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HOUSE . . . . . No. 3247

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act merging the Massachusetts turnpike authority with the department of highways..

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. Chapter 29 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 2XXX the following new section:-Section 2YYY. There shall be set up on the books of the commonwealth a separate fund to be known as the Turnpike Efficiency Fund, which shall not contribute to the calculation of the consolidated net surplus pursuant to section 5C of chapter 29. There shall be credited to this fund all amounts paid to the commonwealth by the Massachusetts turnpike authority pursuant to sections 27 and 28 of chapter 81A, and any income derived from the investing of all amounts credited to the fund. Amounts credited to the fund shall be available for expenditure, subject to appropriation, by any executive office, department, agency, board, commission or other authority that enters into an agreement with the Massachusetts turnpike authority pursuant to section 27 of chapter 81A for the purpose of fulfilling its obligations under such agreement. Any remaining amounts credited to the fund shall be applied by the secretary of administration and finance, subject to appropriation, to make or reimburse: (i) payments made by the commonwealth during any fiscal year pursuant to any contract for financial assistance between the commonwealth and the

Massachusetts turnpike authority, which have not yet been fully reimbursed by said authority pursuant to section 28 of chapter 81A; (ii) payments made by the commonwealth during any fiscal year with respect to debt service on bonds or notes of the commonwealth issued to finance any costs of any portion of the metropolitan highway system, as defined in said chapter 81A; (iii) any other payments made by the commonwealth during any fiscal year with respect to any other costs of any portion of the metropolitan highway system, including without limitation, payments made under the contract between the authority and the commonwealth authorized under subsection (c) of section 12 of said chapter 81A; (iv) deposits into, the CA/T Open Spaces Maintenance Trust established pursuant to the authority provided by section 4F of chapter 7; (v) payments to cities and towns under the local tourism grant program established pursuant to section 18 of chapter 81A; and, (vi) any other payment made by the commonwealth during any fiscal year for a purpose permitted under Article LXXVIII of the Amendments to the Constitution.

SECTION 2. Section 2 of chapter 81A, as most recently amended by section 21 of chapter 140 of the Acts of 2007, is hereby repealed.

SECTION 3. Section 3 of chapter 81A, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 3 and 4, the definition of "Authority" and inserting in place thereof the following:-

"Authority", the secretary of transportation and public works.

SECTION 4. Subsection (b) of section 5 of said chapter 81A, as so appearing, is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:- (ii) to refund or otherwise pay any or all other debt or obligations of the authority relating to the

turnpike, provided that any refunding notes or bonds shall not have a final maturity date later than the final maturity date of the debt or obligations being refunded;

SECTION 5. Said chapter 81A, as so appearing, is hereby amended by striking sections 27 to 31, inclusive, and inserting in place thereof the following sections:-Section 27. Notwithstanding the provisions of any other general or special law to the contrary, the highway department is hereby authorized and shall enter into an agreement with the authority (i) in order for the highway department to exercise or fulfill, on behalf of the authority, any of the powers, obligations or responsibilities of the authority under this chapter, and (ii) in connection with entering into the contract described in section 28 and in exchange for the payments to be made by the commonwealth thereunder, to permit the highway department to use any property of the authority in order to fulfill such powers, obligations and responsibilities and, to the extent not inconsistent with the provisions of any agreements pertaining to notes or bonds of the authority, for any other purposes of the highway department, provided that with respect to any period during which any agreement authorized by this section between the authority and the highway department is in effect, the liability of the authority for any claim pertaining to any property of the authority that is subject to such agreement, or otherwise arising out of the subject matter of such agreement shall be no greater than that of the commonwealth under the provisions of section 18 of chapter 81 and chapter 258. Notwithstanding the provisions of any other general or special law to the contrary, other executive offices, departments, agencies, boards, commissions and authorities are each hereby authorized to enter into any agreement with the authority deemed necessary or desirable by the authority and such executive office, department, agency, board, commission or other authority in order for such executive office, department, agency, board, commission or other authority to exercise or fulfill, on behalf of the authority, any

of the powers, obligations or responsibilities of the authority under this chapter. All payments made by the authority under the agreements authorized by this section shall be credited upon receipt to the fund established pursuant to section 2YYY of chapter 29 and applied in accordance with said section. With respect to any period during which any such agreement authorized by this section between the authority and such executive office, department, agency, board, commission or other authority is in effect, the liability of the authority for any claim pertaining to any property of the authority that is subject to such agreement, or otherwise arising out of the subject matter of any such agreement, shall be no greater than that of the commonwealth under the provisions of section 18 of chapter 81 and chapter 258. Section 28. The secretary of administration and finance, on behalf of the commonwealth, shall enter into a contract with the authority prior to July 1, 2009, providing for payments from the commonwealth to the authority during each fiscal year equal to the aggregate amount of the debt service accruing or payable by the authority during such fiscal year on all notes and bonds of the authority, whenever issued, and amounts, if any, accruing or payable during each fiscal year under all interest rate hedge or option or similar agreements in effect as of December 31, 2008, and related to or entered into by the authority with respect to notes and bonds of the authority outstanding as of such date, minus any amounts paid by the commonwealth to the authority during such fiscal year pursuant to the contract entered into by the authority and the commonwealth pursuant to subsection (c) of section 12 and minus other amounts available to pay such debt service in accordance with the terms of such bonds and notes and interest rate hedge or option or similar agreements, all as certified by the authority. The term of such contract shall extend until the end of the fiscal year in which all such notes and bonds and interest rate hedge or option or similar agreements are fully paid or payment provided for in accordance with their terms. The contract shall specify when

payments shall be made by the commonwealth and shall further provide that, as of the last day of each month in which the commonwealth makes a payment to the authority pursuant to said contract, the authority shall reimburse the commonwealth for the amount of such payment from any available metropolitan highway system revenues, turnpike revenues or any other funds of the authority. The contract shall further provide that the authority shall pay to the commonwealth all remaining available metropolitan highway system revenues, turnpike revenues and other available funds of the authority at the times and in the amounts agreed to from time to time by the authority and the secretary for administration and finance or otherwise as specified in the contract. All amounts paid by the authority to the commonwealth pursuant to said contract shall be credited upon receipt to the fund established pursuant to section 2YYY of chapter 29 and applied in accordance with said section. The contract shall contain such other provisions as the secretary for administration and finance and the authority shall agree, including, without limitation, provisions limiting any action by the authority that would materially adversely affect the financial interest of the commonwealth or actions that would constitute a default under the terms of any notes and bonds of the authority or interest rate hedge or option or similar agreement in effect as of December 31, 2008. Amounts paid by the commonwealth may be treated as revenues by the authority within the meaning of section 6 and the authority may pledge such contract and the rights of the authority to receive amounts thereunder as security for the payment of notes and bonds issued under the provisions of this chapter and any related interest rate hedge or option or similar agreements. Such contract shall constitute a general obligation of the commonwealth for which the faith and credit of the commonwealth shall be pledged for the benefit of the authority and of the holders of any notes or bonds of the authority and parties to any interest rate hedge or option or similar agreements which may be secured by a pledge of

such contract or of amounts to be received by the authority under such contract. Section 29. This chapter, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect the purposes hereof.

SECTION 6. Section 1 of chapter 258 of the General Laws, as so appearing, is hereby amended by inserting after the words "public employee", in line 49, the following:- and including the Massachusetts Turnpike Authority.

SECTION 7. Said section 1 of said chapter 258, as so appearing, is hereby further amended by striking out in lines 51 to 53, inclusive, the words:- "the Massachusetts Turnpike Authority, or any other independent body politic and corporate," and inserting in place thereof the following:- or any other independent body politic and corporate except as set forth herein.

SECTION 8. Notwithstanding the provisions of any general or special law to the contrary, the secretary of the executive office for administration and finance, on behalf of the commonwealth, shall establish the CA/T Open Spaces Maintenance Trust pursuant to the authority granted by section 4F of chapter 7 of the General Laws for the purposes of maintaining the open spaces, so-called, created by the Central Artery/Tunnel Project.

SECTION 9. Notwithstanding the provisions of subsection (b) of section 12 of chapter 81A of the General Laws, no further transfer of any facility or portion thereof to the authority pursuant to subsection (b) of section 12 of chapter 81A shall be required on or after the effective date of this act.

SECTION 10. Sections 2 and 3 shall take effect on January 1, 2010.