

**HOUSE . . . . . No. 4841**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Ten**  
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An Act Making Appropriations for the Fiscal Year 2011 to Provide for Supplementing Certain Existing Appropriations and for Certain Other Activities and Projects.

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

1           To provide for supplementing certain items in the general appropriation act and other  
2 appropriation acts for fiscal year 2011, the sums set forth in section 2 are hereby appropriated  
3 from the General Fund unless specifically designated otherwise in this act or in those  
4 appropriation acts, for the several purposes and subject to the conditions specified in this act or  
5 in those appropriation acts, and subject to the laws regulating the disbursement of public funds  
6 for the fiscal year ending June 30, 2011. These sums shall be in addition to any amounts  
7 previously appropriated and made available for the purposes of those items.

8           SECTION 2.

9           EXECUTIVE OFFICE OF PUBLIC SAFETY AND SECURITY

10          State Police

11           8100-  
12 0000.....\$3,500,0

13 00

14           Department of Corrections

15           8900-

16 0001.....\$10,000,0

17 00

18           DOER Energy Procurement.

19           SECTION 3. (A) Section 2 of chapter 25A of the General Laws, as appearing in the  
20 2008 Official Edition, is hereby amended by striking out the second paragraph and inserting in  
21 place thereof the following paragraph:-

22           There shall be within the department 4 divisions: (i) a division of energy efficiency,  
23 which shall work with the department of public utilities regarding energy efficiency programs;  
24 (ii) a division of renewable and alternative energy development, which shall oversee and  
25 coordinate activities that seek to maximize the installation of renewable and alternative energy  
26 generating sources that will provide benefits to ratepayers, advance the production and use of  
27 biofuels and other alternative fuels as the division may define by regulation, and administer the  
28 renewable portfolio standard and the alternative portfolio standard; (iii) a division of aggregated  
29 energy procurement, which shall promote and advance the commonwealth's public interests by  
30 acting to reduce energy costs and greenhouse gas emissions for all state agencies; and (iv) a  
31 division of green communities, which shall serve as the principal point of contact for  
32 municipalities and other governmental bodies concerning all matters under the jurisdiction of the

33 department of energy resources. Each division shall be headed by a director who shall be  
34 appointed by the commissioner and who shall be a person of skill and experience in the field of  
35 energy efficiency, renewable energy or alternative energy, energy purchasing and procurement,  
36 and energy regulation or policy, respectively. The directors shall be the executive and  
37 administrative heads of their respective divisions and shall be responsible for administering and  
38 enforcing the law relative to such division and to each administrative unit thereof under the  
39 supervision, direction and control of the commissioner. The directors shall serve at the pleasure  
40 of the commissioner, shall receive such salary as may be determined by law and shall devote full  
41 time during business hours to the duties of the office. In the case of an absence or vacancy in the  
42 office of the director, or in the case of disability as determined by the commissioner, the  
43 commissioner may designate an acting director to serve as director until the vacancy is filled or  
44 the absence or disability ceases. The acting director shall have all the powers and duties of the  
45 director and shall have similar qualifications as the director.

46 (B) Section 3 of said chapter 25A, as so appearing, is hereby amended by inserting after  
47 the definition of "Energy conservation" the following definition:-

48 "Energy resources", electricity, natural gas, heating fuels, transportation fuels, demand  
49 response, efficiency, and energy management services;

50 (C) Said section 3 of said chapter 25A, as so appearing, is hereby amended by inserting  
51 after the definition of "State agency" the following definition:-

52 "State energy resource contracts", contracts executed by the division under section  
53 11C1/2.

54 (D). Said chapter 25A is hereby further amended by inserting after section 11C the  
55 following section:-

56 Section 11C1/2. (a) (1) The division of aggregated energy procurement shall promote and  
57 advance the commonwealth's public interests by acting as the lead agency, in collaboration with  
58 the Massachusetts clean energy technology center, the executive office of energy and  
59 environmental affairs and the executive office for administration and finance to reduce energy  
60 costs and greenhouse gas emissions for all state agencies by: (i) establishing a statewide  
61 procurement process for energy resources; (ii) managing a statewide energy monitoring and  
62 analysis system to optimize energy usage in state-owned facilities; and (iii) recommending  
63 energy-related capital investments.

64 (2) The division shall manage these duties so as to obtain adequate, reliable, efficient,  
65 environmentally-sustainable and cost-effective energy resources.

66 (b) (1) The division of aggregated energy procurement shall promote and advance the  
67 commonwealth's public interests by acting as the lead agency, in collaboration with the  
68 Massachusetts clean energy technology center, the executive office of energy and environmental  
69 affairs and the executive office for administration and finance to reduce energy costs and  
70 greenhouse gas emissions for all state agencies by: (i) establishing a statewide procurement  
71 process for energy resources; (ii) managing a statewide energy monitoring and analysis system to  
72 optimize energy usage in state-owned facilities; and (iii) recommending energy-related capital  
73 investments.

74 (2) The division shall manage these duties so as to obtain adequate, reliable, efficient,  
75 environmentally-sustainable and cost-effective energy resources.

76 (c) There shall be an advisory committee consisting of 9 individuals with an interest in  
77 and knowledge of matters related to energy procurement. The division shall consult with the  
78 advisory committee in matters related to the division and in the implementation of this section.  
79 The advisory committee shall develop objectives and procurement strategies and recommend  
80 financial controls. The advisory committee shall develop objectives and procurement strategies  
81 and recommend financial controls. The advisory committee shall include the secretary of  
82 administration and finance who shall serve as chair, the secretary of energy and environmental  
83 affairs, the executive director of the Massachusetts clean energy technology center, the state  
84 purchasing agent , 1 member to be appointed by the secretary of energy and environmental  
85 affairs who shall be an expert on energy management services and 4 members to be appointed by  
86 the secretary of administration and finance, 1 of whom shall be from a participating executive  
87 branch agency, 1 of whom shall represent quasi-public entities, 1 of whom shall represent  
88 participating state authorities and 1 of whom shall be an expert on energy procurement. The  
89 members of the advisory committee shall serve without compensation, but shall be reimbursed  
90 for actual and necessary expenses incurred in the performance of their official duties. The  
91 advisory committee shall meet at least quarterly and at such other times as the members shall  
92 decide. A member may appoint a designee to represent that member at any such meeting.

93 (d) State agencies shall procure energy resources through state energy resource contracts  
94 negotiated by the division and executed subject to this section unless granted a waiver by the  
95 division. Local governmental bodies may procure energy resources through state energy resource  
96 contracts by notifying the division in writing. Notwithstanding this subsection, a state agency or  
97 local governmental body served by a municipal lighting plant which does not supply generation

98 service outside its own service territory or does not open its service territory to competition at the  
99 retail level shall not procure energy resources from state energy resource contracts.

100 (e) The division, in consultation with the advisory committee, shall establish procedures  
101 and criteria to enable a state agency, in consultation with the division, to evaluate the costs and  
102 benefits of any then-current contractual obligations for energy resources applicable to that state  
103 agency. Following the termination date of these contracts, the state agency shall procure energy  
104 through state energy resource contracts unless granted a waiver by the division. The division  
105 may waive the requirements of this subsection if, after consultation with any applicable  
106 governing body of the state agency, the division concludes that the costs and benefits of  
107 maintaining separate procurement contracts for the state agency achieves the best value or is in  
108 the best interests of the entity. If a state agency that: (1) has been accepted by the Federal Energy  
109 Regulatory Commission under the Federal Power Act as an energy wholesale electric customer  
110 for power supply and transmission; (2) engages in sales for resale under the Federal Power Act;  
111 owns, operates and maintains an electricity transmission and distribution (including voltage step-  
112 down capacity); (3) is subject to enforceable grant assurances under a federal funding program,  
113 which requires it to operate its federally assisted facility or facilities on as financially self-  
114 sustaining basis as is feasible; and (4) whose primary operating facilities are subject to federal  
115 regulation and federal licensure or certification can demonstrate, along with the presentation  
116 before the board by the division of a report on savings under the state energy resource contract,  
117 to its board or applicable governing body a measurable savings through a separate procurement  
118 which is greater than any savings that would be realized through use of a state energy resource  
119 contract under this section, shall be granted a waiver by the division. If the division grants a  
120 waiver, the state agency may conduct separate procurements for energy resources subject to all

121 applicable procurement laws, regulations and policies. A state agency or local governmental  
122 body procuring energy resources through a state energy resource contract shall execute all  
123 necessary contract documents to complete the procurement.

124 (f) To increase efficiencies in conducting energy resource procurements for state agencies  
125 and local governmental bodies, the division shall:

126 (i) establish a transparent, open, and competitive statewide procurement process for  
127 energy resources for such agencies and bodies at the lowest reasonable cost, but in no instance  
128 shall the division procure more than 25 per cent of the electrical energy load of the  
129 commonwealth from a single electrical energy generation source; and

130 (ii) manage all eligible state accounts and, at the discretion of the division, accounts from  
131 participating local governmental bodies, by consolidating the supply portion of service into a  
132 single electricity and natural gas commodity load profile, respectively.

133 (g) To streamline energy billing for state agencies and local governmental bodies which  
134 have executed contracts under this section, the division, in consultation with the executive office  
135 for administration and finance and participating state agencies and local governmental bodies,  
136 may create a centralized billing system to receive all utility bills, audit for errors and provide  
137 billing to individual state agencies and accounts. Participating state agencies and local  
138 governmental bodies shall provide the division with such billing information, as it may request.

139 (h)(1) To improve energy usage and management for state agencies and achieve state  
140 energy policy objectives, the division may:

141 (i) utilize an energy management system to monitor and analyze the consumption of  
142 energy procured through state energy resource contracts in facilities used by state agencies;

143 (ii) analyze data from the energy management system, energy audits and other sources to  
144 identify energy-efficiency investment opportunities;

145 (iii) identify all existing state-owned energy generation assets and develop a plan to  
146 optimize their value; and

147 (iv) establish equitable means to distribute energy savings to state agencies.

148 (2) The division may develop a similar energy usage and management program for  
149 participating local governmental bodies and may utilize the systems and methods set forth in this  
150 subsection in consultation with the green communities division.

151 (i) To identify appropriate capital investments in the state facility energy infrastructure,  
152 the division, in consultation with the executive office for administration and finance, may  
153 develop recommendations that:

154 (1) establish economic criteria to be applied in making capital investments in identified  
155 energy efficiency opportunities;

156 (2) identify capital resources, either through existing bonding authority or other sureties  
157 or resources to fund energy-efficiency improvements and distributed-energy generation; and

158 (3) utilize energy cost-savings to finance, in whole or in part, such capital improvements.



159 (j) Nothing in this section shall change the relevant terms of existing distribution  
160 company tariffs with respect to the provision of distribution services to individually metered  
161 accounts.

162 (k) The division shall report annually on January 1 to the clerks of the senate and house  
163 of representatives, the governor and the participating state agencies and local governmental  
164 bodies on the operations of the division. The annual report shall include, but not be limited to, a  
165 description of the performance of the procurement program and contracts executed under this  
166 section, with specific reference to the advisability of the exclusion of any authority under  
167 subsection (e) and whether the exclusion of any authority substantially impacts any savings  
168 under this section.

169 (l) The division shall adopt regulations and procedures to carry out this section.

170 (E) Section 2B of the general appropriation act for fiscal year 2011 is hereby amended by  
171 inserting after item 1102-3224 the following item:-

172 1102-3225...For the cost of utilities and management services provided by the division of  
173 capital asset management, including the payment of electric fuel oil and natural gas purchases  
174 that are centrally billed to the commonwealth and the purchase, delivery, handling of and  
175 contracting for supplies, postage and related equipment and other incidental expenses provided  
176 under section 51 of chapter 30 of the General Laws; provided, that any unspent balance at the  
177 close of fiscal year 2011 in an amount not to exceed 5 per cent of the amount authorized shall  
178 remain in the Intergovernmental Service Fund and may be expended for this item in fiscal year  
179 2012 for the purposes of energy efficiency projects; and provided further, that the division in  
180 consultation with the department of energy resources, the operational services division and the

181 executive office for administration and finance shall implement a program for centralized energy  
182 management by July 1, 2011.....\$255,500,000

183 Intragovernmental Service Fund ..... 100%.

184 (F) The first annual report required under subsection (k) of section 11C1/2 of chapter  
185 25A of the General Laws shall be filed not later than January 1, 2012. The rules and procedures  
186 required under subsection (l) of said section 11C1/2 of said chapter 25A shall be filed not later  
187 than December 1, 2010.

188 Workforce Training PAC

189 SECTION 4. Item 7003-0701 of section 2 of chapter 27 of the acts of 2009 is hereby  
190 amended by adding the following words:- ; and provided further, that any unexpended funds in  
191 this item shall not revert and shall be made available for the purposes under this item until June  
192 30, 2011.

193 State Police PAC

194 SECTION 5. Item 8100-0000 of said section 2 of said chapter 27 is hereby amended by  
195 adding the following words:- ; and provided further, that any unexpended funds in this item  
196 shall not revert and shall be made available for the purposes under this item until June 30, 2011.

197 Department of Correction PAC

198 SECTION 6. Item 8900-0001 of said section 2 of said chapter 27 is hereby amended by  
199 adding the following words:- ; and provided further, that any unexpended funds in this item  
200 shall not revert and shall be made available for the purposes under this item until June 30, 2011.

201 Administration and Finance Technical

202 SECTION 7. Item 1100-1100 of section 2 of the general appropriation act for fiscal year  
203 2011 is hereby amended by striking out the words “and the administration of the fiscal affairs  
204 division”.

205 Infrastructure Financing

206 SECTION 8. Said section 2 of the general appropriation act for fiscal year 2011 is hereby  
207 amended by striking out item 1599-1977 and inserting in place thereof the following item:-

208 1599-1977 For contract assistance and other payments to the Massachusetts  
209 development finance agency for payment of debt service and related obligations in connection  
210 with bonds issued by the agency under chapter 293 of the acts of 2006, as amended by chapter  
211 129 of the acts of 2008, and under chapter 303 of the acts of 2008  
212 .....\$ 1,393,338

213 SANE Retained Revenue

214 SECTION 9. Section 2 of the general appropriation act for fiscal year 2011 is hereby  
215 amended by inserting after item 4510-0810 the following item:-

216 4510-0811 The department of public health may expend not more than \$1,000,000  
217 from contributions and other revenue derived from public and private sources for the statewide  
218 sexual assault nurse examiner program and pediatric sexual assault nurse examiner program for  
219 the care of victims of sexual assault.....\$1,000,000

220 Department of Children and Families Appropriations

221 SECTION 10. Item 4800-0030 of section 2 of the general appropriation act for fiscal  
222 year 2011 is hereby amended by striking out the language and inserting in place thereof the  
223 following language:- For the continuation of local and regional administration and coordination  
224 of services; provided, that flex services mandated by this item shall be funded from this item.

225 Library Closings

226 SECTION 11. (A) Item 7000-9401 of section 2 of the general appropriation act for fiscal  
227 year 2011 is hereby amended by striking out the words “said section 19C of said chapter 78 shall  
228 not apply to a municipality with more than 150,000 residents during fiscal year 2011 unless” and  
229 inserting in place thereof the following words:- to a municipality of more than 150,000 residents,  
230 funds under this item shall be provided proportionately according to the proportion of fiscal year  
231 2011 during which.

232 (B) Item 7006-0140 of section 2 of the general appropriation act for fiscal year 2011 is  
233 hereby amended by striking out the words “said section 19C of said chapter 78 shall not apply to  
234 a municipality with more than 150,000 residents during fiscal year 2011 unless” and inserting in  
235 place thereof the following words:- to a municipality of more than 150,000 residents, funds  
236 under this item shall be provided proportionately according to the proportion of fiscal year 2011  
237 during which.

238 GAA Fund-split Amendments

239 SECTION 12. (A) Item 0699-0015 of section 2 of the general appropriation act for fiscal  
240 year 2011 is hereby amended by adding the following words:-

241 General Fund 52.00%

242 Commonwealth Transportation Fund 48.00%

243 (B) Item 2310-0200 of said section 2 of the general appropriation act for fiscal year 2011  
244 is hereby amended by adding the following words:-

245 Inland Fisheries and Game Fund ..... 100%

246 (C) Item 4512-0200 of said section 2 of the general appropriation act for fiscal year  
247 2011 is hereby amended by adding the following words:-

248 Substance Abuse Prevention and Treatment Fund.....100%

249 (D) Item 4512-0201 of said section 2 of the general appropriation act for fiscal year  
250 2011 is hereby amended by adding the following words:-

251 Substance Abuse Prevention and Treatment Fund.....100%

252 (E) Item 4512-0202 of said section 2 of the general appropriation act for fiscal year  
253 2011 is hereby amended by adding the following words:-

254 Substance Abuse Prevention and Treatment Fund.....100%

255 (F) Item 4512-0203 of said section 2 of the general appropriation act for fiscal year 2011  
256 is hereby amended by adding the following words:-

257 Substance Abuse Prevention and Treatment Fund.....100%

258 (G) Item 4590-0250 of said section 2 of the general appropriation act for fiscal year 2011  
259 is hereby amended by adding the following words:-

260 Substance Abuse Prevention and Treatment Fund.....100%

261 (H) Item 4590-0300 of said section 2 of the general appropriation act for fiscal year 2011  
262 is hereby amended by adding the following words:-

263 Substance Abuse Prevention and Treatment Fund.....100%

264 (I) Item 7007-0900 of said section 2 of the general appropriation act for fiscal year 2011  
265 is hereby amended by adding the following words:-

266 Massachusetts Tourism Fund ..... 100%

267 (J) Item 7007-0901 of said section 2 of the general appropriation act for fiscal year 2011  
268 is hereby amended by adding the following words:-

269 Massachusetts Tourism Fund ..... 100%

270 (K) Item 7007-1000 of said section 2 of the general appropriation act for fiscal year 2011  
271 is hereby amended by adding the following words:-

272 Massachusetts Tourism Fund ..... 100%

273 (L) Item 8900-0002 of said section 2 of the general appropriation act for fiscal year  
274 2011 is hereby amended by adding the following words:-

275 Substance Abuse Prevention and Treatment Fund.....100%

276 (M) Item 8900-0006 of said section 2 of the general appropriation act for fiscal year  
277 2011 is hereby amended by adding the following words:-

278 Substance Abuse Prevention and Treatment Fund.....100%

279 Single Audit Chargeback

280 SECTION 13. Item 1000-0005 of section 2B of the general appropriation act for fiscal  
281 year 2011 is hereby amended by striking the figure “\$750,000” and inserting in place thereof the  
282 following figure:- \$850,000

283 Medical Assistance Trust Fund

284 SECTION 14. Section 2E of the general appropriation act for fiscal year 2011 is hereby  
285 amended by striking out Item 1595-1068 and inserting in place thereof the following item:-:

286 1595-1068 Notwithstanding the preamble in section 2E, this item shall be for an  
287 operating transfer to the MassHealth provider payment account in the Medical Assistance Trust  
288 Fund, established under section 2QQQ of chapter 29 of the General Laws; provided, that these  
289 funds may be expended only for services provided during state or federal fiscal year 2011, and  
290 no amounts previously or subsequently transferred into the Medical Assistance Trust Fund may  
291 be expended on payments described in the section 1115 demonstration waiver for services  
292 provided during state fiscal year 2011, or payments described in the state plan for services  
293 provided during federal fiscal year 2011; provided further, that all payments from the Medical  
294 Assistance Trust Fund shall be subject to the availability of federal financial participation, shall  
295 be made only in accordance with federally approved payment methods, shall be consistent with  
296 federal funding requirements and all federal payment limits as determined by the secretary of  
297 health and human services and shall be subject to the terms and conditions of an agreement with  
298 the executive office of health and human services; provided further, that any increase in payment  
299 made from the trust fund totaling an amount greater than \$251,000,000 in fiscal year 2011 shall  
300 be made only after the secretary of health and human services certifies that any increase in  
301 payments from the trust fund shall not exceed the negotiated limit for section 1115 waiver

302 spending; provided further, that the secretary of health and human services shall notify, in  
303 writing, the house and senate committees on ways and means and the joint committee on health  
304 care financing of any increases in payments within 15 days; and provided further, that the  
305 secretary of health and human services shall make a payment of up to \$247,605,130 from the  
306 Medical Assistance Trust Fund to the Cambridge Public Health Commission for dates of service  
307 in state and federal fiscal year 2011, only after the Cambridge Public Health Commission  
308 transfers up to \$95,105,130 of its funds to the Medical Assistance Trust Fund using a federally  
309 permissible source of funds which shall fully satisfy the nonfederal share of such payment

310 \$392,500,000

311 Amend Trial Court Transferability

312 SECTION 15. The first sentence of section 181 of the general appropriation act for fiscal  
313 year 2011 is hereby amended by striking out the words “; provided, however, that the chief  
314 justice for administration and management may transfer not more than 5 per cent of funds from  
315 each of the items 0339-1001, 0339-1003, 0339-1007 and 0339-1009 to any other item of  
316 appropriation within the trial court”.