HOUSE DOCKET, NO. 2633 FILED ON: 1/20/2011

HOUSE . . . . . No. 1902

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia A. Haddad

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

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

An Act establishing the Massachusetts opportunity rebuilding and expansion infrastructure program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Patricia A. Haddad	*5th Bristol*
John D. Keenan	*7th Essex*
Stephen R. Canessa	*12th Bristol*
Kevin Aguiar	*7th Bristol*
Garrett J. Bradley	*3rd Plymouth*
Antonio F. D. Cabral	*13th Bristol*
Viriato Manuel deMacedo	*1st Plymouth*
John F. Keenan	☐ *[District]* ☐
Richard T. Moore	☐ *[District]* ☐
Michael J. Rodrigues	☐ *[District]* ☐
Paul A. Schmid, III	*8th Bristol*

HOUSE DOCKET, NO. 2633 FILED ON: 1/20/2011

HOUSE . . . . . No. 1902

By Ms. Haddad of Somerset, a petition (accompanied by bill, House, No. 1902) of Patricia A. Haddad and others for legislation to establish the Massachusetts opportunity rebuilding and expansion infrastructure program. Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

An Act establishing the Massachusetts opportunity rebuilding and expansion infrastructure program.

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

SECTION 1. The General Laws are hereby amended by inserting after chapter 23J the following chapter: --

CHAPTER 23K. MORE INFRASTRUCTURE PROGRAM

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

"Agency", the Massachusetts Development Finance Agency established pursuant to section 2 of chapter 23G of the General Laws, as amended from time to time.

"Amended improvement plan" a plan describing any change to the improvement plan with respect to the boundaries of a development zone, or material change to the method of assessing costs, description of improvements, the maximum cost of the improvements, or method of financing the improvements that is approved through the same procedures as the original improvement plan adopted pursuant to this chapter.

"Assessing party", shall mean the municipality, or other public instrumentality, as identified in the improvement plan to assess any infrastructure assessments in the development zone.

"Cost", shall include the cost of: (a) construction, reconstruction, renovation, demolition, maintenance and acquisition of all lands, structures, real or personal property, rights, rights-of-way, utilities, franchises, easements, and interests acquired or to be acquired by the public facilities owner; (b) all labor and materials, machinery and equipment including machinery and equipment needed to expand or enhance services from the municipality, the commonwealth or

21 any other political subdivision thereof to the development zone; (c) financing charges and
22 interest prior to and during construction, and for 1 year after completion of the improvements,
23 interest and reserves for principal and interest, including costs of municipal bond insurance and
24 any other type of credit enhancement or financial guaranty and costs of issuance; (d) extensions,
25 enlargements, additions, and enhancements to improvements; (e) architectural, engineering,
26 financial and legal services; (f) plans, specifications, studies, surveys and estimates of costs and
27 of revenues; (g) administrative expenses necessary or incident to the construction, acquisition,
28 and financing of the improvements; and (h) other expenses as may be necessary or incident to the
29 construction, acquisition, maintenance, and financing of the improvements.

30 "Development zone", one or more parcels of real estate in the municipality, contiguous or
31 not, described in the improvement plan and to be benefited by the improvements and subject to
32 infrastructure assessments as described in the improvement plan.

33 "Infrastructure assessments", assessments, betterments, special assessments, charges or
34 fees as described in this chapter and the improvement plan and assessed by the assessing party
35 upon the real estate within the development zone to defray the cost of improvements financed in
36 accordance with this chapter.

37 "Improvement plan", a plan set forth in the petition for the establishment of a
38 development zone setting forth the proposed improvements, services and programs, revitalization
39 strategy, replacement and maintenance plan, the cost estimates for said improvements, and the
40 replacement and maintenance program, the identity of the public facilities owner or owners and
41 the administrator of the plan, the boundaries of the development zone, the analysis of any costs
42 of financing said improvements, the identification of the assessing party, the method and
43 structure of the infrastructure assessments, the selection of any or all of the assessing powers
44 listed in section 4 that shall be utilized by the assessing party within the development zone, the
45 description of the infrastructure development project within the development zone, the proposed
46 use of any bonds or notes to finance such project by the agency, the participation of the agency,
47 if any, in a district improvement financing program as described in section 7, and if so, a
48 description of any assessing powers to be utilized, and the estimates of the costs and expenses
49 to be levied and assessed on the real estate in the development zone.

50 "Improvements", the acquiring, laying, constructing, improving and operating of capital
51 improvements to be owned by a public facilities owner, including, but not limited to, storm
52 drainage systems, dams, sewage treatment plants, sewers, water and well systems, roads, bridges,
53 culverts, tunnels, streets, sidewalks, lighting, traffic lights, signage and traffic control systems,
54 parking, including garages, public safety and public works buildings, parks, landscaping of
55 public facilities, cultural and performing arts facilities, recreational facilities, marine facilities
56 such as piers, wharfs, bulkheads and sea walls, transportation stations and related facilities,
57 shuttle transportation equipment, fiber and telecommunication systems, facilities to produce and
58 distribute electricity, including alternate energy sources such as co-generation and solar

59 installations, the investigation and remediation associated with the cleanup of actual or perceived
60 environmental contamination within the development zone in accordance with applicable
61 governmental regulations and provided that no such investigation or remediation shall impair the
62 rights of the public facilities owner or any other person to contribution or reimbursement from
63 any potentially responsible party for the costs thereof, and other improvements; provided that
64 improvements shall not include any improvements located in, or serving gated communities, so
65 called, not including age restricted developments operated by non-profit organizations, that
66 prohibit access to the general public and any type of improvement that is specifically prohibited
67 in the United States internal revenue code from using tax-exempt financing.

68 "Infrastructure development project", the acquisition, construction, expansion,
69 improvement or equipping of improvements serving any new or existing commercial, retail,
70 industrial, or residential facilities or mixed use project.

71 "Massachusetts opportunity rebuilding and expansion infrastructure program", or
72 "MORE infrastructure", a program established under this act, designed to finance infrastructure
73 improvements benefiting existing and new residential, commercial and industrial properties and
74 the citizens and businesses of the commonwealth.

75 "Municipal governing body", in a city, the city council with the approval of the mayor,
76 and in a city having a Plan D or E form of charter, the city council with the approval of the city
77 manager, the town council in a town with a town council form of government, or otherwise the
78 board of selectmen in a town with a town meeting form of government.

79 "Municipality", a city or town, or cities and towns, if the development zone, is located in
80 more than 1 municipality.

81 "Person", any natural or corporate person, including bodies politic and corporate, public
82 departments, offices, agencies, authorities and political subdivisions of the commonwealth,
83 corporations, trusts, limited liability companies, societies, associations, and partnerships and
84 subordinate instrumentalities of any one or more political subdivisions of the commonwealth.

85 "Petition", the document initiating the creation of a development zone as described in
86 section 2 (b).

87 "Project", an infrastructure development project.

88 "Public facilities owner", means the municipality, the commonwealth or any other
89 political subdivision or public instrumentality, agency or public authority of the commonwealth,
90 or any instrumentality thereof as defined by the United States internal revenue code and the
91 regulations, rulings and other written determinations of the Internal Revenue Service thereunder,
92 and identified as such, in the improvement plan as the owner of the improvements described in
93 an improvement plan or an amended improvement plan.

94 Section 2. (a) Each municipality in the commonwealth, acting through its municipal
95 governing body, notwithstanding any general or special law, charter provision, by-law or
96 ordinance to the contrary, may adopt this chapter and is authorized to establish 1 or more
97 development zones pursuant to this chapter. In the event that 2 or more municipalities wish to
98 jointly establish or consolidate contiguous development zones, the municipal governing body of
99 each such municipality wherein said development zone shall be located, shall approve by a
100 majority vote the petition for the establishment of such a development zone.

101 (b) The establishment of a development zone shall be initiated by the filing of a
102 petition signed by all persons owning real estate within the proposed development zone in the
103 office of the clerk of the municipality and the office of the agency. The petition, at a minimum,
104 shall contain:

105 (1) a legal description of the boundaries of the development zone;

106 (2) the written consent to the establishment of the development zone or any amended
107 improvement plan, by the persons with the record ownership of 100 percent of the acreage to be
108 included in the development zone; provided that any real estate owned by the commonwealth, or
109 any agency, or any political subdivision thereof, included in the boundaries of the development
110 zone shall not be included in the count of persons owning tax parcels or acreage in the
111 development zone for the purposes of this clause;

112 (3) the name of the development zone;

113 (4) a map of the proposed development zone, showing its boundaries, and any current
114 public improvements as are already in existence which may be added to or modified by any
115 improvements;

116 (5) the estimated timetable for construction of the improvements and the maximum
117 cost of completing said improvements;

118 (6) the improvement plan for the development zone; and

119 (7) the procedure by which the municipality will be reimbursed for any costs incurred by
120 it in establishing the development zone, and for any administrative costs to be incurred in the
121 administration and collection of any infrastructure assessments imposed within the development
122 zone.

123 Section 3. (a) Upon receipt of a petition pursuant to section 2, the city council in the
124 case of cities, the town council in the case of towns with a town council form of government or
125 the board of selectmen in the case of a town with a town meeting form of government shall,
126 within 60 days of said receipt, hold a public hearing on said petition. Written notification of
127 such hearing and a summary of the petition and the improvement plan, shall be provided by the
128 clerk of the municipality to the record owner of each tax parcel within the boundaries of the

129 proposed development zone no later than 14 days prior to such hearing, by mailing a notice to
130 the address listed in the municipality's property tax records. Notification of the hearing shall
131 also be published for 2 consecutive weeks in a newspaper of general circulation in the
132 municipality, the first such publication to be at least 14 days prior to the date of such hearing.
133 Such public notice shall state the proposed boundaries of the development zone, the
134 improvements proposed to be provided in the development zone, the proposed basis for
135 determining any infrastructure assessments with respect to such improvements, and the location
136 or locations for viewing and copying the petition including the improvement plan.

137 (b) A public hearing pursuant to subsection (a) shall be held to determine if the
138 petition satisfies the criteria of this chapter for a development zone, and to obtain public
139 comment regarding the improvement plan and the effect that the development zone will have on
140 the owners of real estate, tenants and other persons within said development zone, and on the
141 municipality or adjacent communities. Within 45 days after the conclusion of said public
142 hearing, the city manager with the approval of the city council in the case of a city under Plan D
143 or E forms of government, the mayor with the approval of the city council in the case of all other
144 cities, the town council in the case of towns with a town council form of government or
145 otherwise the board of selectmen in the case of a town with a town meeting form of government
146 shall issue recommendations on the petition; provided, however, that said recommendations shall
147 include, but shall not be limited to, the following findings:-

148 (1) whether the establishment of the development zone is consistent with any
149 applicable element or portion of any master plan of the municipality which shall be confirmed in
150 writing by the municipality's planning board ; and

151 (2) whether the proposed improvements in the development zone will be compatible
152 with the capacity and uses of existing local and regional infrastructure services and facilities.

153 (c) Within 21 days of the receipt of the recommendation required pursuant to
154 subsection (b), the municipal governing body shall vote to approve or not approve the petition to
155 establish the development zone and the improvement plan.

156 (d) Upon the approval of the petition by majority vote of the municipal governing body
157 in accordance with subsection (c), notice of such approval shall be promptly filed with the
158 records of the clerk of the municipality, the agency, and the secretary of the commonwealth.
159 Upon such filing, the development zone shall be deemed established and the improvement plan
160 deemed approved.

161 (e) The public facilities owner shall have all the rights and powers necessary or
162 convenient to carry out and effectuate this chapter that are consistent with the improvement plan
163 as approved by the municipal governing body, including, but without limiting the generality of
164 the foregoing, the following:

165 (1) to make and enter into all manner of contracts and agreements necessary or
166 incidental to the exercise of any power granted by this chapter including agreements with the
167 municipality, the commonwealth, the agency and any other city, town or political entity or utility
168 for the provision of services that are necessary to the acquisition, construction, operation or
169 financing of the improvements within the development zone;

170 (2) to purchase or acquire by lease, lease-purchase, sale and lease-back, gift or devise,
171 or to obtain or grant options for the acquisition of any property, real or personal, tangible or
172 intangible, or any interest therein, in the exercise of its powers and the performance of its duties;
173 to acquire real estate or any interest therein, within the boundaries of the development zone
174 itself, if authorized in the improvement plan, and to acquire real estate or any interest therein
175 outside the boundaries of the development zone, necessary for the acquisition, construction, and
176 operation of the improvements or services relating thereto that are located within the
177 development zone or are related to, or provided by the public facilities owner;

178 (3) to construct, improve, extend, equip, enlarge, repair, maintain, and operate and
179 administer the improvements for the benefit of the development zone within, or without the
180 development zone; to acquire existing improvements or construct new improvements, including
181 those located under or over any roads, public ways or parking areas, and to enter upon and dig up
182 any private land within the development zone for the purpose of constructing said improvements
183 and of repairing the same;

184 (4) to accept gifts or goods of funds, property or services from any source, public or
185 private, and comply, subject to the provisions of this chapter and the terms and conditions
186 hereof;

187 (5) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or grant options
188 for any such purposes with respect to any of the improvements, real or personal, tangible or
189 intangible, within the development zone, or serving the development zone or any interest therein;

190 (6) to pledge or assign any money, infrastructure assessments or other revenues
191 relating to any improvements within, or related to the development zone, and any proceeds
192 derived there from;

193 (7) to enter into contracts and agreements with the municipality, the agency, the
194 commonwealth or any political subdivisions thereof, the property owners of the development
195 zone and any public or private party with respect to all matters necessary, convenient or desirable
196 for carrying out the purposes of this chapter including, without limiting the generality of the
197 foregoing, the acquisition of existing improvements (including utilities or infrastructure outside
198 the development zone but benefiting the development zone), collection of revenue, data
199 processing, and other matters of management, administration and operation; to make other
200 contracts of every name and nature; and to execute and deliver all instruments necessary or
201 convenient for carrying out any of its purposes;

202 (8) to exercise the powers and privileges of, and to be subject to the limitations upon,
203 municipalities provided in sections 38 to 42K, inclusive, of chapter 40, chapter 80 and
204 chapter 83, in so far as such provisions may be applicable and are consistent with the provisions
205 of this chapter; provided, however, that any requirement in said chapters for a vote by the
206 governing body of a town or city or for a vote by the voters of a town or city, shall be satisfied
207 by a vote or resolution duly adopted by the board of directors, board of selectmen, city council or
208 town council as the case may be;

209 (9) to invest any funds in such manner and to the extent permitted under the General
210 Laws for the investment of such funds by the treasurer of a municipality;

211 (10) to employ such assistants, agents, employees and persons, including consulting
212 experts as may be deemed necessary in the public facilities owner's judgment, and to fix their
213 compensation, according to the terms of the improvement plan;

214 (11) to procure insurance against any loss or liability that may be sustained or incurred
215 in carrying out the purposes of this chapter in such amount as the public facilities owner shall
216 deem necessary and appropriate with 1 or more insurers who shall be licensed to furnish such
217 insurance in the commonwealth;

218 (12) to apply for any loans, grants or other type of assistance from the United States
219 Government, the commonwealth or any political subdivision thereof that are described in the
220 improvement plan or an amended improvement plan;

221 (13) to adopt an annual budget and to raise, appropriate, and assess funds in amounts
222 necessary to carry out the purposes for which development zone is formed as described in this
223 chapter and the improvement plan; and

224 (14) to do all things necessary, convenient or desirable for carrying out the purposes of
225 this chapter or the powers expressly granted or necessarily implied in this chapter.

226 Section 4. (a) Consistent with the improvement plan, the assessing party, is authorized
227 and empowered to fix, revise, charge, collect and abate infrastructure assessments, for the cost,
228 maintenance, operation ,and administration of the improvements imposed on the real estate,
229 leaseholds or other interests therein, located in the development zone. All real estate within a
230 development zone owned by the commonwealth or any political subdivision, political
231 instrumentality, agency or public authority thereof shall be exempt from such charges unless
232 such charges are specifically accepted by the commonwealth or such political subdivision,
233 political instrumentality, agency or public authority. In providing for the payment of the cost of
234 the improvements or for the use of the improvements, the assessing party may avail itself of the
235 provisions of the General Laws relative to the assessment, apportionment, division, fixing,
236 reassessment, revision, abatement and collection of infrastructure assessments by cities and
237 towns, or the establishment of liens therefore and interest thereon, and the procedures set forth in

238 sections 5and 5A of chapter 254 of the General Laws for the foreclosure of liens arising under
239 section 6 of chapter 183A of the General Laws, as it shall deem necessary and appropriate for
240 purposes of the assessment and collection of infrastructure assessments. The assessing party
241 shall file copies of the improvement plan and any amendments thereof, and all schedules of
242 assessments with the appropriate registry of deeds and the municipality's assessors' records so
243 that notice thereof would be reported on a municipal lien certificate for any real estate parcel
244 located in a development zone. Notwithstanding any general or special law to the contrary, the
245 assessing party may pay the entire cost of any improvements, including the acquisition thereof,
246 during construction or after completion, or the debt service of notes or bonds used to fund such
247 costs, from infrastructure assessments, and may establish said infrastructure assessments prior to,
248 during, or within 1 year after completion of construction or acquisition of any improvements.
249 The assessing party may establish a schedule for the payment of infrastructure assessments not to
250 exceed 35 years. The assessing party may determine the circumstances under which the
251 infrastructure assessments may be increased, if at all, as a consequence of delinquency or default
252 by the owner of a parcel within the development zone. To provide for the collection and
253 enforcement of its infrastructure assessments, the assessing party is hereby granted all the powers
254 and privileges with respect thereto held by the municipality on the effective date of this chapter
255 or as otherwise provided in this chapter, to be exercised concurrently with the municipality.

256 The infrastructure assessments of general application authorized by this chapter may only
257 be increased for administrative expenses in excess of the infrastructure assessments described in
258 the improvement plan, and shall be in accordance with the procedures to be established by the
259 assessing party for assuring that interested persons are afforded notice and an opportunity to
260 present data, views and arguments. The assessing party shall hold at least 1 public hearing on
261 its schedule of infrastructure assessments or any revision thereof prior to adoption by the
262 assessing party, notice of which shall be delivered to the municipality and be published in a
263 newspaper of general circulation in the municipality at least 14 days in advance of the hearing.
264 No later than the date of such publication, the assessing party shall make available to the public
265 and deliver to the municipality the proposed schedule of infrastructure assessments.

266 The infrastructure assessments established by the assessing party shall not be subject to
267 supervision or regulation by any department, division, commission, board, bureau, or agency of
268 the commonwealth or any of its political subdivisions, including without limitation, the
269 municipality, if it is not the assessing party, nor shall the assessing party be subject to the
270 provisions of sections 20A and 21C of chapter 59.

271

272 Notwithstanding any general or special law to the contrary, the assessing party may
273 contract with one or more persons for any services required by the assessing party regarding the
274 assessment, apportionment, division, fixing, reassessment, revision, collection and enforcement
275 of infrastructure assessments hereunder, and the fees, costs and other expenses thereof shall be

276 included in the calculation of the infrastructure assessments levied by the assessing party
277 hereunder.

278 The infrastructure assessments established by the assessing party in accordance with this
279 chapter shall be fixed and adjusted in respect of the aggregate thereof so as to provide revenues
280 at least sufficient to: (i) to pay the administrative expenses of the assessing party; (ii) to pay
281 the principal of, premium, if any, and interest on bonds, notes or other evidences of indebtedness
282 of the agency under this chapter as the same becomes due and payable; (iii) to create and
283 maintain such reasonable reserves as may be reasonably required by any trust agreement or
284 resolution securing bonds; (iv) to provide funds for paying the cost of necessary maintenance,
285 repairs, replacements and renewals of the improvements; and (v) to pay or provide for any
286 amounts that the agency may be obligated to pay or provide for by law or contract, including any
287 resolution or contract with or for the benefit of the holders of its bonds and notes, provided that
288 the assessing party shall not be required to increase any infrastructure assessments by virtue of
289 any individual property owner delinquencies.

290 Notwithstanding any general or special law to the contrary, the agency shall not be
291 precluded from carrying out its obligations under this chapter if it has previously provided
292 technical, real estate, lending, financing, or other assistance to: (i) an infrastructure development
293 project including, but not limited to, a project in which the agency may have a economic
294 interest; (ii) a development zone; or (iii) a municipality associated with, or that may benefit from,
295 an infrastructure development project.

296 (b) As an alternative to levying infrastructure assessments under any other provisions
297 of this chapter or the General Laws, the assessing party may levy special assessments on real
298 estate, leaseholds, or other interests therein within the development zone to finance the cost of
299 the improvements and the maintenance, repair, replacement and renewal thereof, and the expense
300 of administration thereof. In determining the basis for and amount of the special assessment,
301 the cost of the improvements and the maintenance, repair, replacement and renewal thereof, and
302 the expense of administration thereof, including the cost of the repayment of the debt issued or to
303 be issued by the agency to finance the improvements, may be calculated and levied using any of
304 the following methods that result in fairly allocating the costs of the improvements to the real
305 estate in the development zone:

306 (1) equally per length of frontage, or by lot, parcel, or dwelling unit, or by the square
307 footage of a lot, parcel or dwelling unit;

308 (2) according to the value of the property as determined by the municipality's board of
309 assessors; or

310 (3) in any other reasonable manner that results in fairly allocating the cost,
311 administration and operation of the improvements, according to the benefit conferred or use

312 received including, but not limited to, by classification of commercial or residential use or
313 distance from the improvements.

314 The assessing party, consistent with the improvement plan, may also provide for the
315 following:

316 (1) a maximum amount to be assessed with respect to any parcel;

317 (2) a tax year or other date after which no further special assessments under this
318 section shall be levied or collected on a parcel;

319 (3) annual collection of the levy without subsequent approval of the assessing party;

320 (4) the circumstances under which the special assessment levied against any parcel
321 may be increased, if at all, as a consequence of delinquency or default by the owner of that parcel
322 or any other parcel within the development zone;

323 (5) the circumstances under which the special assessments may be reduced or abated; and

324 (6) the assessing party may establish procedures allowing for the prepayment of
325 infrastructure assessments under this chapter.

326 (c) Infrastructure assessments, levied under this chapter shall be collected and secured
327 in the same manner as property taxes, betterments, and assessments and fees owed to the
328 municipality unless otherwise provided by the assessing party and shall be subject to the same
329 penalties and the same procedure, sale, and lien priority in case of delinquency as is provided for
330 such property taxes, betterments and liens owed to the municipality. Any liens imposed by the
331 municipality for the payment of property taxes, betterments and assessments shall have priority
332 in payment over any liens placed on real estate within the development zone.

333 (d) Notwithstanding any general or special act to the contrary, the agency, the
334 municipality, or any other public facilities owner are each authorized to contract with 1 or more
335 owners of real estate within a development zone to acquire or undertake improvements within
336 the development zone. Upon completion, such improvements shall be conveyed to the public
337 facilities owner, provided that the consideration for said conveyance shall be limited to the cost
338 of said improvements.

339 Section 5. (a) In addition to the powers granted pursuant to chapter 23G and chapter
340 40D of the General Laws, the agency is hereby authorized to borrow money and issue and secure
341 its bonds for the purpose of financing improvements as provided in and subject to, the provisions
342 of this chapter; provided further that the provisions of said chapters 23G and 40D of the General
343 Laws shall apply to bonds issued under this section, except that the provisions of subsection (b)
344 of section 8 of said chapter 23G and section 12 of said chapter 40D shall not apply to bonds
345 issued pursuant to this chapter or the improvements financed thereby; and provided further, that

346 the improvements financed by the agency pursuant to this chapter shall constitute a project
347 within the meaning of section 1 of said chapter 23G and section 1 of said chapter 40D, but shall
348 not be considered facilities to be used in a commercial enterprise. With respect to the issuance of
349 bonds or notes for the purposes of this chapter in the event of a conflict between this chapter and
350 chapter 23G, the provisions of this chapter shall control.

351 Nothing in this chapter shall be construed to limit or otherwise diminish the power of the
352 agency to finance the costs of projects authorized pursuant to said chapter 23G and said chapter
353 40D within the development zone or the municipality upon compliance with the provisions of
354 said chapter 23G and said chapter 40D.

355 (b) The agency is hereby authorized and empowered to provide by resolution of its board
356 of directors, from time to time, for the issuance of bonds or notes of the agency for any of the
357 purposes set forth in this chapter. Bonds issued hereunder shall be special obligations payable
358 solely from particular funds and revenues generated from infrastructure assessments levied
359 pursuant to this chapter as provided in such resolution. No bonds or notes shall be issued by
360 the agency pursuant to this chapter until the agency's board of directors has determined that the
361 bonds or notes trust agreement and any related financing documents are reasonable and proper
362 and comply with this chapter. The agency may charge a reasonable fee in connection with the
363 review of such documentation by its staff and board of directors. Without limiting the generality
364 of the foregoing, such bonds may be issued to pay or refund notes issued pursuant to this chapter,
365 to pay the cost of acquiring, laying, constructing, and reconstructing the improvements. The
366 bonds of each issue shall be dated, shall bear interest at the rates, including rates variable from
367 time to time, and shall mature at the time or times not exceeding 35 years from their date or
368 dates, as determined by the agency, and may be redeemable before maturity, at the option of the
369 agency or the holder thereof, at the price or prices and under the terms and conditions fixed by
370 the agency before the issuance of the bonds. The agency shall determine the form of the
371 bonds, and the manner of execution of the bonds, and shall fix the denomination or
372 denominations of the bonds and the place or places of payment of principal and interest, which
373 may be at any bank or trust company within or without the commonwealth and such other
374 locations as designated by the agency. In the event an officer whose signature or a facsimile of
375 whose signature shall appear on any bonds shall cease to be an officer before the delivery of the
376 bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the
377 same as if he had remained in office until the delivery. The bonds shall be issued in registered
378 form. The agency may sell the bonds in a manner and for a price, either at public or private
379 sale, as it may determine to be for the best interests of the development zone.

380 Before the preparation of definitive bonds, the agency may, under like restrictions, issue
381 interim receipts or temporary bonds exchangeable for definitive bonds when the bonds have been
382 executed and are available for delivery. The agency may also provide for the replacement of
383 any bonds that shall become mutilated or shall be destroyed or lost. The issuance of the bonds,

384 the maturities, and other details thereof, the rights of the holders thereof, and the agency in
385 respect of the same, shall be governed by this chapter insofar as the same may be applicable.

386 While any bonds or notes of the agency remain outstanding, its powers, duties or
387 existence shall not be diminished or impaired in any way that will affect adversely the interests
388 and rights of the holders of such bonds or notes. Bonds or notes issued under this chapter,
389 unless otherwise authorized by law, shall not be deemed to constitute a debt of the
390 commonwealth or the municipality, or a pledge of the faith and credit of the commonwealth or of
391 the municipality, but the bonds or notes shall be payable solely by the agency as special
392 obligations payable from particular funds collected from infrastructure assessments levied
393 pursuant to this chapter and any revenues derived from the operation of the improvements.
394 Any bonds or notes issued by the agency under this chapter, shall contain on the face thereof a
395 statement to the effect that neither the commonwealth, or the municipality, shall be obliged to
396 pay the same or the interest thereon, and that the faith and credit or taxing power of the
397 commonwealth, the municipality, or the agency is not pledged to the payment of the bonds or
398 notes. All bonds or notes issued under this chapter shall have and are hereby declared to have
399 all the qualities and incidents of negotiable instruments as defined in section 3-104 of chapter
400 106 of the General Laws.

401 Issuance by the agency of 1 or more series of bonds or notes for 1 or more purposes shall
402 not preclude it from issuing other bonds or notes in connection with the same project or any
403 other project; provided, however, that the resolution or trust indenture wherein any subsequent
404 bonds or notes may be issued shall recognize and protect any prior pledge made for any prior
405 issue of bonds or notes unless in the resolution or trust indenture authorizing such prior issue the
406 right is reserved to issue subsequent bonds on a parity with such prior issue.

407 (c) In the discretion of the agency, bonds issued pursuant to this chapter may be
408 secured by a trust agreement between the agency and the bond owners or a corporate trustee
409 which may be any trust company or bank having the powers of a trust company within or
410 without the commonwealth. A trust agreement may pledge or assign, in whole or in part, the
411 revenues, funds and other assets or property held or to be received by the assessing party, or the
412 agency including without limitation all monies and investments on deposit from time to time in
413 any fund of the assessing party or the agency or any account thereof and any contract or other
414 rights to receive the same, whether then existing or thereafter coming into existence and whether
415 then held or thereafter acquired by the assessing party or the agency, and the proceeds thereof.
416 A trust agreement may pledge or assign, in whole or in part, development zone revenues, funds
417 and other assets or property relating to the development zone held or to be received by the
418 assessing party or the agency. A trust agreement may contain, without limitation, provisions for
419 protecting and enforcing the rights, security and remedies of the bondholders, provisions
420 defining defaults and establishing remedies, which may include acceleration and may also
421 contain restrictions on the remedies by individual bondholders. A trust agreement may also
422 contain covenants of the agency concerning the custody, investment and application of monies,

423 the issue of additional or refunding bonds, the use of any surplus bond proceeds, the
424 establishment of reserves and the regulation of other matters customarily treated in trust
425 agreements. It shall be lawful for any bank or trust company to act as a depository of any fund
426 of the assessing party or the agency or trustee under a trust agreement, provided it furnishes
427 indemnification and reasonable security as the agency may require. Any assignment or pledge
428 of revenues, funds and other assets and property made by the assessing party or the agency shall
429 be valid and binding and shall be deemed continuously perfected for the purposes of chapter
430 106 and other laws when made. The revenues, funds and other assets and property, rights
431 therein and thereto and proceeds so pledged and then held or thereafter acquired or received by
432 the assessing party or the agency shall immediately be subject to the lien of such pledge without
433 any physical delivery or segregation or further act, and the lien of any such pledge shall be valid
434 and binding against all parties having claims of any kind in tort, contract or otherwise against the
435 trust, whether or not such parties have notice thereof. The trust agreement by which a pledge is
436 created need not be filed or recorded to perfect the pledge except in the records of the agency and
437 no filing need be made pursuant to said chapter 106. Any pledge or assignment made by the
438 agency is an exercise of its political and governmental powers, and revenues, funds, assets,
439 property and contract or other rights to receive the same and the proceeds thereof which are
440 subject to the lien of a pledge or assignment created under this chapter shall not be applied to any
441 purposes not permitted by the pledge or assignment.

442 (d) The agency is hereby authorized and empowered to issue, from time to time, notes
443 of the agency in anticipation of federal, state or local grants for the cost of acquiring,
444 constructing or improving the development zone's improvements or in anticipation of bonds to
445 be issued pursuant to this chapter. Said notes shall be authorized, issued and sold in the same
446 manner as, and shall otherwise be subject to the other provisions of this chapter. Such notes
447 shall mature at such time or times as provided by the issuing resolution of the agency and may be
448 renewed from time to time; provided, however, that all such notes and renewals thereof shall
449 mature on or prior to 20 years from their date of issuance.

450 (e) In addition to other security provided herein, or otherwise by law, bonds, notes or
451 obligations issued by the agency under any provision of this chapter, may be secured, in whole or
452 in part, by a letter of credit, line of credit, bond insurance policy, liquidity facility or other credit
453 facility for the purpose of providing funds for payments in respect of bonds, notes or other
454 obligations required by the holder thereof to be redeemed or repurchased prior to maturity or for
455 providing additional security for such bonds, notes or other obligations. In connection
456 therewith, the agency may enter into reimbursement agreements, remarketing agreements,
457 standby bond purchase agreements and any other necessary or appropriate agreements. The
458 assessing party may pledge or assign any of its revenues as security for the reimbursement by the
459 it to the agencies or providers of such letters of credit, lines of credit, bond insurance policies,
460 liquidity facilities or other credit facilities of any payments made under the letters of credit, lines
461 of credit, bond insurance policies, liquidity facilities or other credit facilities.

462 (f) In connection with, or incidental to, the issuance of bonds, notes or other
463 obligations, the agency may enter into such contracts as the agency may determine to be
464 necessary or appropriate relative to the issuance thereof and the interest payable thereon or to
465 place the bonds, notes or other obligations of the agency, as represented by the bonds or notes, or
466 other obligations in whole or in part, on such interest rate or cash flow basis as the agency may
467 determine appropriate, including without limitation, interest rate swap agreements, insurance
468 agreements, forward payment conversion agreements, futures contracts, contracts providing for
469 payments based on levels of, or changes in, interest rates or market indices, contracts to manage
470 interest rate risk, including without limitation, interest rate floors or caps, options, puts, calls and
471 similar arrangements. Such contracts shall contain such payment, security, default, remedy
472 and other terms and conditions as the agency may deem appropriate and shall be entered into
473 with such party or parties as the agency may select, after giving due consideration, where
474 applicable, for the credit worthiness of the counter party or counter parties, including any rating
475 by a nationally recognized rating agency, the impact on any rating on outstanding bonds, notes or
476 other obligations or any other criteria the agency may deem appropriate.

477 (g) The agency shall have the power out of any funds available therefore to purchase
478 its bonds or notes. The agency may hold, pledge, cancel or resell such bonds or notes, subject
479 to and in accordance with agreements with bondholders. The agency may issue refunding
480 bonds for the purpose of paying any of its bonds at maturity or upon acceleration or redemption.
481 Refunding bonds may be issued at such time or times prior to the maturity or redemption of the
482 refunded bonds as the agency deems to be in the public interest. Refunding bonds may be
483 issued in sufficient amounts to pay or provide for the principal of the bonds being refunded,
484 together with any redemption premium thereon, any interest accrued or to accrue to the date of
485 payment of such bonds, the expense of issuing the refunding bonds, the expense of redeeming
486 bonds being refunded and such reserves for debt service or other capital from the proceeds of
487 such refunding bonds as may be required by a trust agreement or resolution securing the bonds
488 and, if considered advisable by the agency, for the additional purpose of the acquisition,
489 construction or reconstruction and extension or improvement of improvements. All other
490 provisions relating to the issuance of refunding bonds shall be as set forth in this chapter insofar
491 as the same may be applicable.

492 (h) All moneys received pursuant to the provisions of this chapter, whether as proceeds
493 from the issue of bonds or notes, or as revenue or otherwise, shall be deemed trust funds to be
494 held and applied solely as provided in this chapter.

495 (i) Bonds or notes issued under this chapter are hereby made securities in which all
496 public officers and public bodies of the commonwealth and its political subdivisions, all
497 insurance companies, trust companies in their commercial departments and within the limits set
498 by the General Laws, banking associations, investment companies, executors, trustees and other
499 fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to
500 invest in bonds or other obligations of a similar nature may properly and legally invest funds,

501 including capital in their control and belonging to them; and the bonds are hereby made
502 obligations that may properly and legally be made eligible for the investment of savings deposits
503 and income thereof in the manner provided by section 2 of chapter 167E. The bonds or notes
504 are hereby made securities that may properly and legally be deposited with and received by any
505 state or municipal officer or any agency or political subdivision of the commonwealth for any
506 purpose for which the deposit of bonds or other obligations of the commonwealth is now or may
507 hereafter be authorized by law.

508 Notwithstanding any general or special law to the contrary, or any provision in their
509 respective charters, agreements of associations, articles or organization, or trust indentures,
510 domestic corporations organized for the purpose of carrying on business within the
511 commonwealth, including without implied limitation any electric or gas company as defined in
512 section 1 of chapter 164, railroad corporations as defined in section 1 of chapter 160,
513 financial institutions, trustees and the municipality may acquire, purchase, hold, sell, assign,
514 transfer, or otherwise dispose of any bonds, notes, securities or other evidence of indebtedness of
515 the agency provided that they are rated similarly to other governmental bonds or notes, and to
516 make contributions to the agency, all without the approval of any regulatory authority of the
517 commonwealth.

518 (j) Any holder of bonds or notes issued under this chapter, and a trustee under a trust
519 agreement, except to the extent its rights may be restricted by the trust agreement, may, either at
520 law or in equity, by suit, action, mandamus or other proceeding, protect and enforce all rights
521 under the laws of the commonwealth or granted hereunder or under the trust agreement, and may
522 enforce and compel the performance of all duties required by this chapter or by the trust
523 agreement, to be performed by the agency or by any officer thereof.

524 (k) Notwithstanding any of the provisions of this chapter or any recitals in any bonds
525 or notes issued under this chapter, all such bonds or notes shall be deemed to be investment
526 securities under the provisions of chapter 106.

527 (l) Bonds or notes may be issued under this chapter without obtaining the consent of
528 any department, division, commission, board, bureau or agency of the commonwealth or the
529 municipality, and without any proceedings or the happening of any other conditions or things
530 than those proceedings, conditions or things that are specifically required thereof by this chapter,
531 and the validity of and security for any bonds or notes issued by the agency shall not be affected
532 by the existence or nonexistence of any such consent or other proceeding conditions, or things.

533 Section 6. Bonds or notes issued by the agency and their transfer and their interest or
534 income, including any profit on the sale thereof, and the improvements belonging to the public
535 facilities owner shall at all times be exempt from taxation within the commonwealth, provided
536 that nothing in this chapter shall act to limit or restrict the ability of the commonwealth or the

537 municipality to otherwise tax the individuals and companies, or their real or personal property or
538 any person living or business operating within the boundaries of the development zone.

539 Section 7. For purposes of this chapter, the agency may also issue bonds secured by
540 infrastructure assessments pursuant to and according to the terms of chapter 40Q of the General
541 Laws. With the approval of the municipal governing body and the Massachusetts Economic
542 Assistance Coordinating Council, the agency may issue its bonds in place of those of the
543 municipality pursuant to, and according to the terms of chapter 40Q, provided that the
544 municipality has fulfilled all requirements set forth in said chapter 40Q that would be required
545 of the municipality if it were itself issuing bonds pursuant to said chapter 40Q. In addition, the
546 municipality shall include in its "invested revenue district development program" as defined in
547 said chapter 40Q, a description of the rights and responsibilities of the assessing party, the
548 agency and the municipality with respect to said program. In such case, the municipality may
549 designate the agency as the issuer of bonds pursuant to said chapter 40Q for the purpose of
550 financing any of the "project costs" as defined in said chapter 40Q and that are located in, or
551 functionally serving the needs of the development zone. The municipality shall determine the
552 percentage of the "captured assessed valuation," as defined in said chapter 40Q, of property
553 within the boundaries of the development zone that the municipality is pledging pursuant to an
554 invested revenue district development program as defined in said chapter 40Q for the payment
555 of the agency's bonds. With the written agreement of the person or persons owning 1 or more
556 specific tax parcels in the development zone, the assessing party may adopt a plan whereby any
557 of the assessing powers described in this chapter are made applicable exclusively to said parcels
558 in order to secure and fund the debt service for the bonds. The "project costs" as defined in
559 said chapter 40Q, shall not be reduced by the amount of the revenues derived pursuant to this
560 chapter and said revenues derived from such a plan, may be made contingent upon or abated, in
561 whole or in part, by the assessing party upon the receipt of the anticipated revenues generated
562 through the pledged captured assessed valuation. At its option, the municipality may waive
563 any adjustment for the "inflation factor" described in said chapter 40Q, in order to increase the
564 captured assessed valuation available to finance improvements benefiting the development zone.
565 The assessing party, the agency and the municipality shall enter into an agreement delineating
566 the rights and responsibilities of each pursuant to such district improvement financing.

567 Section 8. The agency may make representations and agreements for the benefit of the
568 holders of the agency's bonds and notes or other obligations to provide secondary market
569 disclosure information. The agreement may include: (1) covenants to provide secondary
570 market disclosure information (2) arrangements for such information to be provided with the
571 assistance of a paying agent, trustee, dissemination or other agent; and (3) remedies for breach of
572 the agreements, which remedies may be limited to specific performance.

573 Section 9. The collector-treasurer of each municipality, at the option of the
574 municipality and the agency, may collect any infrastructure assessments including any recording
575 fees, on behalf of the agency pursuant to an agreement between the municipality and the agency

576 and to disburse the funds to any designated management entity or financial institution selected by
577 agency. The collector-treasurer shall disburse revenues to the management entity or financial
578 institution within 30 days of the collection of such fees, together with the interest earned on the
579 holding of such fees.

580 Section 10. (a) This chapter shall be considered to provide an exclusive, additional,
581 alternative and complete method of accomplishing the purposes of this chapter and exercising
582 the powers authorized hereby and shall be considered and construed to be supplemental and
583 additional to, and not in derogation of, powers conferred upon the agency, the assessing party or
584 the public facilities owner, by law; but, insofar as the proceedings of this chapter are inconsistent
585 with any general or specific law, administrative order or regulation, or any resolution or
586 ordinance of the municipality, this chapter shall be controlling. Without limiting the generality
587 of the foregoing, no provision of any resolution or ordinance of the municipality requiring
588 ratification by the voters of certain bond issues shall apply to the issuance of bonds or notes of
589 the agency pursuant to this chapter, nor shall be applicable to the manner of voting or the
590 limitations as to the amount and time of payment of debts incurred by the agency.

591 (b) Except as specifically provided in this chapter, all other statutes, ordinances,
592 resolutions, rules and regulations of the commonwealth and the municipality shall be fully
593 applicable to the property, property owners, residents and businesses located in the development
594 zone. This chapter shall not obligate the municipality or the agency to pay any costs for the
595 acquisition, construction, equipping or operation and administration of the improvements located
596 within the development zone.