

# SENATE, No. 2712

Senate, August 24, 2006.

Substituted by amendment by the Senate (Hart) for House Bill relative to the economic development of the Commonwealth (House, No. 5253).

## The Commonwealth of Massachusetts



In the Year Two Thousand and Six.

SECTION 1. The sums set forth in this section, for the purposes set forth in this act and subject to the conditions specified in this act, are hereby authorized for expenditure unless specifically designated otherwise, subject to the provisions of law regulating the disbursement of public funds and approval thereof.

### ECONOMIC DEVELOPMENT.

1599-2001 For a reserve to supplement funding provided by section 2 of chapter 132 of the acts of 1993, for selected demolition and asbestos and hazardous waste removal and abatement, for planning, marketing, surveying, site evaluation and site preparation at Northampton State Hospital; provided, that the demolition and asbestos and hazardous waste removal and abatement, planning, marketing, surveying, site evaluation and site preparation process shall be managed by the Massachusetts Development Finance Agency.....\$7,000,000.

SECTION 2. Section 9 of chapter 28A of the General Laws is hereby amended by striking out the definition of "Placement agency" and inserting in place thereof the following definition:-  
"Placement agency", a department, agency or institution of the commonwealth, or any political subdivision thereof, or any organization incorporated under the laws of the commonwealth, one of the principal purposes of which is providing custodial care and social services to children and that receives, by agreement with a parent or guardian, by contract with a state agency or as a result of a referral by a court of competent jurisdiction, any child under 18 years of age, for placement in family foster care or a group care facility, or for adoption.

SECTION 3. Section 3A of chapter 143 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-  
Unless otherwise provided by the state building code, the local inspector shall enforce the state building code as to any building or structure within the city or town from which he is appointed, including any building or structure owned by any authority established by the general court but not owned in whole or in part by the commonwealth, and the state building code shall be the code for all buildings and structures within the city or

town. In the event of a conflict between the code and a statute, ordinance or by-law regulating an historic district, regional historic district or architecturally-controlled district, the such statute, ordinance or by-law regulating exterior architectural features within that district shall prevail. The inspector shall enforce the state building code as to any building or structure within any city or town that is owned in whole or in part by the commonwealth or any departments, commissions, agencies or authorities of the commonwealth. The inspector shall have all the powers of a local inspector under this chapter and under the state building code as to buildings or structures that are owned in whole or in part by the commonwealth or any of its departments, agencies, commissions or authorities.

SECTION 4. As used in this act, the following words shall have the following meanings, unless the context clearly requires otherwise:

“Agency”, the Massachusetts Development Finance Agency established in section 2 of chapter 23G of the General Laws.

“Assessment parcel”, a portion of a certified economic development project upon which a project component of the economic development project shall be developed as more fully described in, or determined in accordance with, an economic development proposal.

“Bonds”, when used in reference to the agency, any bonds, notes, debentures, interim certificates, or other financial undertakings for the purpose of raising capital, including, but not limited to, lines of credit, forward purchase agreements, investment agreements and other banking or financial arrangements, issued by or entered into by the agency.

“Certified economic development project”, the project defined in an economic development proposal which has been approved by the secretary.

“Commercial component”, any component of an economic development project comprising industrial, manufacturing, office, retail, research and development or other commercial facilities, or any combination thereof, including any project component comprising mixed industrial, manufacturing, office, retail, research and development, commercial and residential facilities, as more fully described in or determined in accordance with a certified economic development project; as used in this act, the term “commercial facilities” shall mean facilities used in connection with any trade or business.

“Commissioner”, the commissioner of revenue appointed under section 2 of chapter 14 of the General Laws.

“Cost of the project” and “costs”, the cost of construction, the cost of acquisition of all lands, structures, rights of way, franchises, easements and other property rights and interests and related riparian or water rights, the cost of demolishing, removing or relocating any buildings, structures or utilities on any lands to which

these buildings, structures or utilities may be moved or relocated, the cost of all labor, materials, machinery and equipment, financing charges, interest on all bonds before and during the carrying out of a project and for a period not exceeding 1 year after completion of the project, the cost of engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, other expenses necessary or incidental to determining the feasibility or practicability of projects, administrative expenses and planning costs and other preliminary expenses and other expenses that may be necessary or incidental to the public infrastructure improvements, the financing of those improvements, placing of them in operation and the issuance of bonds under this act, including, but not limited to, the establishment and funding of reserves to secure these bonds.

“Debt service”, the principal, interest and premium, if any, on bonds and all other costs and expenses not otherwise funded by bonds which are incurred by the agency in issuing and carrying bonds and otherwise in performing its obligations and duties under this act.

“Dedicated revenue”, new state revenue specifically attributable to an economic development project that is pledged or dedicated by statute to specific purposes other than as provided in this act and not available for appropriation, including, but not limited to, monies dedicated to the Massachusetts Bay Transportation Authority and the State and Local Contribution Fund under section 35T of chapter 10 of the General Laws,

monies dedicated to the Massachusetts School Building Authority and the School Modernization and Reconstruction Trust Fund under the provisions of section 35BB of said chapter 10, monies dedicated to the Massachusetts Convention Center Authority and the Convention Center Fund under section 10 of chapter 152 of the acts of 1997, and monies dedicated to the Massachusetts Tourism Fund under section 35J of chapter 10 of the General Laws.

“Department”, the department of revenue established in section 1 of chapter 14 of the General Laws.

“Developer”, a person or any successor thereto, excluding institutions of higher education, seeking or having obtained the financial assistance of the agency for public infrastructure improvements in connection with a certified economic development project.

“Economic development district”, 1 or more parcels of real property or interests in real property owned by a developer and described in an economic development proposal within which all or a portion of an economic development project shall be developed.

“Economic development project” or “project”, the acquisition, construction, expansion, improvement or equipping of industrial, manufacturing, office, retail, research and development, residential or other commercial facilities, or any combination thereof, including facilities to be used by governmental or non-profit entities, and all lands, buildings, and other structures, equipment and property or interests therein forming a part thereof, located or to be located wholly or partially within an economic development district, and owned or to be owned by a developer or any other person, including but not limited to an economic development project as defined in section 1 of chapter 23G of the General Laws, and all public infrastructure improvements within or adjacent to the certified economic development project necessary or desirable for development of such certified economic development project, as more fully described in an economic development proposal.

“Economic development proposal”, a detailed plan for development of an economic development project within an economic development district.

“Eligible new job”, shall be considered created on the first day for which Massachusetts personal income tax withholding is required in connection with the compensation paid to the employee employed within a commercial component of an economic development project or the first day for which Massachusetts estimated tax payments are payable by a partner of a partnership occupying all or a portion of a commercial component of an economic development project, but a job shall not be considered an eligible new job if the job replaces a job elsewhere in the commonwealth. The term “eligible new job” may be more fully defined by rules, regulations or guidelines adopted by the secretary or the commissioner, which may include, among other things, retained jobs, pursuant to section 11.

“Financing document”, an instrument entered into by the agency with 1 or more other persons pertaining to the issue or securing of bonds or the application to the purposes of the agency of proceeds of bonds or other funds of the agency. A financing document may include, but need not be limited to, a lease, installment sale agreement, conditional sale agreement, mortgage, loan agreement, trust agreement, security agreement, letter of credit, reimbursement agreement, or currency or interest rate swap agreement. A financing document may also be an agreement between the agency and a lending institution which has agreed to make a loan to a user to finance a project.

“Governing body”, in a city having a Plan D or Plan E charter the city manager and the city council and in any other city the mayor and city council, and in towns the town meeting and board of selectmen or in a town with a town counsel form of government, the town council.

“Infrastructure assessments”, amounts assessed by the municipality upon assessment parcels within the economic development project as provided in section 8 to fund the costs, prior to the completion of construction of improvements and occupation thereof, of debt service related to bonds issued by the agency for public infrastructure improvements.

“Local infrastructure development assistance”, financial assistance provided by the municipality with respect to public infrastructure improvements in a certified economic development project financed by the agency in accordance with this act.

“Municipality”, a city or town within which a proposed or certified economic development project is located, if a proposed or certified economic development project is located in more than 1 city or town, each such city or town.

“Municipal officers”, in a city having a Plan D or Plan E charter, the city manager, in any other city the mayor, and in a town the board of selectmen or in a town having a town council form of government, the town council.

“New revenue”, revenue derived from a commercial component of an economic development project by the creation of any eligible new jobs or by new commercial activity that would otherwise not have taken place in the commonwealth on the commercial component as each may be more fully defined by any rules, regulations or guidelines adopted by the secretary or the commissioner pursuant to section 11.

“New state tax revenues”, any new revenue, less any dedicated revenue, collected by the commonwealth from the commercial components of a certified economic development project from: (i) the taxes imposed by chapter 62 of the General Laws on wages as defined in section 1 of chapter 62B of the General Laws and on a partner’s distributive share of earned income of a partnership that is subject to taxation as Part B taxable income in accordance with section 17 of said chapter 62; (ii) the excises imposed by section 2 of chapter 64H of the General Laws; and (iii) the excises imposed by section 3 of chapter 64G of the General Laws, section 22 of chapter 546 of the acts of 1969 and paragraph (a) of section 9 of chapter 152 of the acts of 1997, as each may be more fully defined by any rules, regulations or guidelines adopted by the secretary or the commissioner pursuant to section 11.

“Person”, any natural or corporate person, including bodies politic and corporate, public departments, offices, agencies, authorities and political subdivisions of the commonwealth, corporations, trusts, societies, associations, and partnerships and subordinate instrumentalities of any 1 or more political subdivisions of the commonwealth.

“Project component”, 1 or more buildings or structures to be acquired, constructed, rehabilitated or otherwise improved as a single unit or under common ownership and used as part of an economic development project, as more fully described in, or determined in accordance with, an economic development proposal.

“Public infrastructure improvements”, the acquisition, construction or improvement of facilities described in an economic development proposal, or interests therein, which are owned or to be owned by a municipality or the commonwealth or an agency or instrumentality of the commonwealth, including without limitation streets, sidewalks, street lighting, seawalls, docks, wharves and similar facilities, landscaping, water and wastewater facilities, storm drainage systems, bridges, culverts, tunnels, transportation facilities, garages, parks, playgrounds, and recreational facilities, and all similar facilities serving an essential governmental function within or adjacent to an economic development project, and all real property and buildings, structures, equipment and other property, or interests therein, forming a part thereof.

“Secretary”, the secretary of administration and finance, established in section 2 of chapter 7 of the General Laws.

“State infrastructure development assistance”, financial assistance provided by the commonwealth with respect to public infrastructure improvements in a certified economic development project financed by the agency in accordance with this act.

“Treasurer”, the treasurer of a municipality or the person exercising the powers of the treasurer under chapter 44 of the General Laws.

“Trust agreement”, an agreement or indenture securing 1 or more series of bonds of the agency and complying with this act.

SECTION 5. (a) In addition to the powers granted in chapters 23G and 40D of the General Laws, the agency may borrow money and issue and secure its bonds for the purpose of financing public infrastructure improvements associated with a certified economic development project for which an infrastructure development assistance agreement has been executed, as provided in, and subject to, this act. Said chapters 23G and 40D shall apply to bonds issued under this section, except that subsection (b) of section 8 of said

chapter 23G and section 12 of said chapter 40D shall not apply to bonds issued pursuant to this act or to the public infrastructure improvements financed thereby. Public infrastructure improvements financed by the agency pursuant to this act shall constitute a project within the meaning of section 1 of said chapter 23G and section 1 of said chapter 40D, but shall not be considered facilities to be used in a commercial enterprise.

(b) In addition to said chapter 23G and said chapter 40D of the General Laws pertaining to the security of bonds issued by the agency, bonds issued by the agency pursuant to this act may be secured by any infrastructure assessments received, or to be received, by the agency as provided in section 8, a pledge of state infrastructure development assistance as provided in section 9 and a pledge of local infrastructure development assistance as provided in said section 9. Bonds issued pursuant to this act may be issued under, and secured by, a trust agreement or other financing document with such terms and conditions as the agency may determine in accordance with this act and said chapters 23G and 40D, but any state or local infrastructure development assistance provided pursuant to section 10 shall be applied solely for the payment of, and security for, bonds issued for the purposes described in paragraph (a) in accordance with the infrastructure development assistance agreement between the agency, the commonwealth and the municipality executed pursuant to section 7 and shall not exceed the amount necessary for debt service payments on these bonds.

(c) Bonds issued by the agency pursuant to this act shall not be considered to be a debt or a pledge of the faith and credit of the commonwealth or any political subdivision of the commonwealth and shall be payable solely from state infrastructure development assistance under to section 6 and from any other monies and rights pledged for their payment. All bonds issued by the agency pursuant to this act shall recite that neither the commonwealth nor any political subdivision thereof shall be obligated to pay the same and neither the full faith and credit nor the taxing power of the commonwealth or any political subdivision thereof is pledged to such payment.

(d) Nothing in this act shall be construed to limit or otherwise diminish the power of the agency to finance costs of projects authorized in said chapters 23G and 40D within a certified economic development project upon compliance with said chapters 23G and 40D.

(e) Unless otherwise provided in the infrastructure assessment agreement, the developer shall be solely responsible for all costs and expenses related to:

(i) developing, holding, operating and maintaining all lands and other properties within the certified economic development project, including the costs and expenses of maintaining all public infrastructure improvements included thereon before their conveyance to the municipality or other applicable governmental entity except for any costs of those public infrastructure improvements payable from the proceeds of bonds pursuant to this act, but the city or any other governmental entity to which any of the public infrastructure improvements financed pursuant to this act shall be conveyed may enter into an agreement with the developer for the maintenance, repair and improvement by the developer of all or any portion of the public infrastructure improvements for the period subsequent to the conveyance thereof by the developer, with such other terms and conditions, as the parties shall consider appropriate and desirable.

SECTION 6. (a) Before any economic development project becomes eligible for financing from the agency for public infrastructure improvements, the developer shall file an economic development proposal with the municipality. The economic development proposal shall at a minimum: (i) indicate the boundaries of the economic development district within which the economic development project will be located; (ii) describe the proposed economic development project and the estimated cost of each project component thereof and the expected source of financing for the cost; (iii) establish a timeline for the completion of the economic development project; (iv) include a financial analysis estimating the amount of new state tax revenues to be generated as a result of each commercial component of the economic development project and the total new state tax revenues to be generated by all commercial components of the project; (v) describe the public infrastructure improvements to be installed, constructed, improved, altered, enlarged, repaired, remodeled or reconstructed as

part of the economic development project, including the estimated cost thereof; (vi) describe any bonds to be issued by the agency pursuant to this act to finance any public infrastructure improvements included in the proposed economic development project, and the estimated maximum annual debt service thereon; (vii) describe the boundaries of each assessment parcel within the economic development project, or the manner of determining those boundaries;

(viii) describe the methodology for the calculation of any infrastructure assessments to be levied by the municipality upon each assessment parcel in the economic development project, or the manner of determining this methodology; and (ix) subject to permits, variances and other approvals described therein that will be necessary for the development thereof, certify that the economic development project shall conform to the general plan for the municipality as a whole, and any master plan for all or any portion of the economic development district and all applicable zoning, planning, land use, environmental and other laws and regulations of the commonwealth and of the municipality.

(b) Upon receipt of an economic development proposal pursuant to subsection (a), the municipality shall conduct a public hearing to allow for local input on the economic development proposal and shall publish notice of the hearing in the central register published by the state secretary pursuant to section 20A of chapter 9 of the several laws. The said notice shall also be published, at least once each week for the 2 consecutive weeks before the hearing, in 2 newspapers with sufficient circulation to inform the people of the municipality. Notice shall also be sent to those residents who have previously requested to receive notice of the public hearing. The public hearing shall be held in the municipality not later than 14 days after the second consecutive publication in the 2 newspapers. The developer may amend an economic development proposal with the consent of the municipal officers to whom the proposal was submitted. The municipality through its governing body shall, within 1 year of the public hearing, take action on the economic development proposal by approving it, disapproving it, requesting its amendment, or requesting further information. A municipality's approval of an economic development proposal shall be evidenced by a 2/3 vote of the governing body.

(c) Upon approval of the economic development proposal by the governing body, the municipality and the developer shall jointly file the approved economic development proposal with the secretary and with the agency. The secretary shall, within 60 days of receipt of the locally approved economic development proposal, take action on the filing by approving it, disapproving it, requesting its amendment, or requesting further information. A developer may, with approval of the municipal officers to whom the proposal was submitted and of the secretary, amend an economic development proposal, but an increase in the total amount for which a municipality shall be required to provide local infrastructure development assistance shall require approval by a 2/3 vote of the governing body of the municipality. If the secretary approves and certifies the economic development proposal the approved shall be conclusively evidenced by a certificate of the secretary filed with the department, the agency and the treasurer declaring the economic development proposal to be a certified economic development project. The secretary shall not certify an economic development proposal until: (i) the department, to the extent practicable, certifies that the amount of projected annual new state tax revenues allocable to all commercial components of the economic development project following completion and occupancy of the project will be at least equal to the projected maximum annual debt service due on the bonds, as determined by the secretary, to be issued to fund the public infrastructure improvements related to the project; (ii) the secretary certifies that the developer has received commitments satisfactory to the department for sufficient financing, with equity or other amounts to be provided by the developer and other persons, to fund the costs of construction of the proposed economic development project exclusive of those public infrastructure improvements to be financed by the agency, and shall have obtained a blanket performance bond or other security satisfactory to the secretary and payable to the agency securing the developer's obligation to complete the construction of the proposed economic development project and the public infrastructure improvements included in the economic development proposal in an amount equal to or greater than the outstanding principal amount of any bonds to be issued by the agency to finance costs of public infrastructure improvements; (iii) the secretary certifies that the municipality has established a liquidity reserve for each assessment parcel within an economic development project in an amount equal to twice the

total annual debt service due on the bonds allocable to the assessment parcel established pursuant to section 8, and the reserve shall be funded by the municipality and shall be maintained as long as the municipality is obligated to provide local infrastructure development assistance with respect to the assessment parcel; and (iv) the agency certifies that it has approved the proposal.

(d) The secretary shall certify no more than 5 economic development proposals received pursuant to this act in a total amount not to exceed \$200,000,000, but no economic development proposal which secured municipal approval before the effective date of this act shall be certified by the secretary and no economic development proposal shall be certified by the secretary after January 1, 2012. The secretary shall not approve more than 2 economic development proposals from any 1 municipality.

SECTION 7. (a) Upon the certification of an economic development project, the commonwealth, acting by and through the secretary, the municipality, acting by and through its treasurer, the agency and the developer shall jointly enter into 1 or more infrastructure development assistance agreements. In addition to any other requirements provided herein, or in any rules, regulations or guidelines promulgated by the secretary or the department, the infrastructure development assistance agreement shall, at a minimum, provide that: (i) the developer shall construct the public infrastructure improvements in accordance with all applicable federal, state and local laws, rules, regulations and permits, and upon completion, shall convey the public infrastructure improvements, or an interest therein that shall be satisfactory to the secretary and the treasurer of the municipality, to the municipality or other applicable governmental entity; (ii) the developer shall construct each of the components of the economic development project and, in the case of each component, until construction is completed by the developer and occupied to the extent provided in the infrastructure development assistance agreement, an infrastructure assessment shall be levied by the municipality as determined in accordance with the section 8; (iii) following completion of the first commercial component of an economic development project and occupancy to the extent provided in the infrastructure development assistance agreement, the municipality shall provide local infrastructure development assistance with respect to the economic development project to the extent and for such time as is provided in section 9; (iv) following completion of the first commercial component of an economic development project and occupancy to the extent provided in the infrastructure development assessment agreement, the commonwealth shall provide state infrastructure development assistance to the extent and for such time as is provided in section 9; and (v) the municipality shall establish and fund a liquidity reserve for each assessment parcel pursuant to section 7. (b) The agency may pledge the infrastructure development assistance agreement and the rights of the agency to receive any infrastructure assessments as provided in section 9, state infrastructure development assistance as provided in section 10 and local infrastructure development assistance as provided in said section 10 under the agreement as security for the payment of bonds issued by the agency to finance costs of the public infrastructure improvements described in the agreement. The obligation of the commonwealth to pay state infrastructure development assistance to the agency shall constitute a general obligation of the commonwealth for which the full faith and credit of the commonwealth shall be pledged for the benefit of the agency.

SECTION 8. (a) Upon certification of an economic development project pursuant to section 6 and the execution of an infrastructure development assistance agreement pursuant to section 7 the municipality shall fix, charge and collect an infrastructure assessment, upon each assessment parcel within the certified economic development project in each fiscal year commencing with the fiscal year following the agency's issuance of any bonds to finance the costs of public infrastructure improvements pursuant to this act. The infrastructure assessment shall terminate for each assessment parcel upon completion of the project component located within the assessment parcel and occupancy of that project component to the extent provided in the applicable infrastructure development assistance agreement. Infrastructure assessments collected by the municipality shall be forwarded to the commonwealth for reimbursement for state

infrastructure development assistance provided with respect to these bonds.

(b) The infrastructure assessments established by a municipality with respect to the assessment parcels included in a certified economic development project shall be initially fixed with respect to the aggregate thereof so as to provide revenues in each fiscal year, commencing with the fiscal year following the agency's issuance of any bonds to finance the costs of public infrastructure improvements pursuant to this act, equal to the debt service payable on those bonds in that fiscal year. Subject to the infrastructure development assistance agreement, the assessor of the municipality, with the approval of the treasurer, shall allocate the debt service among all of the assessment parcels within the certified economic development project by the methods that shall be set forth in the certified economic development project. These methods may include allocation by length of frontage, or type of project component, including classification of assessment parcels among residential, commercial, industrial and open space uses, or by the square footage of an assessment parcel or an economic development project, or according to the value of the assessment parcel as determined by the assessor, or by such other method as the assessor determines shall result in fairly allocating the costs of the public infrastructure improvements financed by the bonds to the real estate in the certified economic development project. The infrastructure assessment on each assessment parcel shall terminate and no longer be payable when the component of the economic development project located within that assessment parcel is completed by the developer and occupied to the extent provided in the applicable infrastructure development assistance agreement. Except as provided herein, infrastructure assessments established by a municipality shall be subject to any rules, regulations, or guidelines promulgated by the secretary and the commissioner pursuant to this act, but shall not otherwise be subject to supervision or regulation by any department, division, commission, board, bureau or agency of the commonwealth and shall not be subject to sections 20A and 21C of chapter 59 of the General Laws. Subject to the applicable infrastructure development assistance agreement, the treasurer of the municipality shall establish a schedule for payment of infrastructure assessments levied by the municipality, including provisions relative to the mandatory or optional prepayment of any infrastructure assessments, and a schedule of fees and charges payable by the developer of any assessment parcel as a consequence of any delinquency or default in the payment of any infrastructure assessment thereon.

(c) Unless otherwise provided in the infrastructure development assistance agreement, infrastructure assessments hereunder shall be collected and secured in the same manner as property taxes, betterments, and other special assessments owed to the municipality and shall be subject to the same penalties and to the same lien priority and sale procedures in case of delinquency as is provided in the General Laws for property taxes, betterments and special assessments. Liens imposed by the municipality for the payment of property taxes under chapter 59 of the General Laws shall have priority in payment over any lien securing payment of any infrastructure assessment hereunder. Each municipality may avail itself of the provisions of the General Laws relative to the assessment, apportionment, division, fixing, reassessment, revision and collection of betterments and other special assessments by cities and towns, and the establishment of liens therefor and interest thereon, that the treasurer and assessor of the municipality shall consider necessary and appropriate for purposes of the assessment and collection of infrastructure assessments under this act.

**SECTION 9.** (a) The infrastructure development assistance agreement for each certified economic development project shall allocate the debt service payable in each fiscal year on bonds issued by the agency to finance public infrastructure improvements among the commercial components of the certified economic development project in the same proportion as the amount of the projected new state tax revenues for each commercial component bears to the aggregate projected new state revenues for that project. After completion and occupancy of the first commercial component within the certified economic development project, the commissioner shall determine and certify to the secretary and treasurer of the municipality the amount of new state tax revenues generated with respect to each commercial component of the certified economic development project which is completed and occupied, such determination and certification to be made after the commissioner has received the relevant data necessary for the determination, and annually thereafter.



(b) To the extent, and for so long as, the commissioner determines that the new state tax revenues generated by a completed and occupied commercial component of a certified economic development project are greater than the allocable debt service apportioned to that commercial component, that amount shall constitute a surplus for the commercial component, and the commonwealth shall be obligated to provide state infrastructure development assistance for the allocable debt service apportioned to that commercial component. To the extent, and for so long as, the commissioner determines that the new state tax revenues generated by a completed and occupied commercial component of a certified economic development project are less than the allocable debt service apportioned to that commercial component, such an amount shall constitute a shortfall and the municipality shall be obligated to provide local infrastructure development assistance in an amount equal to the amount of the shortfall. Local infrastructure development assistance provided by the municipality shall be paid to the commonwealth for credit against the commonwealth's obligation for state infrastructure development assistance. Local infrastructure development assistance shall constitute a general obligation of the municipality to which its full faith and credit shall be pledged. To the extent that the municipality fails to provide all or any portion of the local infrastructure development assistance to the commonwealth, the secretary shall certify the amount that is unpaid to the state treasurer, and the state treasurer shall reduce amounts distributable or payable by the commonwealth to the municipality by the amount unpaid in accordance with section 20 of chapter 59 of the General Laws. When the cumulative annual state tax growth amount for an assessment parcel allocable to a commercial component first exceeds an amount equal to the allocated full bond amount for the commercial component, plus an amount equal to all interest accrued on the component bond amount to date, the municipality shall have no obligation thereafter to provide local infrastructure development assistance with respect to that commercial component of an assessment parcel.

(c) Notwithstanding any provision herein to the contrary, the aggregate local infrastructure development assistance payable by a municipality in any fiscal year due to a shortfall of 1 or more commercial components of a certified economic development project shall be reduced by the aggregate amount of the new state tax revenue surplus in the same fiscal year of 1 or more commercial components of a certified economic development project.

SECTION 10. (a) Notwithstanding any general or special law to the contrary, a municipality may contract with the developer of a certified economic development project for the developer to undertake the public infrastructure improvements included in the certified economic development project. Upon completion thereof, the public infrastructure improvements, or an interest therein that shall be satisfactory to the secretary and the municipality, shall be conveyed to the municipality, or a political subdivision thereof, or to the commonwealth, or a political subdivision thereof, designated in the infrastructure development assistance agreement, but the sole consideration for that conveyance shall be the financing of the public infrastructure improvements by the agency with the financial assistance of the commonwealth and the municipality.

(b) Unless otherwise provided in the infrastructure development assistance agreement, the developer may sell, mortgage, lease or otherwise encumber or dispose of all or any part of the lands and other properties included within a certified economic development project, other than the public infrastructure improvements included therein, subject to the liens thereon for property taxes payable to the municipality pursuant to chapter 59 of the General Laws

and for infrastructure assessments payable pursuant to this act, and the developer shall be entitled to receive, hold and expend all income and other receipts derived from its interest in the lands and properties included within a certified economic development project. The developer shall be solely responsible for the payment of all taxes, including infrastructure assessments levied pursuant to this act, payable with respect to or on the developer's operations on such lands and properties. The municipality may abate or otherwise reduce property taxes payable pursuant to chapter 59 of the General Laws on the portion of any lands and properties included, or to be included, in the public infrastructure improvements within a certified economic development project before the conveyance thereof to the municipality or other applicable governmental entity. Notwithstanding any other general or special law to the contrary, an economic development project

shall not be eligible for: (i) designation as a TIF zone under section 59 of chapter 40 of the General Laws; (ii) the tax credit in section 38N of chapter 63 of the General Laws; (iii) a community development action grant under section 57A of chapter 121B of the General Laws; (iv) a public works economic development program under clause (c) of the first paragraph of section 17(c) of chapter 732 of the acts of 1981; or (iv) or any other economic assistance program as may be determined by the secretary or the commissioner.

(c) Notwithstanding any general or special law to the contrary, chapter 30B of the General Laws shall not apply to the procurement by any municipality or

other governmental entity of public infrastructure improvements financed in accordance with this act and sections 38A1/2 to 38O, inclusive, of chapter 7, section 39M of chapter 30, sections 44A to 44M, inclusive, of chapter 149 of the General Laws and any other general or special law, regulation, ordinance or bylaw providing for the advertising, bidding or awarding of contracts for the design or construction or improvement to property shall not apply to the design and construction by the developer of any public infrastructure improvements located in a certified economic development project within Suffolk county. Notwithstanding the foregoing, sections 26 to 27F, inclusive, and section 29 of said chapter 149 shall apply to the construction by the developer of any public infrastructure improvements in accordance with this act and, in connection with the construction of any public infrastructure improvements, the developer shall make good faith efforts to comply with the hiring goals contained in any resident hiring policy adopted by the municipality, any ordinance, by-law or policy adopted by the municipality relative to contracting with minority and woman-owned enterprises and any responsible employer ordinance adopted by the municipality.

SECTION 11. The secretary and the commissioner shall adopt rules, regulations or guidelines relative to the administration and enforcement of sections 4 to 10 inclusive. The rules, regulations or guidelines shall be adopted by the secretary and commissioner not later than December 31, 2006.

SECTION 12. (a) Notwithstanding this act or any other general or special law to the contrary, the town of North Reading and the town of Wilmington shall receive 20 per cent of the net cash proceeds from the sale of real property pursuant to chapter 271 of the acts of 1998. The percentage of the net cash proceeds shall be divided between the towns based on the percentage of the real property within each town.

(b) For the purposes of this section, the term "Net cash proceeds", shall mean all payments paid to the commonwealth as and when paid, less any transaction-related expenses incurred by the division of capital asset management and maintenance, including, but not limited to, costs associated with the disposal or pre-development of the real property wherefrom the funds originated including, but not limited to, appraisals, surveys, site evaluation, site preparation, plans, recordings, smart growth review and feasibility and other marketing studies and any other expenses relating to the disposal or project management services in connection with any reuse or redevelopment of the real property and less any amounts that may be owing to the federal government as a result of the disposition.

SECTION 13. Notwithstanding any general or special law to the contrary, the state secretary shall cause a nonbinding question relative to the permanent government structure for the ongoing operation and administration of the Devens Regional Enterprise Zone to be placed on the official ballots to be used in the towns of Ayer, Harvard and Shirley at the state general election to be held on November 7, 2006. The question shall only be included on the official ballots in those towns only if the form of the question has been agreed upon in writing by the board of selectmen in the town of Ayer, the board of selectmen in the town of Harvard and the board of selectmen in the town of Shirley and submitted to the state secretary no later than 5:00 p.m. on September 8, 2006.