

**SENATE . . . . . No. 2023**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act modernizing the transportation systems of 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. Subsection (a) of section 8C of chapter 6A of the General Laws, inserted  
2 by section 6 of chapter 233 of the acts of 2008, is hereby amended by striking out the words  
3 “commissioner of highways” and inserting in place thereof the following words:- administrator  
4 of roads and bridges of the Massachusetts Surface Transportation Authority.

5           SECTION 1A. Section 8C of chapter 6A of the General Laws, inserted by section 6 of  
6 chapter 233 of the acts of 2008, is hereby amended by striking out the first paragraph and  
7 inserting in place thereof the following paragraph:-

8           (a) There shall be established a structurally deficient bridge improvement program  
9 coordination and oversight council. The council shall consist of a chair appointed by the  
10 governor, the secretary of administration and finance, the secretary of transportation, the  
11 secretary of energy and environmental affairs, the administrator of the division of roads and  
12 bridges of the Massachusetts Surface Transportation Authority, and the commissioner of capital  
13 asset management and maintenance, or their designees.

14 SECTION 2. Said Chapter 6A of the General Laws is hereby further amended by  
15 striking out sections 19 and 19A, as mostly recently amended by section 1 of chapter 298 of the  
16 acts of 2008, and inserting in place thereof the following 3 sections:-

17 Section 19. (a) The executive office of transportation shall serve as the principal agency  
18 of the executive department for the following purposes: (1) developing, coordinating,  
19 administering and managing transportation policies, planning and programs related to design,  
20 construction and maintenance; (2) supervising and managing the organization and conduct of the  
21 business affairs of the departments, agencies, commissions, offices, boards and divisions, and  
22 other agencies within the executive office to improve administrative efficiency and program  
23 effectiveness and to preserve fiscal resources; (3) developing and implementing effective  
24 policies and programs to assure the coordination and quality of roadway, transit, airport and port  
25 infrastructure and security provided by the secretary and all of the departments, agencies,  
26 commissions, offices, boards, divisions, authorities and other entities within the executive office.

27 (b) The following state agencies shall be within the executive office of transportation: the  
28 Massachusetts Aeronautics Commission; the government center commission established by  
29 section 1 of chapter 635 of the acts of 1960; and the registry of motor vehicles. The  
30 Massachusetts Surface Transportation Authority, Massachusetts Bay Transportation Authority,  
31 the Massachusetts Port Authority, the Massachusetts Turnpike Authority and any duly  
32 established regional transportation authority shall also be within the executive office of  
33 transportation.

34 (c) The governor shall appoint a secretary of transportation, who shall serve at the  
35 pleasure of the governor and shall act as the executive officer in all matters pertaining to the

36 administration, management, operation, regulation, planning, fiscal and policy development  
37 functions and affairs of the departments, agencies, commissions, offices, boards, divisions, and  
38 other agencies within the executive office.

39 (d) The secretary may: (1) operate and administer the programs of roadway design,  
40 capital improvement, development and planning through the other agencies within the executive  
41 office, as appropriate; (2) coordinate and supervise the administration of the executive office and  
42 its agencies to promote economy and efficiency and to leverage federal funding; (3) develop and  
43 administer a long-term state-wide transportation plan for the commonwealth, as provided for in  
44 subsection (f); (4) develop, based on a public hearing process, procedures to be used for  
45 transportation project selection; (5) establish criteria for project selection to be used in the  
46 procedures developed pursuant to clause (4); (6) enter into agreements with departments,  
47 agencies, commissions, offices, boards, divisions, authorities and other entities within the  
48 executive office to improve administrative efficiency and program effectiveness and to preserve  
49 fiscal resources; (7) pursuant to chapter 30A, make, amend and repeal rules and regulations for  
50 the management and administration of the executive office and agencies within the executive  
51 office; (8) execute all instruments necessary for carrying out the business of the executive office  
52 and its agencies; (9) acquire, own, hold, dispose of, lease and encumber property in the name of  
53 the executive office and its agencies; (10) enter into agreements and transactions with federal,  
54 state and municipal agencies and other public institutions and private individuals, partnerships,  
55 firms, corporations, associations and other entities on behalf of the executive office or its  
56 agencies; (11) apply for and accept funds, including grants, on behalf of the commonwealth in  
57 accordance with applicable law; (12) conduct research, surveys, experimentation, evaluation,  
58 design and development, in cooperation with the Massachusetts Surface Transportation

59 Authority, and other governmental agencies and private organizations when appropriate, with  
60 regard to mass transportation facilities, equipment and services. The secretary may delegate any  
61 of the foregoing powers to an officer having charge of a department, office, division or other  
62 administrative unit within the executive office. (e) In exercising its powers under this  
63 section, the executive office shall have, as a primary goal, the reduction of greenhouse gas  
64 emissions, particulates and other pollutants. The secretary shall collaborate with the executive  
65 office of environmental affairs, the bureau for environmental health within the department of  
66 public health and other state or federal agencies to reduce greenhouse gas emissions to the limits  
67 established in chapter 21N.

68 (f) (1) Every 5 calendar years, beginning not later than April 30, 2010, the secretary of  
69 transportation shall, after conducting public hearings, prepare and publish in the Massachusetts  
70 Register a comprehensive state transportation plan for the 5 succeeding fiscal years, beginning  
71 with the period of fiscal year 2011 to 2015, inclusive. The plan shall be consistent with such  
72 priorities as may be established by legislation. Said plan shall be designed to ensure construction  
73 and maintenance of a safe, sound and efficient public highway, road and bridge system, to  
74 relieve congestion, to reduce greenhouse gas emissions, particulates and other pollutants, and to  
75 improve the quality of life in the commonwealth by promoting economic development and  
76 employment in the commonwealth by meeting, cost effectively, the diverse transportation needs  
77 of all residents of the commonwealth, including urban, suburban and rural populations. Said plan  
78 shall also include an engineering assessment to anticipate highway, road and bridge needs  
79 throughout the commonwealth as determined by objective engineering measurements of  
80 condition, safety and service. The secretary shall consult with the executive offices of  
81 environmental affairs and of economic affairs in the development of said plan. Said plan shall

82 provide for meeting not less than 5 per cent annually of the estimated construction,  
83 reconstruction and repair needs of the public highways and bridges of the commonwealth, its  
84 counties, cities and towns, estimated as follows. Before the secretary publishes or updates said  
85 plan, the Massachusetts Surface Transportation Authority shall determine and certify to the  
86 secretary its estimate of the total value of all construction, reconstruction and repair needs of the  
87 commonwealth's highway and bridge infrastructure. The total value estimate shall be based on  
88 satisfying current safety and maintenance standards of the Federal Highway Administration and  
89 the American Association of State Highway and Transportation Officials. The estimate shall be  
90 substantiated by documented objective engineering estimates which shall be made available for  
91 public review.

92         The executive office and the Massachusetts Surface Transportation Authority shall report  
93 annually, not later than February 1, to the house and senate committees on ways and means and  
94 the joint committee on transportation on their compliance with the plan and their efforts to  
95 satisfy the 5 per cent requirement of the preceding paragraph.

96         (g). There is hereby established within the executive office of transportation a healthy  
97 transportation compact. The secretary of transportation and the secretary of health and human  
98 services shall cooperate and adopt best practices in order to increase efficiency to achieve  
99 positive health outcomes through the coordination of land use, transportation and public health  
100 policy. The healthy transportation compact shall consist of the secretary of transportation, the  
101 secretary of health and human services, the secretary of energy and environmental affairs, the  
102 administrator of the Massachusetts Surface Transportation Authority's division of roads and  
103 bridges, the administrator of the Massachusetts Surface Transportation Authority's division of  
104 public transit, and the commissioner of public health, or their designees.

105           The secretary of transportation and the secretary of health and human services or their  
106   designees, shall serve as co-chairpersons of the compact. The chairpersons shall convene and  
107   preside at meetings of the compact, determine the agenda of the compact, direct its work and as  
108   appropriate to particular subject matters, establish and direct subgroups of the compact, which  
109   shall consist exclusively of the compact’s members. The compact on healthy transportation shall:

110           (i) promote inter-secretariat cooperation and the establishment of a healthy transportation  
111   policy for the commonwealth including appropriate mechanisms to minimize duplication and  
112   overlap of state and federal programs and services;

113           (ii) develop a healthy transportation framework that increases access to healthy  
114   transportation alternatives that reduce greenhouse gas emissions, improves access to services for  
115   persons with mobility limitations and increases opportunities for physical activities;

116           (iii) develop methods to increase bicycle and pedestrian travel, incorporate the principles,  
117   findings and recommendations of the Massachusetts bicycle transportation plan and establish a  
118   framework for implementation of the Bay State Greenway Network;

119           (iv) develop and implement, in consultation with the bicycle and pedestrian advisory  
120   board established in section 11A of chapter 21A, administrative and procedural mechanisms,  
121   including the promulgation of rules and regulations, consistent with the most current edition of  
122   the MassHighway Project Development and Design Guide, or its successor, to encourage the  
123   construction of complete streets, so-called, designed and operated to enable safe access for  
124   pedestrians, bicyclists, motorists and bus riders of all ages to safely move along and across  
125   roadways in urban and suburban areas;

126 (v) establish methods to implement the use of health impact assessments to determine the  
127 effect of transit projects on public health and vulnerable populations;

128 (vi) facilitate access to the most appropriate, cost-effective transportation services within  
129 existing resources for persons with mobility challenges;

130 (vii) expand service offerings for the Safe Routes to Schools program;

131 (viii) in the implementation of this section, explore opportunities and encourage the use  
132 of public-private partnerships with private and non-profit institutions;

133 (ix) seek to establish an advisory council with private and non-profit advocacy groups as  
134 the compact sees fit;

135 (x) institute a health impact assessment for use by planners, transportation administrators,  
136 public health administrators and developers; and

137 (xi) develop and implement a method for monitoring progress on achieving the goals of  
138 this section and provide any other recommendations that would, in the judgment of the compact,  
139 advance the principles set forth in this section.

140 (2) The executive office shall establish a program for mass transportation consistent with  
141 this chapter. The program for mass transportation and any revisions thereto shall be submitted  
142 for comment and recommendation to the mass transit advisory board not less than 60 days prior  
143 to the adoption thereof. The executive office shall prepare a written response to reports  
144 submitted to it by the advisory board which response shall state the basis for any substantial  
145 divergence between the actions of the executive office and the recommendations contained in  
146 such reports of the advisory board. Said program shall be reviewed not less than every 5 years to

147 evaluate the achievement of its aims and to re-evaluate its conformity with the provisions of this  
148 chapter.

149 Said program for mass transportation and any plans specified therein shall be  
150 implemented by the mass transportation capital investment program, including a rolling 5-year  
151 plan. The capital investment program and plans of the executive office shall be based on an  
152 evaluation of the impact of each proposed capital investment on the effectiveness of the  
153 commonwealth's transportation system, service quality standards, the environment, health and  
154 safety, operating costs, the prevention or avoidance of deferred maintenance and debt service  
155 costs. Capital investments that result in the greatest benefits with the least cost, transit  
156 commitments made in connection with the central artery project, capital improvements required  
157 under the Americans with Disabilities Act, and capital expenditures for an ongoing schedule of  
158 maintaining the equipment and mass transportation facilities of the Massachusetts Bay  
159 Transportation Authority, or any successor agency, shall receive the highest priority under the  
160 capital investment program and plans.

161 The ongoing schedule of maintenance shall be designed to prevent the deferral of routine  
162 and scheduled maintenance, and shall be undertaken prior to investing in new facilities or service  
163 expansion, unless such investment is required by law or can be demonstrated to be cost-effective,  
164 environmentally beneficial or produce quantifiable savings.

165 The capital investment program shall be prepared on an annual basis, under the direction,  
166 control and supervision of the executive office. The program, including plans for each project  
167 funded therein, shall be available for public inspection and submitted to the authority, the joint



168 committee on transportation and the senate and house committees on ways and means not later  
169 than 60 days prior to the start of the fiscal year.

170           The program for mass transportation, the capital investment program and the plans for  
171 each such project funded therein shall be developed in conjunction with other transportation  
172 programs and plans proposed by the executive office, including any plans of regional transit  
173 authorities established pursuant to chapter 161B. These programs shall be further developed in  
174 consultation and cooperation with the division of public transit, and in consultation with the  
175 department of housing and community development, the metropolitan area planning council, the  
176 executive office of environmental affairs and such other agencies of the commonwealth or of the  
177 federal government as may be concerned with said program and plans.

178           The plans for each project included in the capital investment program shall identify the  
179 purpose and intended benefits of each project, the total budget and timeline necessary to  
180 complete each project, the amount of the total which is budgeted for each project in the next  
181 fiscal year, the operating costs and savings, if any, anticipated to be incorporated into the  
182 operating budget of the authority upon completion of each project, the proposed operating costs  
183 and costs of routine and scheduled maintenance associated with each project upon its  
184 completion, and the expected useful life of each project.

185           The capital investment program shall be based on a rolling 5-year plan, updated annually,  
186 that establishes the priorities and cashflow needs of the capital borrowing program of the  
187 authority. The 5 year plan shall be accompanied by a timeline for the implementation of the  
188 projects and priorities established therein and comprehensive financial estimates of the capital  
189 and operating costs and revenues associated with each project established by the plan.

190           The executive office shall conduct a series of public meetings within 30 days of issuance  
191 of an initial draft of the capital investment program and shall submit a final capital investment  
192 program to the mass transit advisory board, for its review, not later than January 15 of each year.

193           The authority shall be responsible for the architectural, engineering design, and the  
194 construction of mass transportation facilities and for the operation thereof.

195           (3) The secretary, in consultation with the authority, shall adopt such rules, regulations  
196 and procedures, including public hearings, as are necessary and appropriate to provide the  
197 following parties the timely opportunity to participate in the development of major transportation  
198 projects, as defined by the secretary, and to review and comment thereon: (i) state, regional and  
199 local agencies and authorities affected by said projects; (ii) elected officials and riders or  
200 potential riders from cities and towns affected by said projects; (iii) other public and private  
201 organizations, groups and persons who are affected by said projects, and who have provided the  
202 secretary with reasonable notice of their desire to participate in the development of the design of  
203 said projects. In this paragraph, the words “timely opportunity” shall mean sufficiently early in  
204 the design process so as to permit comments to be considered prior to the final development, of  
205 or commitment to, any specific design for such project. Each project shall include plans for  
206 utility relocation or construction as a component of the initial design phase.

207           (4) Prior to the final approval of any transportation infrastructure project, including mass  
208 transit expansion or the construction of new roadways with a projected capital cost of more than  
209 \$25,000,000, and prior to expending any funds for the planning, design and construction of such  
210 a project, the secretary of transportation shall request that the administrator of the appropriate  
211 division of the Massachusetts Surface Transportation Authority, in consultation with the chief

212 executive officer of the authority, prepare a fiscal analysis, including life cycle costs,  
213 demonstrating that sufficient revenues exist or will be generated to operate and maintain in a  
214 state of good repair such a new transportation asset. This analysis shall be also be submitted to  
215 the advisory boards of the respective divisions of the Massachusetts Surface Transportation  
216 Authority.

217 If any such project for the expansion of mass transit has a projected total cost in excess of  
218 \$200,000,000, the secretary of transportation shall submit the analysis to the secretary of  
219 administration and finance for a determination as to which costs, if any, will become part of the  
220 commonwealth's plan of capital expenditures.

221 (g) Nothing in this chapter shall be construed to confer any powers or impose any duties  
222 upon the secretary with respect to the foregoing agencies and authorities except as expressly  
223 provided by law.

224 Section 19A. (a) The executive office shall take such steps as may be necessary to  
225 provide for the development, promotion, preservation and improvement of an adequate, safe,  
226 efficient and convenient rail system for the movement of passengers and freight in the  
227 commonwealth. In carrying out the purposes of this chapter, the executive office shall seek to  
228 encourage and develop rail services which promote and maintain the economic well-being of  
229 citizens and which preserve the environment and the commonwealth's natural resources.

230 (b) The executive office, or the Massachusetts Surface Transportation Authority acting  
231 pursuant to paragraph (6) of subsection (d), shall expend such funds as may be appropriated or  
232 otherwise made available for the acquisition, construction, preservation, rehabilitation,  
233 reconstruction or other improvement, whether directly, jointly or under contract with other public

234 or private parties, of land and rail rights-of-way and related facilities or equipment, including but  
235 not limited to spurs, sidings and bridges, and for such other purposes including, without  
236 limitation, planning, engineering and administrative purposes, as are incidental thereto; provided,  
237 however, that any preservation, rehabilitation, reconstruction or other improvement of land or of  
238 a rail right-of-way and related facilities or equipment shall not be authorized prior to the  
239 acquisition of such land, right-of-way or related facilities or equipment.

240           Subject to any other applicable laws regarding the disposition and use of state property,  
241 the executive office may, in the course of exercising its responsibilities of property management  
242 of state-owned railroad rights-of-way pursuant to this chapter: (a) set fees for the processing of  
243 applications to lease, license or otherwise use such property; and (b) charge rent for same. Such  
244 fees shall be based on the administrative costs necessary to process such applications. Rent shall  
245 be calculated as required under other applicable laws. Receipts from applications and rents shall  
246 be paid into the treasury of the commonwealth and may be expended, subject to appropriation,  
247 for the purpose of property management and maintenance on railroad properties owned by the  
248 executive office on behalf of the commonwealth.

249           (c) The executive office or the Massachusetts Surface Transportation Authority, acting  
250 pursuant to paragraph (6) of subsection (d), may enter into contracts or agreements to provide  
251 financial assistance, from such funds as may be provided for such purpose, for all or part of the  
252 costs of maintaining rail rights-of-way or related facilities or equipment, or operating rail  
253 services in the commonwealth.

254           Such contracts or agreements shall be subject to the following limitations: (i) in  
255 determining whether such assistance is necessary or appropriate under this chapter with respect

256 to an operating agreement with a private transportation company, and in determining the terms  
257 and conditions under which such assistance shall be given, the secretary shall review the  
258 transportation operations of such company and its affiliates and shall make a finding that such  
259 assistance will not permit the applicant company to make more than a reasonable return overall;  
260 and