

SENATE No. 1465

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to emergency contracts..

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. Chapter 149 of the General Laws is hereby amended in section 44A by
2 striking paragraph (4) and inserting in place thereof the following:- (4) In cases of extreme
3 emergency, the awarding authority may, with the prior approval of the auditor, award a contract
4 for that portion of the work necessary to preserve the health or safety of persons or property on
5 the basis of such competitive bids or proposals as it can obtain in the time to care for the extreme
6 emergency and without public opening of the bids or proposals. In no case shall such a contract
7 be approved pursuant to this paragraph for any work that the auditor determines could have been
8 avoided through regular maintenance. All contracts awarded pursuant to this paragraph shall be
9 to remedy the immediate emergency only. Upon executing a contract pursuant to this paragraph
10 the awarding authority shall forward a copy of said contract to the auditor. The auditor shall
11 cause a list of such contracts to be published monthly in the central register. Said list shall
12 include the awarding authority and a brief description of the work covered by the contract.

13 Where the nature of the emergency prevents the awarding authority from obtaining the
14 prior approval of the author, the awarding authority may contract for the necessary work without

15 said prior approval; provided, however, that the approval of the auditor shall still be sought at the
16 earliest possible time; and provided, further, that if the auditor at that time fails to approve the
17 emergency determination the awarding authority shall promptly cease all work for which the
18 emergency determination was denied. In such cases, the contractor shall be entitled to payment
19 for the fair value of the labor and materials furnished prior to cessation of the work.

20 The auditor shall maintain a record of all contracts awarded pursuant to this subsection,
21 containing a description of the circumstances and the reasons for the Commissioner's
22 determination.