether user fees will be collected on the transportation facility and the basis
2048 by which such user fees shall be determined and modified;

2049 (6) compliance with applicable Federal, state and local laws;

2050 (7) grounds for termination of the public-private agreement by the department or
2051 operator;

2052 (8) procedures for amendment of the agreement by mutual agreement and for
2053 changes in the agreement by written order from the department;

2054 (9) review and approval by the department of the operator's plans for the
2055 development and operation of the transportation facility;

2056 (10) inspection by the department and the independent peer reviewer of the
2057 design and construction of, or improvements to, the transportation facility;

2058 (11) maintenance by the operator of a policy of liability insurance or self-
2059 insurance reasonably acceptable to the department;

- 2060 (12) filing by the operator, on a periodic basis, of appropriate financial
2061 statements in a form acceptable to the department;
- 2062 (13) filing by the operator, on a periodic basis, of traffic reports, service quality
2063 standards as defined in chapter 161A, ridership reports, on time performance reports, or
2064 other reports identified by the department, in a form acceptable to the department;
- 2065 (14) financing obligations of the operator and the department;
- 2066 (15) apportionment of expenses between the operator and the department;
- 2067 (16) the rights and duties of the operator, the department, and other state and
2068 local governmental entities with respect to use of the transportation facility;
- 2069 (17) the rights and remedies available in the event of default or delay;
- 2070 (18) the terms and conditions of indemnification of the operator by the
2071 department, as required by applicable law;
- 2072 (19) assignment, subcontracting or other delegation of responsibilities of the
2073 operator or the department under the agreement to third parties, including other private
2074 entities and other state agencies;
- 2075 (20) sale or lease to the operator of private property related to the transportation
2076 facility;
- 2077 (21) if, and how, the parties shall share costs of development of the project;
- 2078 (22) if, and how, the parties shall allocate financial responsibility for cost
2079 overruns;
- 2080 (23) liability for nonperformance;
- 2081 (24) any incentives for performance;

2082 (25) any accounting and auditing standards to be used to evaluate progress on the
2083 project;

2084 (26) the operator's plans to obtain a labor and material payment bond, in
2085 accordance with section 29 of chapter 149, covering all construction, reconstruction or
2086 maintenance, including capital maintenance, work of the project and require the payment
2087 of prevailing wages for labor performed on the project in accordance with sections 26 to
2088 27H, inclusive, of said chapter 149;

2089 (27) the operator's plans for labor harmony for the entire term of the agreement,
2090 including construction, reconstruction and capital and routine maintenance and adequate
2091 remedies to address the operator's failure to maintain labor harmony which shall
2092 include, but not be limited to, assessment of liquidated damages and contract
2093 termination;

2094 (28) traffic enforcement and other policing issues, subject to section 71,
2095 including any reimbursement by the private entity for such services; and

2096 (29) other terms and conditions.

2097 Section 65. Upon the end of the term of the public-private agreement or in the event of
2098 termination of the public-private agreement, the department and duties of the operator shall
2099 cease, except for any duties and obligations that extend beyond the termination as provided in
2100 the public-private agreement, and all the rights, title and interest in such transportation facility
2101 shall revert to the department and shall be dedicated to the department for public use.

2102 Section 66. (a) Upon the occurrence and during the continuation of a material default by
2103 an operator, not caused by an event of force majeure, and upon the failure by the contractor or

2104 its financing institution on the contractor's behalf, to cure such material default within 30 days
2105 of written notice of such default by the department, the department may:

2106 (1) elect to take over the transportation facility, including the succession of all
2107 right, title and interest in the transportation facility; and

2108 (2) terminate the public-private agreement and exercise any other rights and
2109 remedies available.

2110 (b) In the event that the department elects to take over a transportation facility under
2111 subsection (a), the department:

2112 (1) shall make interim payments, on behalf of the contractor and for the
2113 contractor's account, of any amounts subject to a mechanics lien law of the
2114 commonwealth;

2115 (2) may develop and operate the transportation facility, impose user fees for the
2116 use of the transportation facility and comply with any service contracts; and

2117 (3) may solicit proposals for the maintenance and operation of the transportation
2118 facility under section 63.

2119 Section 67. (a) (1) The department may issue and sell bonds or notes of the department
2120 for the purpose of providing funds to carry out sections 62 to 73, inclusive, with respect to the
2121 development, financing or operation of a transportation facility or the refunding of any bonds or
2122 notes, together with any costs associated with the transaction.

2123 (2) Any bond or note issued under this section:

2124 (A) constitutes the corporate obligation of the department;

2125 (B) shall not constitute a debt of the commonwealth within the meaning or
2126 application of the constitution of the commonwealth; and

2127 (C) shall be payable solely as to both principal and interest from:

2128 (i) the revenues from a lease to the department, if any;

2129 (ii) proceeds of bonds or notes, if any;

2130 (iii) investment earnings on the proceeds of bonds or notes; or

2131 (iv) other funds available to the department for such purpose.

2132 (b) (1) For the purpose of financing a transportation facility, the department and operator
2133 may apply for, obtain, issue and use private activity bonds available under any Federal law or
2134 program.

2135 (2) Any bonds, debt, other securities or other financing issued for the purposes of
2136 sections 62 to 73, inclusive, shall not be considered a debt of the commonwealth or any
2137 political subdivision thereof state or a pledge of the faith and credit of the state or any
2138 political subdivision of the commonwealth.

2139 (c) Nothing in this section shall limit a local government or any authority of the
2140 commonwealth to issue bonds for transportation projects.

2141 Section 68. (a) (1) The department may accept from the United States or any of its
2142 agencies funds that are available to the commonwealth for carrying out sections 62 to 73,
2143 inclusive, whether the funds are made available by grant, loan or other financial assistance.

2144 (2) The department may enter into agreements or other arrangements with the United
2145 States or any of its agencies as may be necessary for carrying out the purposes of sections 62 to
2146 73, inclusive.

2147 (b) The department may accept from any source any grant, donation, gift or other
2148 form of conveyance of land, money, other real or personal property or other item of

2149 value made to the commonwealth or the department for carrying out the purpose of
2150 sections 62 to 73, inclusive.

2151 (c) Any transportation facility may be financed in whole or in part by
2152 contribution of any funds or property made by any private entity or affected jurisdiction
2153 that is party to a public-private agreement under sections 62 to 73, inclusive.

2154 (d) The department may combine Federal, state, local and private funds to
2155 finance a transportation facility under sections 57 to 70, inclusive.

2156 Section 69. (a) Section 26 shall apply to:

2157 (1) a transportation facility; and

2158 (2) tangible personal property used exclusively with a transportation facility that is:

2159 (A) owned by the department and leased, licensed, financed or otherwise
2160 conveyed to an operator; or

2161 (B) acquired, constructed or otherwise provided by an operator on behalf of the
2162 department.

2163 Section 70. The department may exercise the power of eminent domain to acquire
2164 property, rights of way or other rights in property for transportation projects that are part of a
2165 public-private agreement for design-build-finance-operate-maintain or design-build-operate-
2166 maintain services.

2167 Section 71. (a) Law enforcement officers of the commonwealth and of an affected local
2168 jurisdiction shall have the same powers and jurisdiction within the limits of a transportation

2169 facility as they have in their respective areas of jurisdiction and access to the transportation
2170 facility at any time for the purpose of exercising such powers and jurisdiction.

2171 (b) The traffic and motor vehicle laws of the commonwealth and, if applicable, any local
2172 by-laws or ordinances shall apply to a transportation facility.

2173 Section 72. Nothing in sections 62 to 73, inclusive, shall limit any waiver of the
2174 sovereign immunity of the commonwealth or any officer or employee of the commonwealth
2175 with respect to the participation in or approval of all or any part of the transportation facility or
2176 its operation.

2177 Section 73. There shall be established a special public-private partnership infrastructure
2178 oversight commission to comment on and approve all requests for proposals for design-build-
2179 finance-operate-maintain or design-build-operate-maintain services, pursuant to section 59.

2180 The commission shall have 7 members, none of whom shall be employees of the
2181 executive branch or members or employees of the legislature for a period of at least 2 years
2182 prior to his appointment. The commission shall include: 4 members to be appointed by the
2183 governor, 1 of whom shall be a representative from the Massachusetts Organization of State
2184 Engineers and Scientists and 3 of whom shall reside in different geographic regions of the
2185 commonwealth for terms of 2 years; 1 member to be appointed by the president of the senate for
2186 a term of 2 years; 1 member to be appointed by the speaker of the house of representatives for a
2187 term of 2 years; 1 member to be appointed by the state treasurer, but who shall not be an
2188 employee thereof, for a term of 2 years. Each member of the commission shall be an expert with
2189 experience in the fields of transportation law, public policy, public finance, management
2190 consulting, transportation or organizational change; provided, however, that 1 of the members

2191 appointed by the governor shall be an expert in the field of public finance, 1 member appointed
2192 by the governor shall be an expert in the field of transportation. One of the members shall be
2193 appointed by the governor to serve as chairperson of the commission. The members appointed
2194 by the governor may be eligible for reappointment; provided, however, that no such member
2195 shall serve for more than 3 terms. No member shall have served as a legislative agent for the
2196 period of 5 years prior to his appointment.

2197 No member shall have been a registered legislative agent, as defined in section 39 of
2198 chapter 3 for a period of at least 5 years prior to his appointment, no member shall have been a
2199 member or employee of the general court or an employee of the executive branch for a period of
2200 2 years prior to his appointment, and no director shall have been employed by an organization
2201 that has business before the department, or any predecessor agency or authority, for a period of
2202 at least 2 years prior to his appointment.

2203 Whenever the department notifies the commission of its intent to issue a request for
2204 proposal for design-build-finance-operate-maintain or design-build-operate-maintain services,
2205 the department shall submit a draft of the request for proposal to the commission for its review
2206 and approval. As provided in section 63, no request for proposal shall be issued by the
2207 department for a public-private agreement for design-build-finance-operate-maintain or design-
2208 build-operate-maintain services without the commission's written approval. The commission
2209 shall provide an initial written response to the request for proposal within 15 days.

2210 For each request for proposal for design-build-finance-operate-maintain or design-build-
2211 operate-maintain services, the commission shall report on issues surrounding the request for
2212 proposal including, but not limited to: (1) the status of current employees; (2) the policy and

2213 regulatory structure for overseeing a privately operated transportation facility and on-going
2214 legislative oversight; (3) issues of taxation, profit-sharing and resolution of new revenue
2215 producing ideas; (4) advertising and marketing; (5) use of new technologies; (6) lease terms and
2216 termination clauses; (7) additional responsibilities by both the private infrastructure operator
2217 and the commonwealth during the lease period; (8) the financial valuation of the commonwealth
2218 transportation facility; and (9) the anticipated advantages of entering into the anticipated public-
2219 private agreement for design-build-finance-operate-maintain or design-build-operate-maintain
2220 services.

2221 The report shall be delivered within 30 days of the commission's approval of a request
2222 for proposal for design-build-finance-operate-maintain or design-build-operate-maintain
2223 services to the secretary for administration and finance, the house committee on ways and
2224 means, the senate committee on ways and means, the chairmen of the joint committee on
2225 transportation and the state auditor.

2226 In order to submit the commission's written approval of a request for proposal for
2227 design-build-finance-operate-maintain or design-build-operate-maintain services to the state
2228 auditor, the commission's process shall be sufficient to satisfy the requirements of sections 57 to
2229 60, inclusive.

2230 Whenever the comments and recommendations of the state auditor are required for any
2231 action by the department under sections 57 to 60, inclusive, that approval shall be deemed to
2232 have been granted within 30 days of submission thereof, unless the state auditor has
2233 communicated his disapproval to the department, in writing. The state auditor's report shall

2234 include reasons why such proposed request for proposal is financially detrimental to the
2235 commonwealth and how the commission erred in its findings.

2236 Any research, analysis or other staff support that the commission reasonably requires
2237 shall be provided by the department.

2238 SECTION 9. Section 22 of said chapter 6C, as so appearing, is hereby amended by
2239 striking out subsection (c) and inserting in place thereof the following subsection:-

2240 (c) The Massachusetts Department of Transportation shall have power, in the process of
2241 constructing, reconstructing, repairing, rehabilitating, improving, policing, using or
2242 administering all or any part of the state highway system, the turnpike or metropolitan highway
2243 system to take by eminent domain pursuant to chapter 79, such land abutting the state highway
2244 system, the turnpike or metropolitan highway system as it deems necessary or desirable for the
2245 purposes of removing or relocating all or any part of the facilities of any public utility, including
2246 rail lines, and may thereafter lease the same or convey an easement or any other interest therein
2247 to such utility company upon such terms as it, in its sole discretion, may determine.
2248 Notwithstanding any general or special law to the contrary, the relocation of the facilities of
2249 any public utility, including rail lines, in accordance with this section shall be valid upon the
2250 filing of the plans thereof with the department of telecommunications and energy, if applicable.

2251 SECTION 10. Section 22B1/2 of chapter 7 of the General Laws, as appearing in the
2252 2006 Official Edition, is hereby amended by striking out, in line 31, the words "Turnpike
2253 Authority" and inserting in place thereof the following words:- Department of Transportation.

2254 SECTION 11. Section 22G of said chapter 7, as so appearing, is hereby amended by
2255 striking out, in line 62, the words "Turnpike Authority" and inserting in place thereof the
2256 following words:- Department of Transportation.

2257 SECTION 12. Section 53 of said chapter 7, as so appearing, is hereby amended by
2258 inserting after the word "Authority", in line 6, the first time it appears, the following words:- ,
2259 the Massachusetts Department of Transportation.

2260 SECTION 13. Section 9A of chapter 10 of the General Laws, as so appearing, is hereby
2261 amended by striking out, in line 5, the words "Turnpike Authority" and inserting in place
2262 thereof the following words:- Department of Transportation.

2263 SECTION 14. Section 63 of said chapter 10 is hereby repealed.

2264 SECTION 15 . Section 63A of chapter 10 of the General Laws, inserted by section 5 of
2265 chapter 228 of the acts of 2007, is hereby amended by striking out subsection (a) and inserting
2266 in place thereof the following subsection:

2267 (a) There shall be established and set up on the books of the commonwealth a separate
2268 fund to be known as the Central Artery/Tunnel Project Repair and Maintenance Trust Fund, in
2269 this section called the fund. The secretary of the Massachusetts Department of Transportation
2270 shall administer the fund and shall be its trustee. The Massachusetts Department of
2271 Transportation shall disburse monies from the fund solely for the purpose of paying the costs of,
2272 or reimbursing the commonwealth or the Massachusetts Turnpike Authority for costs incurred
2273 in connection with, repairs and maintenance of the central artery and the Ted Williams tunnel,
2274 as those terms are defined in section 1 of chapter 6C, if such repairs and maintenance relate to
2275 conditions not caused by ordinary or routine wear and tear. For purposes of this section, the

2276 term "repairs and maintenance" shall include, without limitation, repairs, maintenance,
2277 inspection, monitoring and testing of the central artery, the Ted Williams tunnel and the systems
2278 and components thereof. Disbursements from the fund shall not be permitted for, and monies in
2279 the fund shall not be used for, the cost of repairs and maintenance relating to conditions caused
2280 by ordinary or routine wear and tear.

2281 SECTION 16. Subsection (c) of said section 63A of said chapter 10, inserted by section
2282 5 of chapter 228 of the acts of 2007, is hereby amended by striking out, in each instance, the
2283 words "executive office of transportation and public works" and inserting in place thereof the
2284 following words:- Massachusetts Department of Transportation.

2285 SECTION 17. Section 69A of said chapter 10 is hereby repealed.

2286 SECTION 18. Sections 1 to 3, inclusive, 4 to 4B, inclusive, 9, 13 and 14 of chapter 16
2287 of the General Laws are hereby repealed.

2288 SECTION 19. Section 11A of chapter 21A of the General Laws, as appearing in the
2289 2006 Official Edition, is hereby amended by striking out, in line 1, the words 'executive office
2290 of transportation' and inserting in place thereof the following words:- office of planning and
2291 programming.

2292 SECTION 20. Section 11A of chapter 21A of the General Laws, as appearing in the
2293 2006 Official Edition, is hereby amended by striking out, in line 6, the word "commissioner"
2294 and inserting in place thereof the following word:- administrator.

2295 SECTION 21. Section 13A of chapter 22 of the General Laws, as so appearing, is
2296 hereby amended by striking out, in line 198, the words 'Turnpike Authority' and inserting in
2297 place thereof the following words:- Department of Transportation.

2298 SECTION 22. Section 29 of chapter 22C of the General Laws, as so appearing, is hereby
2299 amended by striking out, in line 2, the words "Turnpike Authority" and inserting in place
2300 thereof the following words:- Department of Transportation.

2301 SECTION 23. Said section 29 of said chapter 22C, as so appearing, is hereby further
2302 amended by inserting after the word "authority", in line 3, the following words:- on the turnpike
2303 and the metropolitan highway system.

2304 SECTION 24. Said section 29 of said chapter 22C, as so appearing, is hereby further
2305 amended by striking out, in lines 27 to 29, inclusive, the words "shall be subject to the
2306 operational control of the authority, and the chairman of the authority, but"

2307 SECTION 25. Said section 29 of said chapter 22C, as so appearing, is hereby further
2308 amended by inserting after the word "the", in line 29, the following word:- operational,.

2309 SECTION 26. Section 61 of said chapter 22C is hereby repealed.

2310 **NO SECTION 27**

2311 SECTION 28. Section 3I of said chapter 23A, as so appearing, is hereby amended by
2312 striking out, in line 5, the words 'executive office of transportation' and inserting in place thereof
2313 the following words:- office of planning and programming.

2314 SECTION 29. Section 13C of chapter 23A of the General Laws, as so appearing, is
2315 hereby amended by striking out, in line 44, the words "Turnpike Authority" and inserting in
2316 place thereof the following words:- Department of Transportation.

2317 SECTION 30. Section 59 of said chapter 23A, is hereby further amended by striking
2318 out, in line 25, the words 'Turnpike Authority' and inserting in place thereof the following
2319 words:- Department of Transportation.

2320 SECTION 31. Section 1 of chapter 29 of the General Laws, as so appearing, is hereby
2321 amended by striking out, in line 99, the words "Turnpike Authority" and inserting in place
2322 thereof the following words:- Department of Transportation.

2323 SECTION 32. Section 2E of said chapter 29 is hereby repealed.

2324 SECTION 33. Said chapter 29 is hereby amended by striking out section 2O, as
2325 amended by section 3 of chapter 233 of the acts of 2008, and inserting in place thereof the
2326 following section:-

2327 Section 2O. When authorized by a vote taken by the yeas and nays of two-thirds of each
2328 house of the general court present and voting thereon, including any authorization in effect as of
2329 July 1, 2009, the state treasurer, upon the request of the governor, may issue bonds of the
2330 commonwealth as hereinafter provided. Any such bonds shall be special obligations of the
2331 commonwealth payable solely from monies credited to the Commonwealth Transportation Fund
2332 established pursuant to section 2ZZZ; provided, however, that notwithstanding any general or
2333 special law to the contrary, including without limitation section 60A, such bonds shall not be
2334 general obligations of the commonwealth. Bonds may be issued in such manner and on such
2335 terms and conditions as the state treasurer may determine in accordance with this paragraph and,

2336 to the extent not inconsistent with this paragraph, provisions of the General Laws for the
2337 issuance of bonds of the commonwealth. Bonds may be secured by a trust agreement entered
2338 into by the state treasurer, with the concurrence of the secretary of administration and finance
2339 and the secretary of transportation, on behalf of the commonwealth, which trust agreement may
2340 pledge or assign all or any part of monies credited to the Commonwealth Transportation Fund
2341 and rights to receive the same, whether existing or coming into existence and whether held or
2342 thereafter acquired, and the proceeds thereof. The state treasurer may, with the concurrence of
2343 the secretary of administration and finance and the secretary of transportation, enter into
2344 additional security, insurance or other forms of credit enhancement which may be secured on a
2345 parity or subordinate basis with the bonds. A pledge in any such trust agreement or credit
2346 enhancement agreement shall be valid and binding from the time such pledge shall be made
2347 without any physical delivery or further act, and the lien of such pledge shall be valid and
2348 binding against all parties having claims of any kind in tort, contract or otherwise, irrespective
2349 of whether such parties have notice thereof. Any such pledge shall be perfected by filing of the
2350 trust agreement or credit enhancement agreement in the records of the state treasurer, and no
2351 filing need be made under chapter 106. Any such trust agreement or credit enhancement
2352 agreement may establish provisions defining defaults and establishing remedies and other
2353 matters relating to the rights and security of the holders of the bonds or other secured parties as
2354 determined by the state treasurer, including provisions relating to the establishment of reserves,
2355 the issuance of additional or refunding bonds, whether or not secured on a parity basis, the
2356 application of receipts, monies or funds pledged pursuant to such agreement, and other matters
2357 deemed necessary or desirable by the state treasurer for the security of such bonds, and may also
2358 regulate the custody, investment and application of monies. Any such bonds shall be deemed to

2359 be investment securities under chapter 106, shall be securities in which any public officer,
2360 fiduciary, insurance company, financial institution or investment company may properly invest
2361 funds and shall be securities which may be deposited with any public custodian for any purpose
2362 for which the deposit of bonds is authorized by law. Any such bonds, the transfer thereof and
2363 the income therefrom, including profit on the sale thereof, shall at all times be exempt from
2364 taxation by and within the commonwealth.

2365 The provisions hereof relating to bonds shall also be applicable to the issuance of notes
2366 insofar as such provisions may be appropriate therefor.

2367 In order to increase the marketability of any such bonds or notes issued by the
2368 commonwealth and in consideration of the acceptance of payment for any such bonds or notes,
2369 the commonwealth covenants with the purchasers and all subsequent holders and transferees of
2370 any such bonds or notes that while any such bond or note shall remain outstanding, and so long
2371 as the principal of or interest on any such bond or note shall remain unpaid: (i) no pledged funds
2372 shall be diverted from the Commonwealth Transportation Fund; (ii) in any fiscal year of the
2373 commonwealth and until an appropriation has been made which is sufficient to pay the
2374 principal, including sinking fund payments, of and interest on all such bonds and notes of the
2375 commonwealth and to provide for or maintain any reserves, additional security, insurance or
2376 other forms of credit enhancement required or provided for in any trust agreement securing any
2377 such bonds or notes, no pledged funds shall be applied to any other use; and (iii) so long as such
2378 revenues are necessary, as determined by the state treasurer in accordance with any applicable
2379 trust agreement or credit enhancement agreement, for the purposes for which they have been
2380 pledged, and notwithstanding the provisions of any general or special law to the contrary, the
2381 rates of the fees collected pursuant to sections 33 and 34 of chapter 90 and of the excises

2382 imposed in chapters 64A, 64E and 64F shall not be reduced below the amount in effect at the
2383 time of issuance of any such bond or note.

2384 SECTION 34. Section 2DD of said chapter 29 is hereby repealed.

2385 SECTION 35. Said chapter 29 is hereby further amended by inserting after section
2386 2YYY the following section:-

2387 Section 2ZZZ. There shall be established and set up on the books of the commonwealth
2388 a separate fund to be known as the Commonwealth Transportation Fund which shall be used
2389 exclusively for financing transportation-related purposes. There shall be credited to the fund all
2390 fees received by the registrar of motor vehicles pursuant to section 34 of chapter 90, all receipts
2391 paid into the treasury of the commonwealth and directed to be credited to the Commonwealth
2392 Transportation Fund pursuant to chapters 64A, 64E, 64F and any other applicable general or
2393 special law and all amounts appropriated into the fund by the general court. The fund shall be
2394 subject to appropriation and shall be used for transportation related expenses of the
2395 Massachusetts Department of Transportation, including to pay or reimburse the General Fund
2396 for payment of debt service on bonds issued by, or otherwise payable pursuant to a lease or
2397 other contract assistance agreement by, the commonwealth previously issued for transportation
2398 purposes.

2399 Notwithstanding the foregoing, the crediting of receipts from the tax imposed pursuant
2400 to chapter 64A to the fund shall not affect the obligations of the commonwealth relating to notes
2401 issued pursuant to sections 9 to 10D, inclusive, of chapter 11 of the acts of 1997 and the pledge
2402 of receipts from the portion of the tax per gallon imposed pursuant to said chapter 64A equal to
2403 10 cents per gallon, to secure the payment of such bonds under the circumstances described in

2404 the trust agreements relating to such notes is hereby ratified and confirmed in all respects and
2405 shall remain in full force and effect as long as any such notes issued as of July 1, 2009 remain
2406 outstanding in accordance with their terms and secured by funds in the fund.

2407 SECTION 36. Section 23 of said chapter 29, as appearing in the 2006 Official Edition, is
2408 hereby amended by striking out, in lines 11 and 12, the words "Turnpike Authority" and
2409 inserting in place thereof the following words:- Department of Transportation.

2410 SECTION 37. Section 64 of said chapter 29, as so appearing, is hereby amended by
2411 striking out, in line 27, the words "Turnpike Authority" and inserting in place thereof the
2412 following words:- Department of Transportation.

2413 SECTION 38. Section 64A of said chapter 29, as so appearing, is hereby further
2414 amended by striking out, in line 47, the word 'Turnpike Authority' and inserting in place thereof
2415 the following words:- Department of Transportation.

2416 SECTION 39. Subsection (a) of section 39M1/2 of chapter 30 of the General Laws,
2417 inserted by section 12 of chapter 303 of the acts of 2008, is hereby amended by striking out the
2418 definition of "Major contract" and inserting in place thereof the following definition:-

2419 "Major contract", a contract by which the commonwealth or any of its public agencies or
2420 authorities is to procure the construction, repair or rehabilitation of a publicly-owned highway,
2421 railway, bridge, tunnel, building platform or any component thereof and for which the certified
2422 estimate of cost exceeds \$50,000,000 , or a contract or lease by which the commonwealth or any
2423 of its public agencies or authorities is to procure, directly or indirectly, the construction, repair
2424 or rehabilitation of a privately-owned, publicly-used highway, railway, bridge, tunnel, building
2425 platform or any component thereof.

2426 SECTION 40. Section 1 of chapter 30B of the General Laws is hereby amended by
2427 striking out, in line 45, as appearing in the 2006 Official Edition, the word ", designers".

2428 SECTION 41. Subsection (b) of said section 1 of said chapter 30B is hereby amended
2429 by inserting after clause (32), as so appearing, the following clause:-

2430 (32A) contracts with architects, engineers and related professionals;.

2431 SECTION 42. Section 2 of said chapter 30B, as so appearing, is hereby amended by
2432 inserting before the definition of "Bid" the following definition:-

2433 "Architect and engineer", (i) a person performing professional services of an
2434 architectural or engineering nature, as defined by law, which are required to be performed or
2435 approved by a person licensed, registered or certified to provide such services as described
2436 herein; (ii) professional services of an architectural or engineering nature performed by contract
2437 that are associated with research, planning, development, design, investigations, inspections,
2438 tests, evaluations, consultations, program management, value engineering, construction,
2439 alteration, or repair of real property; and (iii) such other professional services of an architectural
2440 or engineering nature, or incidental services, which members of the architectural and
2441 engineering professions and individuals in their employ may logically or justifiably perform,
2442 including studies, investigations, surveying and mapping, soil tests, construction phase services,
2443 drawing reviews, evaluations, consultations, comprehensive planning, program management,
2444 conceptual designs, plans and specifications, soils engineering, cost estimates or programs;
2445 preparation of drawings, plans, or specifications, supervision or administration of a construction
2446 contract, construction management or scheduling, preparation of operation and maintenance
2447 manuals and other related services.

2448 SECTION 43. Said section 2 of said chapter 30B, as so appearing, is hereby further
2449 amended by striking out the definition of “Designer”.

2450 SECTION 44. Said section 2 of said chapter 30B, as so appearing, is hereby further
2451 amended by inserting after the definition of “Purchase description” the following definition:-
2452 "Related professionals", professionals engaged in professional services, including land
2453 surveying, landscape architecture, environmental science, planning and licensed site
2454 professionals, which are required to be performed or approved by a person licensed, registered
2455 or certified to provide such services as described herein, including professional services
2456 performed by contract that are associated with research, planning, development, design,
2457 investigations, inspections, surveying and mapping, tests, evaluations, consultations,
2458 comprehensive planning, program management, value engineering, construction, alteration or
2459 repair of real property and such other professional services or incidental services which
2460 members of the related professions and individuals in their employ may logically or justifiably
2461 perform, including master plans, studies, surveys, soil tests, cost estimates or program,
2462 preparation of drawings, plans or specifications, supervision or administration of a construction
2463 contract, construction management or scheduling, conceptual designs, plans and specifications,
2464 construction phase services, soils engineering, drawing reviews, cost estimating, preparation of
2465 operation and maintenance manuals and other related services; provided, however, that nothing
2466 herein shall be construed to constitute regulation or oversight of any designated firms or
2467 identified professional services.

2468 SECTION 45. Said chapter 30B is hereby further amended by adding the following
2469 section:-

2470 Section 21. (a) For the purposes of this section the following words shall have the
2471 following meanings:

2472 “Agency”, a department, commission, council, board, bureau, committee, institution,
2473 agency, state college or university, government corporation, authority or other establishment or
2474 procurement office of the commonwealth.

2475 “Architectural and engineering services”, (i) professional services of an architectural or
2476 engineering nature, as defined by state law, which are required to be performed or approved by
2477 a person licensed, registered or certified to provide those services as described herein; (ii)
2478 professional services of an architectural or engineering nature performed by contract that are
2479 associated with research planning, development, design, investigations, inspections, tests,
2480 evaluations, consultations, program management, value engineering, construction, alteration or
2481 repair of real property; and (iii) such other professional services of an architectural or
2482 engineering nature, or incidental services, which members of the architectural and engineering
2483 professions and individuals in their employ may logically or justifiably perform, including
2484 studies, investigations, surveying and mapping, soil tests, construction phase services, drawing
2485 reviews, evaluations, consultations, comprehensive planning, program management, conceptual
2486 designs, plan and specifications, soils engineering, cost estimates or programs, preparation of
2487 drawings, plans, or specifications, supervision or administration of a construction contract,
2488 construction management or scheduling, preparation of operation and maintenance manuals and
2489 other related services.

2490 “Firm”, an individual, firm, partnership, corporation, association or other legal entity
2491 authorized by law to practice the professions of architecture, engineering, land surveying,
2492 landscape architecture, environmental science, planning or program management.

2493 “Project”, a capital improvement project or a design, study, plan, survey or new or
2494 existing program activity of a state agency, including the development of new or existing
2495 programs that require architectural, engineering or related professional services, but shall not
2496 include a public building construction project undertaken under chapters 7, 149 and 149A.

2497 “Related professional services”, (i) professional services, including land surveying,
2498 landscape architecture, environmental science and planning, which are required to be performed
2499 or approved by a person licensed, registered or certified to provide such services as described
2500 herein; (ii) professional services performed by contract that are associated with research,
2501 planning, development, design, investigations, inspections, surveying and mapping, tests,
2502 evaluations, consultations, comprehensive planning program management, value engineering,
2503 construction, alteration or repair of real property; and (iii) such other professional services, or
2504 incidental services, which members of the related professions as described herein and
2505 individuals in their employ may logically or justifiably perform, including master plans, studies,
2506 surveys, soil tests, cost estimates or programs, preparation of drawings, plans or specifications,
2507 supervision or administration of a construction contract, construction management or
2508 scheduling, conceptual designs, plans and specifications, construction phase services, soils
2509 engineering, drawing reviews, cost estimating, preparation of operation and maintenance
2510 manuals and other related services; provided, however, that nothing herein shall be construed to
2511 constitute a regulation or oversight of any designated firms or identified professionals’ services.

2512 (b) For those agencies that prequalify architectural, engineering, and related services,
2513 the agency head shall encourage firms engaged in the lawful practice of their profession to
2514 submit annually a statement of qualifications and performance data.

2515 (c) Whenever a project requiring architectural, engineering or related professional
2516 services is proposed for a state agency, the agency shall provide no less than 14 days advance
2517 notice published in a professional services bulletin or advertised on the official state agency
2518 website setting forth the projects and services to be procured. The professional services bulletin
2519 shall be made available to each firm that requests the information. The professional services
2520 bulletin shall include a description of each project and shall state the time and place for an
2521 interested firm to submit a letter of interest and, if required by the public notice, a statement of
2522 qualifications. If the agency determines that a sole source selection of a qualified firm is in the
2523 best interest of the agency, then the public notice provisions of this subsection shall not apply.

2524 (d) An agency shall evaluate the firms submitting letters of interest and other
2525 prequalified firms, taking into account qualifications, and the agency may consider, but shall not
2526 be limited to considering, ability of professional personnel, past record and experience,
2527 performance data on file, willingness to meet time requirements, location, workload of the firm
2528 and any other qualifications based on factors that the agency may determine in writing are
2529 applicable. The agency may conduct discussions with and require presentations by firms
2530 deemed to be the most qualified regarding their qualifications, approach to the project and
2531 ability to furnish the required services. An agency shall not, prior to selecting a firm for
2532 negotiation, seek formal or informal submission of verbal or written estimates of costs or
2533 proposals in terms of dollars, hours required, percentage of construction cost or any other
2534 measure of compensation.

2535 (e) (1) An agency shall select architects, engineers and related professional firms on the
2536 basis of qualifications for the type of professional services required. An agency may solicit or
2537 use pricing policies and proposals or other pricing information to determine consultant
2538 compensation only after the agency has selected a firm and initiated negotiations with the
2539 selected firm.

2540 (2) The procedures that an agency creates for the screening and selection of firms
2541 shall be within the sole discretion of the agency and may be adjusted to accommodate
2542 the agency's scope, schedule and budget objectives for a particular project. Adjustments
2543 to accommodate an agency's objectives may include provision for the direct appointment
2544 of a firm if the value of the project does not exceed \$25,000 or if the agency determines
2545 that a sole source selection of a qualified firm is in the best interest of the agency and the
2546 project is not publicly advertised.

2547 (3) The decision of an agency that has complied with this chapter shall be final
2548 and binding.

2549 (f) (1) The agency and the selected firm shall discuss and refine the scope of services for
2550 the project and shall negotiate conditions including, but not limited to, compensation level and
2551 performance schedule based on scope of services. The compensation level paid shall be
2552 reasonable and fair to the agency as determined solely by the agency. In making such
2553 determination, the agency shall take into account the estimated value of the services to be
2554 rendered and the scope, complexity and professional nature thereof.

2555 (2) If the agency and the selected firm are unable for any reason to negotiate a
2556 contract at a compensation level that is reasonable and fair to the agency, the agency

2557 shall, in writing, formally terminate negotiations with the selected firm. The agency shall
2558 then negotiate with the second ranked most qualified firm. The negotiation process shall
2559 continue in this manner through successive ranked firms until an agreement is reached or
2560 the agency terminates the consultant contracting process.

2561 (g) This chapter shall not apply to architectural, engineering and related professional
2562 services contracts of less than \$25,000 or sole source contracts that are awarded to a qualified
2563 firm as determined to be in the best interest of the agency where only 1 firm has been solicited
2564 regarding the project and the project is not publicly advertised.

2565 (h) This chapter shall not apply to the procurement of architectural, engineering, and
2566 related professional services by agencies: (i) when an agency determines in writing that it is in
2567 the best interest of the commonwealth to proceed with the immediate selection of a firm: or (ii)
2568 in emergencies when immediate services are necessary to protect the public health and safety
2569 including, but not limited to, earthquake, tornado, storm, or natural or manmade disaster.

2570 (i) Each agency shall evaluate the performance of each firm upon completion of a
2571 contract. That evaluation shall be made available to the firm which may submit a written
2572 response, with the evaluation and response retained solely by the agency. The evaluation and
2573 response shall not be made available to any other person or firm and shall be exempt from
2574 disclosure under section 10 of chapter 66.

2575 (j) Each contract for architectural, engineering and related professional services by an
2576 agency shall contain a certificate signed by a representative of the agency and the firm that each
2577 has complied with this chapter.

2578 SECTION 46. Section 1 of chapter 32 of the General Laws is hereby amended by
2579 striking out, in line 203, as appearing in the 2006 Official Edition, the words "Turnpike
2580 Authority" and inserting in place thereof the following words:- Department of Transportation.

2581 SECTION 47. Said section 1 of said chapter 32 is hereby further amended by inserting
2582 after the word "connector", in line 211, as so appearing, the following words:- , the
2583 Massachusetts Department of Transportation.

2584 SECTION 48. Section 2 of said chapter 32, as appearing in the 2006 Official Edition, is
2585 hereby amended by striking out, in lines 29 and 30, the words "Turnpike Authority" and
2586 inserting in place thereof, in each instance, the following words:- Department of Transportation.

2587 SECTION 49. Section 5 of said chapter 32, as so appearing, is hereby amended by
2588 striking out, in line 40, the words "Turnpike Authority" and inserting in place thereof the
2589 following words:- Department of Transportation.

2590 SECTION 50. Section 7 of said chapter 32, as so appearing, is hereby amended by
2591 striking out, in line 208, the words "Turnpike Authority" and inserting in place thereof the
2592 following words:- Department of Transportation.

2593 SECTION 51. Section 11 of said chapter 32, as so appearing, is hereby amended by
2594 striking out, in lines 177 and 184, the words "Turnpike Authority" and inserting in place
2595 thereof, in each instance, the following words:- Department of Transportation.

2596 SECTION 52. Section 14 of said chapter 32, as so appearing, is hereby amended by
2597 striking out, in line 9, the words "Turnpike Authority" and inserting in place thereof the
2598 following words:- Department of Transportation.

2599 SECTION 53. Section 15 of said chapter 32, as so appearing, is hereby amended by
2600 striking out, in lines 21 and 22, the words “Turnpike Authority” and inserting in place thereof
2601 the following words:- Department of Transportation.

2602 SECTION 54. Section 20 of said chapter 32, as so appearing, is hereby amended by
2603 striking out subdivision (4 1/2).

2604 SECTION 55. Said section 20 of said chapter 32, as so appearing, is hereby further
2605 amended by striking out, in line 815, the words “Turnpike Authority” and inserting in place
2606 thereof the following words:- Department of Transportation.

2607 SECTION 56. Subdivision (7) of section 22 of said chapter 32, as so appearing, is
2608 hereby amended by striking out paragraph (e).

2609 SECTION 57. Section 23 of said chapter 32, as so appearing, is hereby amended by
2610 striking out, in lines 10 and 11, and in line 19, the words “Turnpike Authority” and inserting in
2611 place thereof, in each instance, the following words:- Department of Transportation.

2612 SECTION 58. Section 24 of said chapter 32, as so appearing, is hereby amended by
2613 striking out, in lines 9 and 10, the words ”Turnpike Authority” and inserting in place thereof the
2614 following words:- Department of Transportation.

2615 SECTION 59. Section 25 of said chapter 32, as so appearing, is hereby amended by
2616 striking out, in line 96, the words “Turnpike Authority” and inserting in place thereof the
2617 following words:- Department of Transportation.

2618 SECTION 60. Section 28 of chapter 32, as so appearing, is hereby amended by striking
2619 out, in line 233, the words "Turnpike Authority" and inserting in place thereof the following
2620 words: - Department of Transportation.

2621 SECTION 61. Section 28 of said chapter 32, as so appearing, is hereby amended by
2622 striking out, in lines 234, 244, 247 and 248, 250, 254 and 255, and in line 258, the words
2623 "Turnpike Authority" and inserting in place thereof, in each instance, the following words:-
2624 Department of Transportation.

2625 SECTION 62. Section 102 of said chapter 32, as so appearing, is hereby amended by
2626 striking out, in lines 76 and 77, the words "Turnpike Authority" and inserting in place thereof
2627 the following words:- Department of Transportation.

2628 **NO SECTION 63.**

2629 SECTION 64. Section 2 of chapter 32A of the General Laws is hereby amended by
2630 inserting after the words "the Massachusetts Life Sciences Center", inserted by section 16 of
2631 chapter 130 of the acts of 2008, the following words:- , the Massachusetts Department of
2632 Transportation, the Massachusetts Bay Transportation Authority.

2633 SECTION 65. Section 24 of chapter 40B of the General Laws, as appearing in the 2006
2634 Official Edition, is hereby amended by striking out, in line 14, the words "Turnpike Authority"
2635 and inserting in place thereof the following words:- Department of Transportation.

2636 SECTION 66. Section 5 of chapter 59 of the General Laws is hereby amended by
2637 striking out clause Thirty-eighth, as so appearing, and inserting in place thereof the following
2638 clause:-

2639 Thirty-eighth, In determining the valuation, for city and town tax purposes, of any
2640 privately-owned airport, the value of any improvements on or to the landing area shall not be
2641 included so long as the owner grants free use of the landing area to the general public for the
2642 landing, taking off and taxiing of aircraft; provided, however, that the airport shall meet the
2643 minimum requirements set forth by the aeronautics division in rules and regulations issued
2644 pursuant to section 39 of chapter 90 and is certified by the aeronautics division to be included
2645 within the needs of civil aeronautics as established by the state airport plan prepared pursuant to
2646 section 39A of said chapter 90 and is approved for commercial operation by the aeronautics
2647 division.

2648 SECTION 67. Section 7 of chapter 64A of the General Laws, as so appearing, is hereby
2649 amended by striking out, in line 12, the words "Turnpike Authority" and inserting in place
2650 thereof the following words:- Department of Transportation.

2651 SECTION 68. Chapter 64A of the General Laws is hereby amended by striking out
2652 section 13, as appearing in section 4 of chapter 233 of the acts of 2008, and inserting in place
2653 thereof the following section:-

2654 Section 13. All sums received from the excise imposed on aviation fuel, and related
2655 penalties, forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under
2656 sections 7 and 7A, shall be credited to the Commonwealth Transportation Fund and may be
2657 used for airport development projects approved and carried out at airports and landing facilities
2658 under 49 U.S.C. App. s 2210; and all other sums received from the excise imposed in section 4,
2659 and related penalties, forfeitures, interest, costs of suits and fines, less all amounts for
2660 reimbursement under said sections 7 and 7A, shall be credited as follows: (i) 99.85 per cent

2661 shall be credited to the Commonwealth Transportation Fund to be used for transportation-
2662 related purposes; and (ii) 0.15 per cent shall be credited to the Inland Fisheries and Game Fund
2663 established in section 2C of chapter 131.

2664 SECTION 69. Section 5 of chapter 64E of the General Laws, as appearing in the 2006
2665 Official Edition, is hereby amended by striking out, in line 8, the words “Turnpike Authority”
2666 and inserting in place thereof the following words:- Department of Transportation.

2667 SECTION 70. Said chapter 64E is hereby further amended by striking out section 13, as
2668 so appearing, and inserting in place thereof the following section:-

2669 Section 13. All sums received under this chapter as excises, penalties, forfeitures,
2670 interest, costs of suits and fines shall be credited to the Commonwealth Transportation Fund to
2671 be used for transportation-related purposes.

2672 SECTION 71. Section 3 of chapter 64F of the General Laws, as so appearing, is hereby
2673 amended by striking out, in line 10, the words “Turnpike Authority” and inserting in place
2674 thereof the following words:- Department of Transportation.

2675 SECTION 72 . Said chapter 64F is hereby further amended by striking out section 14,
2676 as so appearing, and inserting in place thereof the following section:-

2677 Section 14. All sums received under this chapter as excises, penalties, forfeitures,
2678 interest, costs of suits and fines shall be credited to the Commonwealth Transportation Fund to
2679 be used for transportation-related purposes.

2680 SECTION 73. Section 25A of chapter 64H of the General Laws, as so appearing, is
2681 hereby amended by striking out, in line 3, the word “commission” and inserting in place thereof
2682 the following word:- division.

2683 SECTION 74. Section 26A of chapter 64I of the General Laws, as so appearing, is
2684 hereby amended by striking out, in line 3, the word “commission” and inserting in place thereof
2685 the following word:- division.

2686 SECTION 74A. Section 1 of chapter 81 of the General Laws, as so appearing, is hereby
2687 amended by striking out, in line 1, the word 'department' and inserting in place thereof the
2688 following word:- division.

2689 SECTION 75. Chapter 81A of the General Laws is hereby repealed.

2690 SECTION 76. Section 7A of chapter 85 of the General Laws, as appearing in the 2006
2691 Official Edition, is hereby amended by striking out, in line 34, the words “Turnpike Authority”
2692 and inserting in place thereof the following words:- Department of Transportation.

2693 SECTION 77. Section 1 of chapter 90 of the General Laws, as so appearing, is hereby
2694 amended by striking out, in line 57, the word “department” and inserting in place thereof the
2695 following word:- division.

2696 SECTION 78. Section 1A of said chapter 90 is hereby amended by striking out the
2697 words ‘or by the Massachusetts Turnpike Authority, the Massachusetts Bay Transportation
2698 Authority or the Massachusetts Port Authority’, inserted by section 16 of chapter 303 of the acts
2699 of 2008, and inserting in place thereof the following words:- or the Massachusetts Department

2700 of Transportation, the Massachusetts Bay Transportation Authority or the Massachusetts Port
2701 Authority.

2702 SECTION 79. Section 7A of said chapter 90 is hereby amended by striking out, in line
2703 94, as appearing in the 2006 Official Edition, the words “Highway Fund” and inserting in place
2704 thereof the following words:- Commonwealth Transportation Fund established in section 2ZZZ
2705 of chapter 29.

2706 SECTION 80. Section 20G of said chapter 90, as so appearing, is hereby amended by
2707 striking out, in line 2, the words “Turnpike Authority” and inserting in place thereof the
2708 following words:- Department of Transportation.

2709 SECTION 81. Said chapter 90 is hereby amended by striking out section 34, as
2710 amended by section 19 of chapter 303 of the acts of 2008, and inserting in place thereof the
2711 following section:-

2712 Section 34. The fees received under the preceding sections, together with all other fees
2713 received by the registrar or any other person under the laws of the commonwealth relating to the
2714 use and operation of motor vehicles and trailers, shall be disposed of as follows: (i) \$2 from
2715 every motorcycle registration issued pursuant to section 2 shall be deposited into the General
2716 Fund and used solely for the purpose of promoting and advancing motorcycle safety; (ii) all fees
2717 from the issuance of veterans plates pursuant to section 2, in excess of the fees set for the
2718 registration of the motor vehicle, shall be deposited into the General Fund; and (iii) any amount
2719 remaining after compliance with clauses (i) and (ii) shall be deposited into the Commonwealth
2720 Transportation Fund established in section 2ZZZ of chapter 29.

2721 SECTION 82 . Section 34 1/2 of said chapter 90 is hereby repealed.

2722 SECTION 83. Section 35 of said chapter 90, as appearing in the 2006 Official Edition,
2723 is hereby amended by striking out, in line 74, the word "commission" and inserting in place
2724 thereof the following word:- division.

2725 SECTION 84. Said section 35 of said chapter 90, as so appearing, is hereby further
2726 amended by striking out, in lines 75 and 76, the words "director of aeronautics employed by the
2727 commission" and inserting in place thereof the following words:- administrator for aeronautics.

2728 SECTION 85. Section 50 of said chapter 90, as so appearing, is hereby amended by
2729 striking out, in line 5, the words "chairman of the commission" and inserting in place thereof
2730 the following words:- administrator for aeronautics.

2731 SECTION 86. Section 1 of chapter 90C of the General Laws is hereby amended by
2732 striking out, in line 59, the words "Turnpike Authority", as appearing in the 2006 Official
2733 Edition, and inserting in place thereof the following words:- Department of Transportation.

2734 SECTION 87. Section 1 of chapter 90E of the General Laws, as so appearing, is hereby
2735 amended by striking out, in line 16, the word "department" and inserting in place thereof the
2736 following word:- division.

2737 SECTION 88. Said section 1 of said chapter 90E, as so appearing, is hereby further
2738 amended by striking out, in line 17, the words "commissioner of" and inserting in place thereof
2739 the following words:- administrator for.

2740 SECTION 89. Section 1 of chapter 90H of the General Laws, as so appearing, is hereby
2741 amended by striking out, in line 4, the word "department" and inserting in place thereof the
2742 following word:- division.

2743 SECTION 90. Said section 1 of said chapter 90H, as so appearing, is hereby further
2744 amended by striking out, in line 5, the words “commissioner of the department of” and inserting
2745 in place thereof the following words:- administrator for.

2746 SECTION 91. The first paragraph of section 35 of chapter 92 of the General Laws, as so
2747 appearing, is hereby amended by adding the following sentence:- The commission shall submit
2748 its plans for any such connection to the secretary of the department of transportation and the
2749 administrator for highways so that it may be included in their capital plans.

2750 SECTION 92. Section 1A of chapter 119A of the General Laws, as so appearing, is
2751 hereby amended by striking out, in line 82, the words “Turnpike Authority” and inserting in
2752 place thereof the following words:- Department of Transportation.

2753 SECTION 93. Section 40A of chapter 131 of the General Laws, as so appearing, is
2754 hereby amended by striking out, in line 95, the word “commission” and inserting in place
2755 thereof the following words:- division.

2756 SECTION 94. Section 45 of said chapter 131, as so appearing, is hereby amended by
2757 striking out, in line 36, the word “commission” and inserting in place thereof the following
2758 words:- division.

2759 SECTION 95. Section 21 of chapter 142 of the General Laws, as so appearing, is
2760 hereby amended by striking out, in line 5, the words “Turnpike Authority” and inserting in place
2761 thereof the following words:- Department of Transportation.

2762 SECTION 96. Section 3A of chapter 143 of the General Laws, as so appearing, is
2763 hereby amended by striking out in line 27, the words “Turnpike Authority” and inserting in
2764 place thereof the following words:- Department of Transportation.

2765 SECTION 97. Section 94 of said chapter 143 is hereby amended by striking out, in line
2766 10, as so appearing, the words “Turnpike Authority” and inserting in place thereof the following
2767 words:- Department of Transportation.

2768 SECTION 98. Section 20 of chapter 149A of the General Laws, as so appearing, is
2769 hereby amended by adding the following subsection:-

2770 (d) Except for section 39M of chapter 30, all other provisions of the public bidding laws,
2771 including sections 39F, 39G, 39J, 39N, 39O 39P and 39R of said chapter 30 and sections 26, 27,
2772 27A, 27B, 27C, 27D, 29, 29C and 34A of chapter 149, shall apply to all design build projects
2773 procured pursuant to this chapter in the same manner as they apply to public works projects
2774 generally procured pursuant to said section 39M said of said chapter 30.

2775 SECTION 99. The definition of “Employer in section 1 of chapter 150E of the General
2776 Laws, as amended by section 7 of chapter 42 of the acts of 2007, is hereby further amended by
2777 adding the following sentence:- In the case of employees of the Massachusetts Department of
2778 Transportation, “employer” shall mean the Massachusetts Department of Transportation or any
2779 individual designated by the board of that department to represent it or act in its interest in
2780 dealing with employees.

2781 SECTION 100. Section 7 of said chapter 150E is hereby amended by inserting after the
2782 word “commission,” , in line 23, as appearing in the 2006 Official Edition, the following
2783 words:- Massachusetts Department of Transportation.

2784 SECTION 101. Section 73 of chapter 152 of the General Laws, as so appearing, is
2785 hereby amended by striking out, in line 5, the words “Turnpike Authority” and inserting in place
2786 thereof the following words:- Department of Transportation

2787 SECTION 102. Said section 73 of said chapter 152, as so appearing, is hereby further
2788 amended by striking out, in line 9, the words “any police officer of”.

2789 SECTION 103. The first paragraph of said section 73 of said chapter 152, as so
2790 appearing, is hereby further amended by inserting after the first sentence the following
2791 sentence:- Notwithstanding the any general or special law to the contrary, any present or former
2792 Massachusetts Bay Transportation Authority employee or retiree entitled to compensation under
2793 section 31, 34, 34A, 35, 35A or 36 who is also entitled to a pension by reason of the same injury
2794 shall elect whether he will receive such compensation or such pension and shall not receive
2795 both, except in the manner and to the extent provided by section 14 of chapter 32; provided,
2796 however, that the requirement to make such election shall apply to all former Massachusetts
2797 Bay Transportation Authority employees or retirees presently receiving or entitled to receive
2798 benefits under said section 31, 34, 34A, 35, 35A or 36 who are also receiving or entitled to a
2799 pension by reason of the same injury.

2800 SECTION 104. Section 1 of chapter 159A of the General Laws, as so appearing, is
2801 hereby amended by striking out, in line 12, the words “Turnpike Authority” and inserting in
2802 place thereof the following words:- Department of Transportation.

2803 SECTION 105. Section 1 of chapter 161A of the General Laws, as so appearing, is
2804 hereby amended by striking out the definition of 'Department' and inserting in place thereof the
2805 following definition:-

2806 'Department', the mass transit division within the department of transportation.

2807 SECTION 106. Said section 1 of said chapter 161A, as so appearing, is hereby further
2808 amended by striking out the definition of 'Secretary' and inserting in place thereof the following
2809 definition:-

2810 'Secretary', the secretary of transportation for the department of transportation.

2811 SECTION 107. Paragraph (g) of section 5 of chapter 161A of the General Laws, as so
2812 appearing, is hereby amended by striking out the first subparagraph and inserting in place
2813 thereof the following subparagraph:-

2814 The authority shall establish a program for mass transportation consistent with this
2815 chapter. The program for mass transportation and any revisions thereto shall be submitted for
2816 comment and recommendation to the advisory board not less than 60 days prior to the adoption
2817 thereof. The authority shall prepare a written response to reports submitted to it by the advisory
2818 board which response shall state the basis for any substantial divergence between the actions of
2819 the authority and the recommendations contained in such reports of the advisory board. The
2820 program shall be reviewed not less than every 5 years to evaluate the achievement of its aims
2821 and to re-evaluate its conformity with this chapter.

2822 SECTION 108. Said chapter 161A is hereby further amended by striking out section 7,
2823 as so appearing, and inserting in place thereof the following section:-

2824 Section 7. The authority shall be governed and its corporate powers exercised by a
2825 board of directors. The board shall consist of the 5 members appointed by the governor for
2826 terms of 4 years, 2 of whom shall be experts in the field of public or private transportation
2827 finance, 2 of whom shall have practical experience in transportation planning and policy and 1

2828 of whom shall be a registered civil engineer with at least 10 years experience. One of the
2829 members shall be appointed by the governor to serve as chairperson of the board; provided,
2830 however, that said designee shall not be an employee of the authority, department or any
2831 division thereof. Not more than 3 of the directors shall be members of the same political party.
2832 Any person appointed to fill a vacancy in the office of a member of the board shall be appointed
2833 in a like manner and shall serve for only the unexpired term of such member. A member shall
2834 be eligible for reappointment. A member may be removed from his appointment by the
2835 governor for cause. The governor may appoint a designee pursuant to section 6A of chapter 30.
2836 A majority of the directors shall constitute a quorum, which shall be required to take any
2837 particular action. The directors shall meet monthly; provided, however, that such meeting shall
2838 occur no later than the fifteenth day of the month. Each meeting shall provide a sufficient
2839 opportunity for public comment.

2840 SECTION 109. Section 7A of said chapter 161A, as so appearing, is hereby amended
2841 by striking out the third paragraph and inserting in place thereof the following paragraph:-

2842 Whenever the approval of the advisory board or of the 14 cities and towns or of the 51
2843 cities and towns or of the other served communities is required for any appointment or action by
2844 the governor or the authority, such approval shall be deemed to have been granted unless, within
2845 30 days of the submission thereof, the advisory board of the 14 cities and towns or the 51 cities
2846 and towns or the other served communities has its disapproval to the governor or to the
2847 authority in writing.

2848 SECTION 110 . Subsection (a) of section 13 of said chapter 161A, as so appearing, is
2849 hereby amended by striking out the last paragraph.

2850 SECTION 111. Said chapter 161A is hereby further amended by striking out the section
2851 20, as so appearing, and inserting place thereof the following section:-

2852 Section 20. The board shall approve a preliminary itemized budget for the subsequent
2853 fiscal year not later than March 15 prior to the beginning of that fiscal year. The authority shall
2854 submit to the advisory board a final itemized budget not later than April 15 prior to the
2855 beginning of the fiscal year.

2856 The itemized budget shall establish a projection of operating costs and revenues for each
2857 commuter rail, rapid transit, bus and water line or route, each maintenance facility and for each
2858 department and unit of the authority. The itemized budget shall identify expenditures in such a
2859 manner that establishes the cost of operating the service provided on each such line or route. In
2860 conjunction with the itemized budget, the authority shall also calculate any additional costs that
2861 would be incurred in the event that service on each such line or route is mandated to expand or
2862 change beyond the level of service established or proposed by the itemized expenditure budget.

2863 The board shall forward not later than November 15 of each year to the governor, the
2864 secretary of administration and finance, the joint committee on transportation and the house and
2865 senate committees on ways and means the estimated capital or operating cost the authority
2866 projects to incur in the following fiscal year for expansions or changes in service imposed by
2867 the general court on the authority after July 1, 2000.

2868 No expenses shall be incurred in excess of those shown in the budget; provided,
2869 however, that revenues shall exceed expenses at the close of each fiscal year in the operating
2870 funds of the authority by an amount equal to 1/2 of 1 per cent of the dedicated revenue source.
2871 The itemized budget may from time to time be amended by the board. The final budget and any
2872 supplementary budget shall provide for payment of all debt service payments or other payments

2873 due under financing obligations including, without limitation, leases, reimbursement obligations
2874 or interest exchange agreements for which the commonwealth has pledged its credit or contract
2875 assistance or is otherwise liable. If, during the fiscal year, the authority projects that total
2876 revenues for the fiscal year will be insufficient to meet total expenses, the authority shall take
2877 immediate steps to increase revenues or decrease expenses, other than debt service payments or
2878 other payments due under such financing obligations, such that a deficit will not occur in the
2879 following fiscal year and shall file with the secretary of administration and finance a deficit
2880 reduction plan delineating such steps. Upon the filing of such plan, the authority may, if it will
2881 otherwise have insufficient funds to pay expenses, draw on the Stabilization Fund in section 19
2882 or issue temporary notes pursuant to section 12 for the subsequent fiscal year.

2883 SECTION 112. Section 38 of said chapter 161A, as so appearing, is hereby amended by
2884 striking out, in lines 4 and 5, the words "to the same extent as though the authority were a street
2885 railway company".

2886 SECTION 113. Said section 38 of said chapter 161A, as so appearing, is hereby further
2887 amended by striking out the second paragraph.

2888 SECTION 114. Section 43 of said chapter 161A, as so appearing, is hereby amended by
2889 striking out, in line 7, the words "not less than".

2890 SECTION 115. Said section 43 of said chapter 161A, as so appearing, is hereby further
2891 amended by striking out the second paragraph and inserting in place thereof the following
2892 paragraph:-

2893 For the purposes of this section, the term 'railroad' shall include any person, railroad
2894 corporation or other legal entity in the business of providing rail transportation which contracts

2895 or enters into a legal agreement with the Massachusetts Bay Transportation Authority for the
2896 provision or accommodation of commuter rail services. For the purposes of this section, the
2897 term 'commuter rail services' shall include all services performed by a railroad pursuant to a
2898 contract or any other agreement with the Massachusetts Bay Transportation Authority in
2899 connection with the transportation of rail passengers including, but not limited to, the operation
2900 of trains, trackage and equipment, or the construction, reconstruction or maintenance of railroad
2901 equipment, tracks and any appurtenant facilities or the provision of trackage rights over lines
2902 owned by any such railroad.

2903 SECTION 116. Section 1 of chapter 161B of the General Laws, as so appearing, is
2904 hereby amended by striking out the definition of 'Department' and inserting in place thereof the
2905 following definition:-

2906 'Department', the mass transit transit division within the department of transportation.

2907 SECTION 117. Said section 1 of said chapter 161B, as so appearing, is hereby further
2908 amended by striking out the definition of 'Secretary' and inserting in place thereof the following
2909 definition:-

2910 'Secretary', the administrator of transportation for mass transit within the department of
2911 transportation.

2912 SECTION 118. Section 2 of chapter 161C of the General Laws, as so appearing, is
2913 hereby amended by striking out the definition of 'Executive office' and inserting in place thereof
2914 the following definition:-

2915 'Executive office', the office of planning and programming established under chapter six
2916 C.

2917 SECTION 119. Said section 1 of said chapter 161C, as so appearing, is hereby further
2918 amended by striking out the definition of 'Secretary' and inserting in place thereof the following
2919 definition:-

2920 'Secretary', the administrator of transportation for mass transit within the department of
2921 transportation.

2922 SECTION 120. Section 2 of chapter 161D of the General Laws, as so appearing, is
2923 hereby amended by striking out the definition of 'Executive office' and inserting in place thereof
2924 the following definition:-

2925 'Executive office', the office of planning and programming established under chapter six
2926 C.

2927 SECTION 121. Said section 2 of said chapter 161D, as so appearing, is hereby further
2928 amended by striking out the definition of 'Secretary' and inserting in place thereof the following
2929 definition:-

2930 'Secretary', the administrator of transportation for mass transit within the department of
2931 transportation.

2932 SECTION 122. Section 1 of chapter 218 of the General Laws, as so appearing, is
2933 hereby amended by striking out, in lines 243 to 244, the words "Turnpike Authority as provided
2934 in chapter 598 of the acts of 2958" and inserting in place thereof the following words:-
2935 Department of Transportation.

2936 SECTION 123. Section 1 of chapter 258 of the General Laws, as so appearing, is
2937 hereby amended by inserting after the word “including”, in line 40, the following words:- the
2938 Massachusetts Department of Transportation, the Massachusetts Bay Transportation Authority,
2939 any duly constituted regional transit authority and the Massachusetts Turnpike Authority and.

2940 SECTION 124. Said section 1 of said chapter 258, as so appearing, is hereby amended
2941 by striking out, in lines 50 to 52, inclusive, the words “the Massachusetts Bay Transportation
2942 Authority, the Massachusetts Port Authority, the Massachusetts Turnpike Authority” and
2943 inserting in place thereof the following words:- the Massachusetts Port Authority, the
2944 Massachusetts Department of Transportation.

2945 SECTION 125. Said section 1 of said chapter 258, as so appearing, is hereby further
2946 amended by adding the following definition:-

2947 “Serious bodily injury”, bodily injury which results in a permanent disfigurement, or
2948 loss or impairment of a bodily function, limb or organ.

2949 SECTION 126. The first paragraph of section 10 of said chapter 258, as so appearing, is
2950 hereby amended by adding the following subsection:-

2951 (k) any claim against the Massachusetts Bay Transportation Authority for serious bodily
2952 injury.

2953 SECTION 127. Section 1 of chapter 465 of the acts of 1956 is hereby amended by
2954 inserting after subsection (a) the following new subsection:-

2955 (a^{1/2}) The words advisory board shall mean the advisory board established pursuant to
2956 section 36 of this act.

2957 SECTION 128. Said chapter 465 is hereby further amended by adding the following
2958 section:-

2959 Section 36. (a) There shall be an advisory board to the authority consisting of 1 voting
2960 representative of each of the following cities and towns: Braintree, Bedford, Brookline,
2961 Cambridge, Chelsea, Cohasset, Concord, Everett, Hingham, Hull, Lexington, Lincoln, Malden,
2962 Melrose, Medford, Milton, Nahant, Quincy, Revere, Somerville, Weymouth, and Winthrop and
2963 Worcester; provided, further, that the city of Boston shall have 7 voting representatives, 1 of
2964 whom shall be a resident of the Beacon Hill or South End sections of the city of Boston, 1 of
2965 whom shall be a resident of the East Boston section of the city of Boston, 1 of whom shall be a
2966 resident of the Dorchester or Roxbury sections of the city of Boston, 1 of whom shall be a
2967 resident of the Charlestown section of Boston, 1 of whom shall be a resident of the South
2968 Boston section of the city of Boston, 1 of whom shall be a resident of the Roslindale or Hyde
2969 Park sections of the city of Boston, and 1 of whom shall be a resident of the 3 West Roxbury or
2970 Jamaica Plain sections of the city of Boston. The members of the advisory board shall be
2971 appointed by the chief executive officer of each city or town.

2972 (b) Said advisory board may act at a regular periodic meeting called in accordance with
2973 its by-laws; or at a special meeting called by the authority; or if a majority of board members
2974 choose to do so. A quorum of the advisory board shall consist of a simple majority of voting
2975 members present, and the advisory board may act, except as otherwise provided in paragraph
2976 (f), by affirmative casting of a majority of the votes represented in the quorum. The advisory
2977 board shall be deemed to be a governing body for the purposes of, and shall be subject to,
2978 section 11A½ of chapter 30A of the General Laws.

2979 (c) Said advisory board shall annually elect a chairperson, a vice-chairperson, a secretary
2980 and such officers as said advisory board might determine. Each officer may be removed by a
2981 two-thirds vote of the advisory board without cause. In the event of a vacancy, said board shall
2982 fill the vacancy for the unexpired term. Each member of said advisory board shall serve without
2983 compensation.

2984 (d) The advisory board shall without limitation:

2985 (i) make recommendations to the authority on annual current expense
2986 expenditure budgets submitted to the advisory board under paragraph (g);

2987 (ii) hold hearings, which may be held jointly with the authority at the discretion
2988 of the advisory board and said authority, on matters relating to said authority;

2989 (iii) review the annual report of the authority and to prepare comments thereon to
2990 the authority and the governor, and to make such examinations of the reports on the
2991 authority's records and affairs as the advisory board deems appropriate; and

2992 (iv) make recommendations to the governor and the general court respecting the
2993 authority and its programs.

2994 (e) Within 30 days of receiving any proposed current expense budget of the authority or
2995 within 30 days of receiving any proposed amended expense budget of the authority, the
2996 advisory board shall hold a public hearing on matters relating to said budget for the purpose of
2997 ascertaining, for subsequent report to the authority if necessary, the views of the public thereon.

2998 (f) The advisory board may incur annual expenses, not to exceed \$25,000 for office and
2999 related expenses. Said annual expenses shall be paid by the authority.

3000 (g) The authority shall provide any information including, but not limited to, annual
3001 current expense expenditure budgets and capital expenditure reports, requested by the advisory
3002 board which are necessary for the discharge of its duties; provided, however, that the advisory
3003 board shall not be granted access to any information if it be determined by the executive
3004 director of the authority and the director of security for the authority that the release of such
3005 information would be detrimental to public safety, or if providing such information would be in
3006 violation of any federal statute or regulation of the Federal Aviation Administration or other
3007 federal agency; provided, further, that said determination shall be made in writing which shall
3008 be delivered to the advisory board within 2 business days.

3009 SECTION 129. Section 2 of chapter 634 of the acts of 1971, as most recently amended
3010 by section 1 of chapter 364 of the acts of 1990, is hereby further amended by striking out the
3011 second paragraph and inserting in place thereof the following paragraph:-

3012 Following acquisition of the bridges by the department, the department shall, in its sole
3013 discretion, furnish or otherwise provide for the necessary flag protection on the railroad rights-
3014 of-way of the Massachusetts Bay Transportation Authority, which may be required when the
3015 department is performing inspection, maintenance and repair, reconstruction or replacement of
3016 any such bridges.

3017 SECTION 130. Subsection (c) of section 83 of chapter 4 of the acts of 2003, as amended by
3018 section 8 of chapter 228 of the acts of 2007, is hereby amended by striking out the words
3019 “Central Artery and Statewide Road and Bridge Infrastructure Fund established under section
3020 63 of chapter 10 of the General Laws” and inserting in place thereof the following words:-

3021 Commonwealth Transportation Fund established in section 2zzz of chapter 29 of the General
3022 Laws.

3023 SECTION 131. The first sentence of subsection (b) of section 11 of chapter 233 of the
3024 acts of 2008 is hereby amended by inserting after the word “engineering” the following words:-
3025 “and construction”.

3026 SECTION 132. Notwithstanding section 31 of chapter 15 of the acts of 1988 or any
3027 other general or special law to the contrary, the Massachusetts Bay Transportation Authority
3028 may sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of the public
3029 parking garage constructed and operated by the authority and the land acquired by the authority
3030 pursuant to such law, subject to such terms, restrictions, covenants and conditions, for
3031 facilitating economic development, employment opportunities and increase of the tax base, as
3032 determined by the authority.

3033 SECTION 133. (a) Notwithstanding any general or special law to the contrary, the
3034 Massachusetts Department of Transportation and the Massachusetts Turnpike Authority shall
3035 develop and implement a transfer agreement providing for the orderly transfer and provisional
3036 appointment of personnel from the authority to the Massachusetts Department of Transportation
3037 consistent with the provisions contained herein as well as the transfer of all assets, liabilities,
3038 obligations and debt of the authority to Massachusetts Department of Transportation; Upon the
3039 assumption of the outstanding liabilities, obligations and debt of the authority by the
3040 Massachusetts Department of Transportation, the authority shall be dissolved and, without
3041 further conveyance or other act, all the assets, liabilities, obligations and debt as well as all
3042 rights, powers and duties of the authority shall be transferred to, and assumed by, the

3043 Massachusetts Department of Transportation. Unless specifically provided to the contrary, the
3044 terms “turnpike”, “Ted Williams tunnel”, “Sumner tunnel”, and “metropolitan highway system”
3045 as used in this section, and elsewhere in this act, shall have the meanings described in chapter
3046 81A of the General Laws.

3047 (b) On the date the authority is dissolved: (i) ownership, possession and control of all
3048 personal property, including, but without limitation, all equipment, books, maps, papers, plans,
3049 records and documents of whatever description pertaining to the design, construction, use,
3050 operation and general affairs of the turnpike and metropolitan highway system which are in the
3051 possession of the Massachusetts Turnpike Authority or any division, unit, officer or employee
3052 thereof shall pass to, and be vested in ,the Massachusetts Department of Transportation without
3053 consideration or further evidence of transfer and shall thereafter be in the possession and control
3054 of the highway division; (ii) ownership, possession and control of all real property, including,
3055 without limitation, all land, buildings, highways, bridges, tunnels and other highway elements of
3056 whatever description that are owned by the Massachusetts Turnpike Authority or any division or
3057 unit thereof shall pass to and be vested in the Massachusetts Department of Transportation
3058 without consideration or further evidence of transfer and shall thereafter be a part of the state
3059 highway system under the possession and control of the highway division; provided, however,
3060 that before such dissolution, the Massachusetts Turnpike Authority shall be authorized to
3061 transfer, for nominal consideration, to the Massachusetts Bay Transportation Authority, all of its
3062 right title and interest in the land, track and other property comprising the rail line and right of
3063 way extending from the South Bay section of the city of Boston to the city of Newton; provided,
3064 further, that the authority shall retain any portion of, or interest in, such rail line and right-of-
3065 way deemed by the authority or the highway division, with the approval of the Massachusetts

3066 Department of Transportation, to be necessary for the operation of the turnpike or the
3067 metropolitan highway system; and (iii) all duly existing contracts, leases, or obligations of the
3068 Massachusetts Turnpike Authority with respect to the turnpike or metropolitan highway system
3069 which remain in force immediately before the effective date of the dissolution of the authority,
3070 shall be deemed to be the obligations of the Massachusetts Department of Transportation. No
3071 existing right or remedy under this section shall be lost, impaired or affected by this act. The
3072 Massachusetts Department of Transportation shall have authority to exercise all rights and enjoy
3073 all interests conferred upon the Massachusetts Turnpike Authority by the contracts, leases or
3074 obligations. In the case of collective bargaining agreements, any obligations under the
3075 agreements shall expire on the stated date of expiration of such agreements.

3076 (c) The transfer of the assets, liabilities, obligations and debt of the Massachusetts
3077 Turnpike Authority to the Massachusetts Department of Transportation under this act shall be
3078 effective upon dissolution of the authority and shall bind all persons with or without notice and
3079 without any further action or documentation. Without derogating from the foregoing, the
3080 department may, from time to time, execute and record and file for registration with any registry
3081 of deeds or the land court or with the secretary of the commonwealth, as appropriate, a
3082 certificate confirming the commonwealth's ownership of any interest in real or personal
3083 property formerly held by the Massachusetts Turnpike Authority and transferred pursuant to the
3084 provisions of this act and establishing and confirming the limits of state highways so
3085 transferred.

3086 (d) This act shall not limit or impair the rights, remedies, or defenses of the
3087 commonwealth, the Massachusetts Department of Transportation, or the Massachusetts
3088 Turnpike Authority in or to any such action including, without limitation, section 18 of chapter

3089 81 of the General Laws and chapter 258 of the General Laws. All actions or proceedings shall
3090 be subject to the provisions of said section 18 of said chapter 81 and said chapter 258. Except as
3091 expressly excepted by the previous sentence, actions and proceedings against or on behalf of the
3092 Massachusetts Turnpike Authority shall continue unabated and, from and after the date of
3093 dissolution of the authority, may be completed against or by the department.

3094 (e) Notwithstanding the foregoing, no existing rights of the holders of the bonds issued
3095 by the Massachusetts Turnpike Authority under chapter 81A of the General Laws shall be
3096 impaired, and the department, as successor in interest to the Massachusetts Turnpike Authority,
3097 shall maintain the covenants of the trust indentures pertaining to such bonds so long as such
3098 bonds shall remain outstanding.

3099 (f) Notwithstanding any powers granted to the Massachusetts Department of
3100 Transportation under section 3 of chapter 6C, the Massachusetts Department of Transportation
3101 shall not exercise the powers to increase tolls on the turnpike or the metropolitan highway
3102 system, each as defined in section 1 of chapter 6C, until the transfer authorized in this section
3103 becomes effective. The Massachusetts department of transportation shall not exercise the power
3104 granted by section 20 of chapter 6C until the transfer authorized in this section becomes
3105 effective.

3106 SECTION 134. Notwithstanding any general or special law to the contrary, any order,
3107 rule, or regulation duly promulgated, or any license, permit, certificate or approval duly granted,
3108 by or on behalf of the Massachusetts Turnpike Authority shall continue in effect from and after
3109 the date of dissolution of the authority and shall be enforced by the Massachusetts Department

3110 of Transportation until superseded, revised, rescinded or cancelled by the Massachusetts
3111 Department of Transportation.

3112 SECTION 135. Notwithstanding any other general or special law to the contrary, the
3113 Massachusetts Department of Transportation may enter into contracts to create and permit
3114 employee contributions to individual retirement accounts for employees of the department
3115 pursuant to sections 64A to 64C, inclusive, of chapter 29 of the General Laws.

3116 SECTION 136. Notwithstanding any general or special law to the contrary, the
3117 Massachusetts Department of Transportation shall, in consultation with the Federal Highway
3118 Administration, inventory the requirements for, and assume the responsibilities of, rehabilitating
3119 and reconstructing the turnpike and metropolitan highway system in compliance with Title 23 of
3120 the United States Code. The inventory shall include operational and safety considerations
3121 associated with direct access to the mainline roadway from (i) maintenance, administration and
3122 state police facilities, (ii) emergency median crossovers, and (iii) adjacent local roadways and
3123 service plazas.

3124 SECTION 137. (a) each employee of the Massachusetts Turnpike Authority whose
3125 salary is paid out of revenue generated by the authority as defined in section 3 of chapter 81A of
3126 the General Laws, and whose salary is accounted for on the books of the Massachusetts
3127 Turnpike Authority as arising from revenue generated by that authority shall become an
3128 employee of the Massachusetts Department of Transportation.

3129 (b) All officers and employees of the Massachusetts Turnpike Authority transferred to
3130 the service of the Massachusetts Department of Transportation shall be transferred without
3131 impairment of seniority, retirement or other statutory rights of employees, without loss of

3132 accrued rights to holidays, sick leave, vacation and other benefits, except as otherwise provided
3133 in this act. Terms of service of employees of the Massachusetts Turnpike Authority shall not be
3134 deemed to be interrupted by virtue of transfer to the Massachusetts Department of
3135 Transportation.

3136 SECTION 138. (a) Notwithstanding any general or special law to the contrary,
3137 employees of the Massachusetts Turnpike Authority who become state employees under this act
3138 and who are eligible for group insurance coverage pursuant to chapter 32A of the General Laws
3139 shall receive the full extent of benefits provided to existing state employees. The employees
3140 shall cease to be eligible or insured by the authority. The group insurance commission,
3141 hereinafter referred to as the commission, shall provide uninterrupted coverage for group life
3142 and accidental death and dismemberment insurance and group general or blanket insurance
3143 providing hospital, surgical, medical, dental and other health insurance benefits pursuant to said
3144 chapter 32A.

3145 (b) Notwithstanding any general or special law to the contrary, retired employees of the
3146 Massachusetts Turnpike Authority and the surviving spouses of active or retired authority
3147 employees who are eligible for group insurance coverage pursuant to this section and said
3148 chapter 32A shall have said eligibility and coverage transferred to the commission and shall
3149 receive the full extent of benefits provided to existing state employees. The persons shall cease
3150 to be eligible or insured by the authority. The commission shall provide uninterrupted coverage
3151 for group life and accidental death and dismemberment insurance and group general or blanket
3152 insurance providing hospital, surgical, medical, dental and other health insurance benefits to the
3153 extent authorized under said chapter 32A. All questions relating to group insurance rights,
3154 obligations, costs and payments shall be determined solely by the group insurance commission,

3155 and shall include the manner and method for the payment of all required premiums applicable to
3156 all such coverage.

3157 (c) The human resources division of the executive office for administration and finance
3158 shall assume the obligations of the Massachusetts Turnpike Authority to employees who
3159 become state employees and who are covered under a health and welfare trust fund agreement.
3160 Any monies in the authority's employees' group insurance trust fund shall be transferred to the
3161 group insurance commission trust fund established in section 9 of said chapter 32A.

3162 (d) Any monies in the Massachusetts Turnpike Authority's Claims Trust Fund shall be
3163 transferred to the commission. The Massachusetts Turnpike Authority's treasurer shall provide
3164 the commission with an accounting of the claims trust fund which shall be for the 1 year period
3165 immediately preceding the effective date of the transfer and shall include a calculation of the
3166 employee, retiree and surviving spouse contributions that are in excess of the claims costs and
3167 expenses of the plans for which the contributions were made. The treasurer shall routinely
3168 forward to the commission any claims for health insurance claims made on behalf of the active
3169 employees and retirees of the authority.

3170 (e) Nothing in this section shall be construed to affect the eligibility and coverage of
3171 retired Massachusetts Turnpike Authority employees and the surviving spouses of active or
3172 retired Massachusetts Turnpike Authority employees who are eligible for group insurance
3173 coverage under a plan offered by the Massachusetts Turnpike Authority or who are insured
3174 under a plan offered by the Massachusetts Turnpike Authority.

3175 SECTION 139. Notwithstanding the provisions of any general or special law to the
3176 contrary, employees of the Massachusetts Turnpike Authority who are hired after the effective

3177 date of this act shall become members of the state retirement system, and notwithstanding the
3178 provisions of any general or special law to the contrary including, but not limited to, paragraph
3179 (c) of subdivision (8) of section 3 of chapter 32 of the General Laws, said system shall be
3180 responsible for all liability attributable to the service of such employees. The liabilities
3181 attributable to the service of such employees shall be recoverable by the commonwealth
3182 pursuant to the terms of section 8. Employees hired by said authorities after the effective date of
3183 this act shall not be members of either authority's retirement system.

3184 SECTION 140. Notwithstanding any general or special law to the contrary, an
3185 employee, retiree, surviving spouse or dependent of the Massachusetts Bay Transportation and
3186 who becomes or who is eligible for group insurance coverage under insurance plans offered by
3187 the authority or who is insured under such a plan, shall have his eligibility and coverage
3188 transferred to the jurisdiction of the group insurance commission and such person shall cease to
3189 be eligible or insured under the plans previously offered by the Massachusetts Bay
3190 Transportation Authority; provided, however, that employees whose benefits are provided under
3191 the terms of an existing collective bargaining agreement shall be transferred on the expiration
3192 date of that agreement; provided, further, that for all other employees this transfer shall be
3193 effective January 1, 2010. .

3194 Upon transfer to the group insurance commission all employees, retirees, surviving
3195 spouses or dependents of the Massachusetts Bay Transportation Authority shall be deemed
3196 "employees" in accordance with the provisions of section 2 of chapter 32A of the General Laws
3197 and shall be subject to all of the provisions of said chapter or any superseding language. If the
3198 Massachusetts Bay Transportation Authority has monies in an employee's group insurance trust
3199 fund related to the employees transferred to the group insurance commission, these funds shall

3200 be transferred to the group insurance commission trust fund established in section 9 of chapter
3201 32A.

3202 Upon transfer: (i) all benefits of all employees, retirees, surviving spouses or dependents
3203 of the Massachusetts Bay Transportation Authority shall be provided through the group
3204 insurance commission for all purposes; and (ii) employees, retirees, surviving spouses or
3205 dependents of the Massachusetts Bay Transportation Authority transferred to the group
3206 insurance commission's benefits coverage shall receive group insurance benefits determined
3207 exclusively by the commission, the coverage shall not be subject to collective bargaining, and
3208 no other reimbursements or other contractual obligations shall be paid by the Massachusetts Bay
3209 Transportation Authority for health care benefits not provided through the group insurance
3210 commission.

3211 SECTION 141. Notwithstanding any general or special law to the contrary, on and after
3212 the effective date of this act, the Massachusetts Turnpike Authority shall not enter into any
3213 contract to employ a person as an employee or officer beyond July 1, 2010.

3214 SECTION 142. The terms and conditions of any collective bargaining agreement that is
3215 in effect upon dissolution of the Massachusetts Turnpike Authority with respect to employees of
3216 said authority shall continue in effect until the stated expiration date of such agreement, at
3217 which point the agreement shall expire. Notwithstanding the provisions of any general or
3218 special law to the contrary, upon the effective date of this act, the authority shall not engage in
3219 negotiations for future collective bargaining agreements.

3220 The personnel administrator of the commonwealth, in consultation with the Massachusetts
3221 Department of Transportation, shall complete a study of job titles in the former Massachusetts
3222 Turnpike Authority. The personnel administrator, in consultation with said department, shall

3223 determine the appropriate commonwealth job titles for former employees of the authority
3224 transferred to the department. Employees transferred to the department shall be placed in job
3225 titles as determined by the personnel administrator, and shall be paid wages and receive benefits
3226 consistent with the commonwealth bargaining unit contract governing such job title(s).
3227 Employees not transferred to the department shall be released pursuant to the provisions of any
3228 applicable collective bargaining agreement or authority policy in place upon the effective date
3229 of this act.

3230 SECTION 143. Notwithstanding any general or special law to the contrary, on and after
3231 the effective date of this act the Massachusetts Turnpike Authority shall not enter into any new
3232 or amended employment agreements, which fix the compensation and conditions of
3233 employment or otherwise bind the authorities to designated contract periods.

3234 SECTION 144. (a) As used in this section and section 145 the following words shall,
3235 unless the context clearly requires, have the following meanings:

3236 “Authority”, the Massachusetts Port Authority established pursuant to chapter 465 of the
3237 acts of 1956.

3238 “Bridge”, the Tobin Memorial Bridge, formerly known as the Mystic River Bridge,
3239 constructed and owned by the authority pursuant to chapter 465 of the acts of 1956.

3240 “Department”, the Massachusetts Department of Transportation established pursuant in
3241 chapter 6C of the General Laws.

3242 (b) Notwithstanding any general or special law to the contrary, not later than September
3243 1, 2009 the authority shall transfer the bridge, owned and operated by the authority, to the
3244 department to be under the control of the department. Ownership, possession, and control of the

3245 bridge, including, but not limited to, all equipment, books, maps, papers, plans, records and
3246 documents of whatever description pertaining to the design, construction, use, operation, and
3247 general affairs of the bridge which are in the possession of the authority or any division, unit,
3248 officer or employee thereof shall pass to and be vested in the department to be under the control
3249 of the department without consideration or further evidence of transfer and shall thereafter be in
3250 the ownership, possession and control of said department.

3251 (c) Notwithstanding any general or special law to the contrary, authority bridge
3252 personnel deemed necessary by the department for the operation, management, design,
3253 construction, reconstruction, repair, maintenance, or improvement of the bridge, transferred
3254 under subsection (b), shall be transferred to the department. The terms and conditions of any
3255 collective bargaining agreement covering bridge personnel that is in effect upon the transfer of
3256 such personnel to the department shall remain in effect until the stated date of expiration of such
3257 agreement, at which point the agreement shall expire; provided, however, that upon the
3258 effective date of this act, the authority shall not engage in negotiations for future collective
3259 bargaining agreements covering such employees.

3260 Notwithstanding any general or special law to the contrary, the personnel administrator
3261 of the commonwealth, in consultation with the department, shall complete a study of job titles
3262 held by employees of the department who are former authority personnel assigned to the bridge.
3263 The personnel administrator shall determine the appropriate job titles for former employees of
3264 the authority transferred to the department. Following the stated date of expiration of any
3265 existing collective bargaining agreements, employees transferred to the department shall be

3266 placed in job titles as determined by the personnel administrator, and shall be paid wages and
3267 receive benefits consistent with the bargaining unit contract governing such job titles.

3268 (d) Notwithstanding any general or special law to the contrary, all duly existing
3269 contracts, leases, and obligations of the authority regarding the bridge shall continue in effect
3270 and shall remain the liability of the authority; provided, however, that all contracts and
3271 obligations related to any collective bargaining agreement shall be assumed by the department,
3272 except to the extent expressly inconsistent with this act; and provided further, that in the case of
3273 collective bargaining agreements, any obligations assumed by the department under said
3274 agreements shall expire on the stated date of expiration of such agreements. No existing right or
3275 remedy of any character shall be lost, impaired, or affected by this act.

3276 (e) On and after the effective date of this act, the authority shall not increase its net
3277 workforce of employees working primarily on the bridge.

3278 SECTION 145. (a) All bridge employees transferred to the service of the department
3279 shall be transferred without impairment of seniority, civil service status, retirement or other
3280 statutory rights of employees, without reduction in compensation or salary grade,
3281 notwithstanding any change in job titles or duties, without loss of accrued rights to holidays,
3282 sick leave, vacation and other benefits, except as otherwise provided in this act. Terms of
3283 service of bridge employees shall not be deemed to be interrupted by virtue of transfer to the
3284 department.

3285 (b) Except to the extent expressly inconsistent with this act, any collective bargaining
3286 agreement and related contracts and obligations in effect for such transferred employees

3287 immediately before the transfer date shall continue as if the employees had not been so
3288 transferred, until the expiration date of such collective bargaining agreement.

3289 (c) Nothing in this section shall be construed to confer upon any employee any right not
3290 held immediately prior to the date of the transfer or to prohibit any reduction of salary or grade,
3291 transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited
3292 before such date.

3293 (d) Notwithstanding any general or special law to the contrary, a bridge employee who is
3294 employed by the authority on the effective date of this act and who becomes an employee of the
3295 department and who is eligible for group insurance coverage under insurance plans offered by
3296 the authority or who is insured under such a plan, shall have his eligibility and coverage
3297 transferred to the jurisdiction of the group insurance commission effective on the date of such
3298 transfer and such a person shall cease to be eligible or insured under the plans previously
3299 offered by the authority.

3300 (e) The group insurance commission shall provide uninterrupted coverage for group life
3301 and accidental death and dismemberment insurance and group general or blanket insurance
3302 providing hospital, surgical, medical, dental and other health insurance benefits to the extent
3303 authorized under chapter 32A of the General Laws; provided, however, that a bridge employee
3304 who was covered by a collective bargaining agreement on the date of the transfer to the
3305 department shall continue to receive the group insurance benefits required by his respective
3306 collective bargaining agreement until the expiration date of such agreement. All questions
3307 relating to group insurance rights, obligations, costs and payments shall be determined by the
3308 group insurance commission and shall include the manner and method for the payment of all
3309 required premiums applicable to all such coverage.

3310 (f) If the authority has monies in an employees' group insurance trust fund related to the
3311 bridge employees transferred to the department, these funds shall be transferred to the group
3312 insurance Commission Trust Fund established in section 9 of said chapter 32A.

3313 (g) Nothing in this section shall be construed to affect the eligibility and coverage of
3314 retired bridge employees and the surviving spouses of active or retired bridge employees who
3315 are eligible for group insurance coverage under a plan offered by the authority or who are
3316 insured under a plan offered by the authority.

3317 SECTION 146. Notwithstanding any general or special law to the contrary, the
3318 Massachusetts Bay Transportation Authority or any successor, shall enter into an agreement to
3319 establish or amend existing retirement or pension benefits only if any employee hired after the
3320 effective date of the agreement or amendment may not receive a retirement or pension benefit
3321 prior to the completion of 25 years of credited pension service and attained 55 years of age. The
3322 Massachusetts Bay Transportation Authority is not prohibited by this section from permitting
3323 retirement prior to attaining age 55; provided, however, that either: (i) the employee is entitled
3324 to a disability pension under the Massachusetts Bay Transportation Authority retirement system;
3325 or (ii) the employee has earned the maximum percentage allowed under the retirement formula
3326 of the Massachusetts Bay Transportation Authority retirement system and that the employee
3327 waives the ability to collect a pension and retirement benefit due until attaining age 55.

3328 SECTION 147. (a) The secretary of the department of transportation shall make such
3329 plans and arrangements as may be necessary to ensure the efficient transfer of: (i) the
3330 Massachusetts turnpike authority's functions, assets, liabilities, and obligations; (ii) the Maurice
3331 J. Tobin Memorial Bridge owned and operated by the Massachusetts Port Authority; and (iii)

3332 the vehicular bridges, appurtenances, and designated parkways under the control of the
3333 department of conservation and recreation, to the department pursuant to this act.

3334 The secretary shall have the authority to promulgate new rules and regulations as
3335 deemed necessary to effectuate the purposes of the transfers.

3336 Any order, rule or regulation duly promulgated by or on behalf of the department of
3337 highways, the Massachusetts aeronautics commission, the registry of motor vehicles, and the
3338 Massachusetts Turnpike Authority, shall continue in full force and effect to the extent consistent
3339 with this act and the laws of the commonwealth, and shall continue to be enforced, until
3340 superseded, revised, rescinded or cancelled by the secretary of the department of transportation.

3341 SECTION 148. (a) Notwithstanding any general or special law to the contrary,
3342 Worcester regional airport, as currently owned by the city of Worcester and operated by the
3343 Massachusetts Port Authority, is hereby transferred from the city of Worcester to the
3344 Massachusetts Port Authority on the July first following one year after the effective date of this
3345 act, subject to the following terms and conditions: (i) the Worcester regional airport shall be
3346 transferred to the Massachusetts Port Authority for fair compensation which may be paid in
3347 installments and which may consider the actual amount of any expenditures, subsidies and
3348 operational costs assumed or provided to date to or for the Worcester regional airport by said
3349 Massachusetts Port Authority, in addition to any other federal and state funding and grant
3350 assistance, and (ii) the right, title and interest of the city in the Worcester regional airport shall
3351 be conveyed within 1 year upon the transfer date set by this act

3352 (b) Upon the transfer of the airport by the city of Worcester to the Massachusetts Port
3353 Authority pursuant to this section, the Massachusetts Port Authority shall be responsible for the

3354 ownership, operation and maintenance of the Worcester regional airport and, except as
3355 otherwise agreed to by the parties, the city shall cease to be responsible for such ownership,
3356 operation and maintenance. All warranties and all contract and indemnification rights and
3357 obligations arising out of the design, construction, operation and maintenance of the airport
3358 shall remain in full force and effect following such transfer. The provisions of this section shall
3359 not limit or in any way impair the rights, remedies or defenses of the city of Worcester or the
3360 Massachusetts Port Authority in or to any such action.

3361 SECTION 149. Notwithstanding any general or special law to the contrary, the secretary
3362 of administration and finance shall establish an office of transition management for
3363 transportation within the executive office for administration and finance to accomplish the
3364 purposes of this act for a period not to exceed 2 years from the effective date of this act;
3365 provided, however, the secretary may maintain the office for more than 2 years if necessary to
3366 ensure the orderly transfer of transportation assets and functions pursuant to this act. Agencies
3367 from within that executive office including, but not limited to, the human resources division and
3368 the division of capital asset management and maintenance, as well as the executive office of
3369 transportation and public works and the department of labor shall staff the office.

3370 The office shall temporarily monitor compliance with this act and shall: (i) recommend
3371 to the secretary of transportation and public works rules and regulations not inconsistent with
3372 this act to facilitate the orderly, expeditious transfer of assets and functions from the executive
3373 office of transportation and public works, the Massachusetts Turnpike Authority, the
3374 Massachusetts Port Authority, the department of conservation and recreation and the department
3375 of highways to the Massachusetts Department of Transportation; (ii) develop administrative
3376 processes to assure continuity of employment and operations during the transitions; (iii) identify

3377 opportunities for potential efficiencies and cost savings; (iv) recommend legislation to realize
3378 such savings and efficiencies; and (v) resolve issues or assist government agencies with the
3379 transition of transportation agencies.

3380 Ninety days after the effective date of this act and quarterly thereafter until such
3381 transition period is complete, the office shall submit a report to the governor, the secretary of
3382 administration and finance, the joint committee on transportation, the senate and house
3383 committees on ways and means and the clerks of the senate and the house of representatives,
3384 relative to the progression of the incorporation of the agencies and authorities into the
3385 Massachusetts Department of Transportation.

3386 The report shall include, but shall not be limited to, plans for the assignment and
3387 reassignment of resources including personnel, equipment and supplies into the Massachusetts
3388 Department of Transportation. The reports shall also include the status of the transition of roads,
3389 bridges, designated parkways and any other transportation assets of the Massachusetts Turnpike
3390 Authority, the Massachusetts Port Authority, the department of conservation and recreation and
3391 the department of highways and shall further include approximate schedules for the completion
3392 of the transition.

3393 SECTION 150. (a) Notwithstanding the provisions of any general or special law to the
3394 contrary, the executive office for administration and finance and the Massachusetts Department
3395 of Transportation shall facilitate the orderly transfer of the employees, proceedings, rules and
3396 regulations, property, and legal obligations of the following functions of state government from
3397 the transferor agency to the transferee agency, defined as follows: (1) the functions of the
3398 executive office of transportation and public works, as the transferor agency, to the
3399 Massachusetts Department of transportation as the transferee agency; (2) the functions of the

3400 department of highways, as the transferor agency, to the Massachusetts department of
3401 transportation, highway division, as the transferee agency; (3) the functions of the registry of
3402 motor vehicles, as the transferor agency, to the Massachusetts department of transportation,
3403 motor vehicles division, as the transferee agency; (4) the functions of the aeronautics
3404 commission, as the transferor agency, to the Massachusetts department of transportation,
3405 aeronautics division, as the transferee agency.

3406 (b) The employees of each transferor agency, including those who immediately before
3407 the effective date of this act hold permanent appointment in positions classified under chapter
3408 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30
3409 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby
3410 transferred to the respective transferee agency, without interruption of service, without
3411 impairment of seniority, retirement or other rights of the employee, and without reduction in
3412 compensation or salary grade, notwithstanding any change in title or duties resulting from such
3413 reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits.,
3414 The reorganization shall not impair the civil service status of any such reassigned employee
3415 who immediately before the effective date of this act either holds a permanent appointment in a
3416 position classified under chapter 31 of the General Laws or has tenure in a position by reason of
3417 section 9A of chapter 30 of the General Laws.

3418 Notwithstanding the provisions of any general or special law to the contrary, all such
3419 employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of
3420 the General Laws and shall be considered employees for the purposes of said chapter 150E.

3421 Nothing in this section shall be construed to confer upon any employee any right not
3422 held immediately before the date of said transfer, or to prohibit any reduction of salary grade,
3423 transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited
3424 before such date.

3425 (c) All petitions, requests, investigations and other proceedings appropriately and duly
3426 brought before each transferor agency or duly begun by each transferor agency and pending
3427 before it before the effective date of this act, shall continue unabated and remain in force, but
3428 shall be assumed and completed by the Massachusetts Department of Transportation.

3429 (d) All orders, rules and regulations duly made and all approvals duly granted by each
3430 transferor agency, which are in force immediately before the effective date of this act, shall
3431 continue in force and shall thereafter be enforced, until superseded, revised, rescinded or
3432 canceled, in accordance with law, by the Massachusetts Department of Transportation.

3433 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and
3434 other property, both personal and real, including all such property held in trust, which
3435 immediately before the effective date of this act are in the custody of each transferor agency
3436 shall be transferred to the Massachusetts Department of Transportation.

3437 (f) All duly existing contracts, leases and obligations of each transferor agency shall
3438 continue in effect but shall be assumed by the respective transferee agency. No existing right or
3439 remedy of any character shall be lost, impaired or affected by this act.

3440 SECTION 151. The secretary of the Massachusetts Department of Transportation, in
3441 consultation with the secretary of the executive office of labor and workforce development and

3442 director of workforce development shall institute a workforce retraining initiative to mitigate
3443 potential impacts to employees displaced by the organizational efficiencies and agency
3444 restructuring directed by this act. The secretary of the Massachusetts Department of
3445 Transportation and the secretary of labor and workforce development, or their designees, shall
3446 establish a committee to coordinate the workforce retraining initiative and adopt policies that
3447 identify and categorize displaced employees, while advancing workforce development
3448 opportunities for the employees whose lack of skills may prevent or limit their successful
3449 employment. The committee shall include representatives from labor unions likely to be
3450 affected by this act, representatives from the business industry and representatives from the
3451 human resources division of the executive office for administration and finance. The procedures
3452 shall outline and recommend various retraining programs available to employees identified as
3453 being displaced by this act, establish eligibility criteria and base skills requirements for the
3454 administration of these programs, promote program accountability and job placement through
3455 the division of career services and one-stop career centers, identify available professional
3456 development and technical assistance needs and resources and encourage economic
3457 diversification and industry growth through technology-focused training.

3458 The director of workforce development together with agencies and other entities that
3459 provide employment or training services in the commonwealth, shall utilize existing state and
3460 federal grant funding, including funding for workforce retraining programs at existing
3461 institutions, community colleges, labor organizations and administrative entities to implement
3462 the workforce retraining initiative. Where applicable, the director may utilize any funds
3463 received pursuant to the federal Workforce Investment Act of 1998, 112 Stat. 936, 29 U.S.C. §
3464 2801, as amended, to provide additional funding for the workforce retraining initiative.

3465 In the event an employee displaced by the operation of this act does not have severance
3466 or other termination benefits, the department of transportation shall pay, for a period not to
3467 exceed 2 months following the date of termination of employment, the then current salary for
3468 such employee.

3469 SECTION 152. Notwithstanding sections 9 to 10, inclusive, of chapter 161B of the
3470 General Laws or any other general or special law to the contrary, all regional transit authorities
3471 established in said chapter 161B shall move to a forward funded budgeting system not later than
3472 July 1, 2011. The secretary of the executive office for administration and finance shall develop a
3473 plan for accomplishing this conversion to forward funding and to seek the necessary
3474 appropriations to implement the plan. The secretary may promulgate rules and regulations to
3475 effectuate the purposes of this section.

3476 SECTION 153. Notwithstanding any general or special law to the contrary, the highway
3477 division of the Massachusetts Department of Transportation shall enter into an agreement with
3478 the Massachusetts Bay Transportation Authority to assume all bridge inspection responsibilities
3479 for any bridges owned and operated by the authority.

3480 SECTION 154. Notwithstanding any general or special law to the contrary, the bureau
3481 of environmental health within the department of public health shall conduct a comprehensive
3482 baseline study of the health effects of particulate air pollution from surface and air
3483 transportation. The study shall focus on understanding the health impacts from fine and ultrafine
3484 particulate matter upon populations that are located within 500 feet of any roadway with 50,000
3485 or more motor vehicle trips per day, or any rail line regularly used by diesel locomotives or
3486 within 1 mile of any airport with more than 500 enplanements per week as reported between

3487 January 1, 2007 and January 1, 2008 or within 1 mile of the port of the city of Boston; provided,
3488 however, that the study may include, but shall not be limited to, examining respiratory and
3489 cardiovascular disease and cancer incidence that may be affected by exposure to traffic-related
3490 particles. The following departments and agencies shall provide information to the bureau
3491 relevant to this study: the department of environmental protection; the office of planning and
3492 programming within the Massachusetts Department of Transportation, the division of
3493 aeronautics; and the central transportation planning staff of the Boston metropolitan planning
3494 organization. The bureau shall report its findings together with suggested legislation, if any, to
3495 the house and senate committees on ways and means not later than June 30, 2010.

3496 SECTION 155. The office of the state auditor shall perform a close-out audit of each
3497 agency or authority admitted to the Massachusetts Department of Transportation. The audit
3498 shall include a catalogue of any issues relating to the agency or authority's current and future
3499 finances and operations, current and future revenues or debt structure, and internal policies and
3500 procedures, that the state auditor believes are not within financial accounting board standards of
3501 practice or may violate the General Laws.

3502 SECTION 156. (a) Notwithstanding any other provision of this act or any other general
3503 or special law to the contrary, commencing on July 1, 2009, all amounts of any kind received by
3504 the commonwealth which are derived from, or related to, the operation of the state highway
3505 system, as defined in chapter 6C of the General Laws, shall be deemed to be held in trust for,
3506 and shall be transferred and paid over to, the Massachusetts Transportation Trust Fund when
3507 received without further appropriation to be applied to the purposes of the authority. All
3508 amounts of any kind received by the Massachusetts Turnpike Authority which are derived from
3509 the operation of the turnpike, as defined in said chapter 6C, shall be deemed to be held in trust

3510 for, and shall be transferred and paid over to, the Massachusetts Transportation Trust Fund
3511 when received without further appropriation to be applied to the purposes of the department.

3512 (b) Notwithstanding any other provision of this act or any other general or special law to
3513 the contrary, commencing on July 1, 2010, all amounts of any kind received by the
3514 Massachusetts Port Authority which are derived from, or related to, the operation of the Tobin
3515 memorial bridge, as defined in section 1 of chapter 6C of the General Laws, shall be deemed to
3516 be held in trust for, and shall be transferred and paid over to, the Massachusetts Department of
3517 Transportation when received without further appropriation to be applied to the purposes of the
3518 said Massachusetts Department of Transportation . All amounts of any kind received by the
3519 Massachusetts Turnpike Authority which are derived from the operation of the metropolitan
3520 highway system, as defined in said section 1 of said chapter 6C, shall be deemed to be held in
3521 trust for, and shall be transferred and paid over to, the Massachusetts Department of
3522 Transportation when received without further appropriation to be applied to the purposes of the
3523 Massachusetts Department of Transportation.

3524 SECTION 157. The secretary of transportation shall submit a report on the progress and
3525 all expenditures related to state transportation infrastructure projects undertaken through use of
3526 federal funds received under the American Recovery and Reinvestment Act of 2009 to the
3527 clerks of the senate and house of representatives, the chairs of the senate and house committees
3528 on ways and means, the senate and house chairs of the joint committee on transportation and the
3529 chairs of the senate and house committees on bonding, capital expenditures and state assets. The
3530 report shall include, but not be limited to: the total estimated cost of each project; the amount
3531 expended for the planning and design of each project up to the time the report is filed; the
3532 amount expended on construction of each project up to the time the report is filed; the timeline

3533 from advertisement through contract award and from the start of actual design and construction
3534 by the design build team to project completion; the time saved, if any, by employing the design
3535 build procurement method; and the estimated lifetime maintenance schedule and cost of each
3536 project, the original estimated completion date of each project and the current anticipated
3537 completion date of each project. The report shall also include the total number of employees
3538 and outside contractors and amount expended on the salaries and benefits for such employees
3539 and outside contractors that are specifically working on projects to be carried out as part of
3540 projects funded through said American Recovery and Reinvestment Act of 2009. The report
3541 shall be submitted annually on December 31 until the culmination of any project funded with
3542 funds authorized by said American Recovery and Reinvestment Act of 2009.

3543 SECTION 158. All uncommitted and unexpended funds and authorizations, which have
3544 been appropriated from time to time to the executive office of transportation and public works,
3545 including any agency and authority within the executive office, including but not limited to,
3546 funds authorized in chapter 15 of the acts of 1988, chapter 33 of the acts of 1991, chapter 102 of
3547 the acts of 1994, chapter 273 of the acts of 1994, chapter 28 of the acts of 1996, chapter 113 of
3548 the acts of 1996, chapter 205 of the acts of 1996, chapter 11 of the acts of 1997, chapter 55 of
3549 the acts of 1999, chapter 87 of the acts of 2000, chapter 235 of the acts of 2000, chapter 246 of
3550 the acts of 2002, chapter 40 of the acts of 2003, chapter 291 of the acts of 2004, chapter 27 of
3551 the acts of 2007, chapter 86 of the acts of 2008, chapter 233 of the acts of 2008, and chapter 303
3552 of the acts of 2008, shall be transferred to the Massachusetts Department of Transportation for
3553 use by the department or any of its divisions for purposes consistent with such authorizations.

3554 SECTION 159. (a) Effective upon the date of dissolution of the Massachusetts Turnpike
3555 Authority: (1) the Massachusetts Turnpike Authority employees' retirement system shall

3556 continue under the provisions of sections 1 to 28, inclusive of said chapter 32; (2) the
3557 management of the Massachusetts Turnpike Authority employees' retirement system shall be
3558 transferred to the state board of retirement in section 18 of chapter 10 of the General Laws
3559 which board shall have with respect thereto the general powers and duties set forth in
3560 subdivision (5) of section 20 of said chapter 32; (3) all data, files, papers and records and other
3561 materials of the retirement board provided for in paragraph (b) of subdivision (4 1/2) of said
3562 section 20 of said chapter 32 shall be transferred to and held by the state board of retirement; (4)
3563 the funds of the Massachusetts Turnpike Authority employees' retirement system in the custody
3564 of the secretary-treasurer of the authority shall be transferred to the state treasurer who shall
3565 thereafter be and perform the duties of the treasurer-custodian of such funds which shall then be
3566 held by the state treasurer for the exclusive benefit and use of the members of the Massachusetts
3567 Turnpike Authority employees' retirement system and their beneficiaries; and (5) the retirement
3568 board in said paragraph (b) of subdivision (4 1/2) of said section 20 of said chapter 43 shall be
3569 abolished; provided, however, that the members and officers thereof shall continue to be
3570 authorized to do all such things and take all such action as may be necessary or desirable to be
3571 done or taken by them to effectuate the transfers to be made pursuant to this section.

3572 (b) Effective upon the date of dissolution of the Massachusetts Turnpike Authority or a
3573 default in its obligations under chapter 32 of the General Laws, the payment of all annuities,
3574 pensions, retirement allowances and refunds of accumulated total deductions and of any other
3575 benefits granted under the sections 1 to 28, inclusive, of said chapter 32 are hereby made
3576 obligations of the commonwealth in the case of any such payments from funds of the
3577 Massachusetts turnpike authority employees' retirement system.

3578 SECTION 160. Notwithstanding any general or special law to the contrary, in making
3579 initial appointments to the board of directors of the Massachusetts Department of Transportation
3580 established pursuant to Chapter 6C of the General Laws, the governor shall appoint 4 additional
3581 members, 1 of whom shall be appointed for a term of 1 year, 1 of whom shall be appointed for a
3582 term of 2 years, 1 of whom shall be appointed for a term of 3 years, 1 of whom shall be
3583 appointed for a term of 4 years and 1 of whom shall be appointed for a term of 5 years.

3584 SECTION 161. Notwithstanding any general or special law to the contrary, the
3585 secretary of administration and finance may enter into such contracts or agreements with the
3586 Massachusetts Department of Transportation and may transfer proceeds of the bonds and notes
3587 of the commonwealth issued for transportation purposes to the Massachusetts Department of
3588 Transportation as it deems necessary to carry out the purposes of the statutory provisions
3589 authorizing such bonds or notes.

3590 SECTION 162. Notwithstanding any general or special law to the contrary, any existing
3591 or future balance in the Infrastructure Fund, established in section 2O of said chapter 29 of the
3592 General Laws, shall be credited to the Commonwealth Transportation Fund established in
3593 section 2ZZZ of said chapter 29, provided that such crediting shall not affect in any way the
3594 obligations of the commonwealth relating to special obligation bonds issued pursuant to said
3595 section 2O of said chapter 29, and the pledge of pledged funds, as defined in said section 2O of
3596 said chapter 29, to secure the payment of such bonds is hereby ratified and confirmed in all
3597 respects and shall remain in full force and effect as long as any such special obligation bonds
3598 issued as of July 1, 2009 remain outstanding in accordance with their terms and secured by
3599 funds in the fund.

3600 SECTION 163. Notwithstanding any general or special law to the contrary, the
3601 comptroller shall transfer the balance of the Highway Fund established in section 34 of chapter
3602 90 of the General Laws to the Commonwealth Transportation Fund established in section 2ZZZ
3603 of chapter 29 of the General Laws.

3604 SECTION 164. Notwithstanding any general or special law to the contrary, the
3605 comptroller shall transfer the balance of the Deferred Maintenance Trust Fund established in
3606 section 69A of Chapter 10 of the General Laws, to the Commonwealth Transportation Fund
3607 established in section 2ZZZ of chapter 29 of the General Laws.

3608 SECTION 165. Notwithstanding any general or special law to the contrary, any project
3609 or phase thereof that has received an opinion of the secretary of the executive office of energy
3610 and environmental affairs that it is not subject to the jurisdiction of the secretary pursuant
3611 chapter 30 of the General Laws shall be governed by the regulations and procedures in effect
3612 prior to the effective date of this act, and any project or phase thereof that has received, prior to
3613 the effective date of this regulation, any 1 or more of a variance, special permit, comprehensive
3614 permit, certificate of occupancy, or building permit followed within 5 years thereafter by a
3615 certificate of occupancy, or the developer of which has entered into an agreement of the
3616 department of conservation and recreation or the applicable executive office secretary to fund
3617 traffic improvements or traffic mitigation, shall in any such case be governed by the regulations
3618 and procedures in effect prior to the effective date of these regulations so long as the applicable
3619 variance, permit or certificate continues in force and effect or, if applicable, so long as such
3620 agreement has not been duly terminated on account of the failure of the project developer to
3621 meet its obligations under such agreement and in any case unless the applicant elects, in
3622 writing, to be governed by this regulation and the procedures hereunder.

3623 SECTION 166. This act shall provide additional, alternative and complete methods for
3624 accomplishing the purpose of this act and shall be construed to be supplemental and additional
3625 to, and not in derogation of any powers conferred upon the Massachusetts Department of
3626 Transportation and others by law; provided, however, that insofar as the provisions of this act
3627 are inconsistent with any general or special law, administrative order or regulation, the
3628 provisions of this act shall be controlling.

3629 SECTION 167. (a) There shall be in the division of highways within the Massachusetts
3630 Department of Transportation a tollpayer advocate. The tollpayer advocate shall serve without
3631 compensation and may attend all meetings of the board of directors of the department and all
3632 meetings of any subsidiary board. The tollpayer advocate shall advocate on behalf of the
3633 tollpayers to ensure that their interests are fully understood and considered by the board in its
3634 deliberations and decisions.

3635 (b) There shall be in the division of highways within the Massachusetts Department of
3636 Transportation a ridership advocate. The ridership advocate shall serve without compensation
3637 and may attend all meetings of the board of directors of the department and all meetings of any
3638 subsidiary board. The ridership advocate shall advocate on behalf of the riders of the public
3639 transit system to ensure that the public transit system maintains high standards of quality and
3640 punctuality.

3641 SECTION 168. Notwithstanding any general or special law to the contrary, the
3642 comptroller shall transfer the balance of the Central Artery and Statewide Road and Bridge
3643 Infrastructure Fund established in section 63 of chapter 10 of the General Laws, to the

3644 Commonwealth Transportation Fund established in section 2ZZZ of chapter 29 of the General
3645 Laws.

3646 SECTION 169. Notwithstanding any general or special law to the contrary, the
3647 Massachusetts Turnpike Authority, or any successor authority or agency shall extend the time
3648 permissible for an account holder to dispute an overcharge of the electronic toll collection
3649 system to a period of 3 years from the time of the overcharge unless the Turnpike authority, or
3650 any successor authority or agency, chooses to extend the disputing time frame.

3651 SECTION 170. The members of the special public-private infrastructure oversight
3652 commission established in section 70 of chapter 7 of the General Laws, shall be appointed not
3653 later than August 30, 2009.

3654 SECTION 171. Notwithstanding and general or special law to the contrary, the
3655 Massachusetts Department of Transportation, established in section 1 of chapter 6C of the
3656 General Laws, shall develop an inventory of all real property owned by the department. The
3657 inventory shall be filed with the clerks of the house and senate not later than 180 days after the
3658 effective date of this act.

3659 SECTION 172. Notwithstanding any general or special law to the contrary, the
3660 Massachusetts Department of Transportation shall complete an inventory of all information
3661 technology systems currently used by the agencies or assets that are being transferred to the
3662 department pursuant to this act. The inventory shall include a description of each system in use
3663 that is adequate to permit the identification of redundancies among such systems. The director
3664 of systems integration shall consult with the chief information officer of the commonwealth in
3665 completing the inventory. A report of the results of the inventory shall be delivered to the chief

3666 information officer of the commonwealth, the chairs of the house and senate committees on
3667 ways and means, the chairs of the house and senate committees on bonding, capital
3668 expenditures and state assets and the house and senate chairs of the joint committee on
3669 transportation not later than April 1, 2010.

3670 SECTION 173. Notwithstanding any general or special law to the contrary, the
3671 Massachusetts Department of Transportation shall be operated and maintained free of tolls
3672 when: (i) all notes and bonds issued by the department relating to the turnpike and payable from
3673 turnpike revenues have been paid or a sufficient amount for the payment of all such notes or
3674 bonds and the interest thereon, to the maturity thereof, shall have been set aside in trust for the
3675 benefit of the holders of such notes or bonds; and (ii) the turnpike is deemed to be in good
3676 condition and repair to the satisfaction of the department.

3677 SECTION 174. The initial progress report required under subsection (b) of section 5 of
3678 chapter 6C of the General Laws shall be filed by the Massachusetts Department of
3679 Transportation on December 15, 2009.

3680 SECTION 175. The Massachusetts Bay Transportation Authority may enter into an
3681 agreement with the attorney general whereby the attorney general may assume the
3682 representation of the authority or any of its officers and employees sued in their official or
3683 individual capacities for acts or omissions within the scope of their office or employment, in
3684 such judicial proceedings, whether pending on the effective date of this act or commenced
3685 thereafter, as the attorney general deems appropriate, in the same manner as the attorney general
3686 provides to other state agencies and their officers and employees; provided, however, that any
3687 such agreement shall provide for payment to the attorney general of all direct and indirect costs

3688 of such representation, and the attorney general may retain and expend such funds without
3689 further appropriation for the purpose of defraying such costs; and provided further, that when
3690 providing such representation, employees of the attorney general shall remain public employees
3691 acting within the scope of their employment for purposes of chapter 258 of the General Laws.

3692 SECTION 176. Notwithstanding the provisions of section 35 of chapter 92 of the
3693 General Laws, or any other general or special law to the contrary, the department of
3694 conservation and recreation shall transfer the care, custody and control of all vehicular bridges
3695 and underpasses, to the Massachusetts Department of Transportation to be held for the same
3696 purposes; provided, however, that the following bridges or underpasses shall not be transferred
3697 to the authority until the department of conservation and recreation completes an appropriate
3698 phase of design, /or construction and renovation work an upon the execution of a memorandum
3699 of understanding by the commissioner of the department of conservation and recreation and the
3700 secretary of transportation: Boston University Bridge, River Street at Mother Brook, Woods
3701 Memorial Bridge, Craddock Bridge, Craige Dam Bridge, Lech Walesa/Mount Vernon Street
3702 Bridge, Patten's Cove Bridge, Cheney Bridge, Mystic Valley Parkway over Alewife Brook,
3703 Neponset River Bridge, General Edwards Drawbridge, Trestle/Charles River Bridge and the
3704 Hugh Farren Bridge; provided, however, that said bridges shall be transferred not later than
3705 December 31, 2014.

3706 SECTION 177. Notwithstanding the provisions of section 35 of chapter 92 of the
3707 General Laws, or any other general or special law to the contrary, the department of
3708 conservation and recreation shall transfer the care, custody and control of the following
3709 parkways to the Massachusetts Department of Transportation to be held for the same purposes:
3710 McGrath and O'Brien Highways in the cities of Cambridge and Somerville, the Carrol parkway,

3711 Middlesex avenue in the city of Medford, William Casey highway overpass in the Jamaica Plain
3712 section of the city of Boston, Columbia road in the South Boston section of the city of Boston,
3713 Morton street in Boston and Gallivan boulevard in the Dorchester section of the city of Boston.

3714 Not later than 1 year from the effective date of this act, the Massachusetts Department of
3715 Transportation and department of conservation and recreation shall file with the house and
3716 senate committees on ways and means and the joint committee on transportation a report
3717 concerning an evaluation and study of all other parkways and boulevards under the care,
3718 custody and control of the department of conservation and recreation and proposed for transfer
3719 to the Authority. The report shall include standards to protect the scenic and historic integrity of
3720 the parkways and related infrastructure, including, without limitation, snow removal on
3721 pedestrian pathways, traffic and safety protocols associated with Fourth of July events and other
3722 public events and programs devoted to recreation and public enjoyment. The report shall also
3723 include recommendations to facilitate the orderly expeditious transfer of identified parkways
3724 and boulevards to the Authority and proposed legislation to effectuate the recommendations
3725 contained in said report.

3726 SECTION 178. (a) The transfer of said bridges, underpasses and parkways indentified
3727 in sections 176 and 177 of this act shall include all approaches, appurtenant structures, works
3728 and systems, and all books, records, documents, agreements, contracts, licenses, permits and
3729 other legal obligations associated with the bridges or necessary for the Massachusetts
3730 Department of Transportation to operate, manage, maintain, reconstruct and repair the bridges.

3731 (b) Any alteration, reconstruction, redesign, maintenance, improvement or repair of the
3732 bridges, underpasses and parkways transferred by this act shall be carried out according to

3733 standards developed by the department of conservation and recreation to protect the scenic and
3734 historic integrity of the bridges and related infrastructure. Such standards shall include, but not
3735 be limited to, snow removal on pedestrian pathways, traffic and safety protocols associated with
3736 Fourth of July events and other public events and programs devoted to recreation and public
3737 enjoyment, and shall be developed by the department of conservation and recreation and agreed
3738 to by the Massachusetts Department of Transportation not later than 1 year from the effective
3739 date of this act.

3740 (c) Not later than 1 year from the effective date of this act, the Massachusetts
3741 Department of Transportation and the department of conservation and recreation shall file with
3742 the division of capital asset management and maintenance and the secretary of administration
3743 and finance a report documenting the extent of the bridges, underpasses and parkways
3744 transferred to the department pursuant to this act and documenting the standards required by the
3745 section. Upon receipt of said report, the division of capital asset management and maintenance
3746 shall take any required actions under section 40K of chapter 7 of the General Laws relative to
3747 specifically defining and documenting the boundaries of the transfers affected by sections 176
3748 and 177.

3749 (d) All unexpended funds and authorizations, which have been appropriated, from time
3750 to time, for the engineering, design, permitting, construction, reconstruction, maintenance and
3751 other services essential to the operation of the bridges transferred by this section but not yet
3752 expended, including, but not limited to, funds authorized by section 2A of chapter 233 of the
3753 acts of 2008, line item 2890-0800, shall be transferred from the department of conservation and
3754 recreation to the Authority as of the date of the transfer provided for in this section, and may
3755 thereafter be expended by the Massachusetts Department of Transportation; provided, however,

3756 that the department of conservation and recreation shall retain any unexpended funds and
3757 authorizations for the engineering, design, permitting, construction, reconstruction,
3758 maintenance, preservation, operation and other services essential to the operation of the bridges
3759 not transferred by this section.

3760 (e) Department of conservation and recreation personnel deemed necessary by the
3761 department and the Massachusetts Department of Transportation for the design, construction,
3762 reconstruction, repair, maintenance, or improvement of bridges, underpasses, parkways and
3763 appurtenances transferred under this act shall be transferred to the Massachusetts Department of
3764 Transportation, together with the funds associated with their salary and benefits, without
3765 interruption of service within the meaning of section 9A of chapter 30, without impairment of
3766 civil service status, seniority, retirement or other rights of the employee, and without reduction
3767 in compensation or salary grade, notwithstanding any change in title or duties resulting from
3768 such transfer, and without loss of accrued rights to holidays, sick leave, vacation and benefits,
3769 and without change in union representation or certified collective bargaining unit as certified by
3770 the state division of labor relations in local union representation or affiliation. Any collective
3771 bargaining agreement in effect immediately before the transfer date shall continue in effect and
3772 the terms and conditions of employment therein shall continue as if the employees had not been
3773 so transferred. The transfer shall not impair the civil service status of any such transferred
3774 employee who immediately before the effective date of this act either holds a permanent
3775 appointment in a position classified under chapter 31 of the General Laws or has tenure in a
3776 position by reason of section 9A of chapter 30 of the General Laws.

3777 (f) All duly existing contracts, leases and obligations of the department of conservation
3778 and recreation shall continue in effect but shall be assumed by the Massachusetts Department of

3779 Transportation. No existing right or remedy of any character shall be lost, impaired or affected
3780 by this act.

3781 (g) Notwithstanding section 35 of chapter 92 of the General Laws, chapter 233 of the
3782 acts of 2008, or any other general or special law to the contrary, section 13 of chapter 233 of the
3783 acts of 2008 shall not apply to any bridge, underpass or parkway transferred from the
3784 department of conservation and recreation to the Authority under sections 176 and 177 of this
3785 act.

3786 (h) Notwithstanding other general or special law to the contrary, the transfer of the
3787 bridges, underpasses, parkways and appurtenances set forth in sections 176 to 178, inclusive,
3788 should be effectuated upon a vote by the Authority to assume the responsibility for the
3789 liabilities, obligations and debts associated with said bridges, underpasses, parkways, and
3790 appurtenances.

3791 SECTION 179. Except as provided in sections 176 to 178, inclusive, nothing in this act
3792 shall be construed to transfer any lands, roadways, parkways, boulevards, bridge underpasses,
3793 approaches or other facilities under the care, custody or control of the department of
3794 conservation and recreation.

3795 SECTION 180. Notwithstanding any general law or special law to the contrary, the
3796 colonel of state police, in consultation with the secretary of the department of transportation,
3797 shall implement cost-saving measures, including, but not limited to, those related to the
3798 payment of overtime expenses for members of the state police fulfilling an assignment pursuant
3799 to section 29 of chapter 22C of the General Laws.

3800 SECTION 181. Notwithstanding any general or special law to the contrary, any
3801 employee who retires from the executive office of transportation, the department of highways,
3802 the registry of motor vehicles, the Massachusetts Turnpike Authority, the Massachusetts Port
3803 Authority, the Massachusetts Bay Transportation Authority, the Massachusetts aeronautics
3804 commission, or the Massachusetts Department of Transportation shall not be employed by the
3805 agency or authority from which the employee retired or any successor agency or authority to the
3806 agency or authority from which the employee retired, within 1 year after such retirement.

3807 SECTION 182. The board of the Massachusetts Department of Transportation shall have
3808 the power to exercise its powers under chapter 6C and other provisions of this act on November
3809 1, 2009.

3810 SECTION 183. Sections 108, 144 and 145 shall take effect on November 1, 2009.

3811 SECTION 184. Sections 133, 134 to 139, inclusive, and 141 to 143, inclusive, shall take
3812 effect on January 1, 2010.

3813 SECTION 185. Except as otherwise provided in this act, this act shall take effect on
3814 July 1, 2009.