

HOUSE No. 3308

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to expedite transportation projects in the commonwealth ..

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

1 SECTION 1. Notwithstanding any general or special law to the contrary, Massachusetts
2 Department of Highways (“the department”) may hire outside consultants, that have been
3 previously reviewed to determine their capabilities to perform, for review and analysis of
4 applications for access or signal permits where the department determines it appropriate to
5 expedite such review, provided that the applicant for said permit fully funds the cost of an
6 appropriate consultant for the review and analysis of the application. The department must
7 choose consultants who meet the minimum qualifications of either an educational degree in or
8 related to the field at issue, or three (3) or more years of practice in the field at issue or a related
9 field. The fees for the outside consultants shall be borne solely by the permit applicant. Such fees
10 shall be reasonable and reflect the actual cost for the services of the consultants.

11 The applicant paying the fee is entitled to an administrative appeal to the Commissioner
12 regarding the selected consultant(s) or the fees. Any such appeal is limited by law to claims that
13 the selected consultant has a conflict of interest or does not possess the minimum required
14 qualifications. The required time limits for action upon an application by the department shall be

15 extended by the duration of the administrative appeal. A decision upon said appeal shall be made
16 by the department within thirty (30) days of the filing of the appeal. Such an administrative
17 appeal shall not preclude further judicial review, if otherwise permitted by law.

18 SECTION 2. Notwithstanding any general or special law to the contrary, the department
19 shall deposit all fees for outside consultants into a separate expendable trust fund which shall be
20 designated and known as the Commonwealth of Massachusetts Highway Access Expendable
21 Trust. The Highway Access Expendable Trust, including accrued interest, if any, shall be
22 expended at the direction of the department without further appropriation; provided, however,
23 that such funds are to be expended by the department solely for the purpose of hiring outside
24 consultants to assist the department in its permit application reviews. The fees may not be used
25 to pay for the services of department employees. Any excess amount in the account attributable
26 to a specific project, including any accrued interest, shall be repaid to the applicant or to the
27 applicant's successor in interest upon satisfactory proof of the filing of the final action and
28 decision of the department. No expenditure shall cause the fund to be in deficit at the end of the
29 fiscal year. A final report of said account activities and interest shall be made for each project
30 and provided to the applicant or to the applicant's successor in interest on the applicant's written
31 request.

32 SECTION 3. The department shall revise such regulations as may be necessary to
33 effectuate the purposes of this section.