

SENATE No. 2024

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

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 striking
15 out sections 19 and 19A, as mostly recently amended by section 1 of chapter 298 of the acts of
16 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 office of
81 environmental affairs and the executive office of economic affairs in the development of said

82 plan. Said plan shall provide for meeting not less than 5 per cent annually of the estimated
83 construction, reconstruction and repair needs of public highways and bridges of the
84 commonwealth, its counties, cities and towns, estimated as follows. Before the secretary
85 publishes or updates said plan, the Massachusetts Surface Transportation Authority shall
86 determine and certify to the secretary its estimate of the total value of all construction,
87 reconstruction and repair needs of the commonwealth's highway and bridge infrastructure. The
88 total value estimate shall be based on satisfying current safety and maintenance standards of the
89 Federal Highway Administration and the American Association of State Highway and
90 Transportation Officials. The estimate shall be substantiated by documented objective
91 engineering estimates which shall be made available for 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 work cooperatively to adopt best practices to increase efficiency to achieve
99 positive health outcomes through the coordination of land use, transportation and public health
100 policy. The compact shall consist of the secretary of transportation, the secretary of health and
101 human services, the secretary of energy and environmental affairs, the administrator of roads and
102 bridges, the administrator of public transit and the commissioner of public health, or their
103 designees.

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

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

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

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

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

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

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

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

130 (viii) explore opportunities and encourage the use of public-private partnerships with
131 private and non-profit institutions;

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

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

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

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

145 advisory board. The program shall be reviewed at least every 5 years to evaluate the achievement
146 of its aims and to re-evaluate its conformity with this section.

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

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

162 The capital investment program shall be prepared on an annual basis, under the direction,
163 control and supervision of the executive office. The program, including plans for each project
164 funded therein, shall be available for public inspection and submitted to the authority, the joint
165 committee on transportation and the senate and house committees on ways and means not later
166 than 60 days prior to the start of each fiscal year.

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

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

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

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

190 The authority shall be responsible for the architectural engineering design and the
191 construction of mass transportation facilities and the operation thereof.

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

204 (4) Prior to the final approval of a transportation infrastructure project, including mass
205 transit expansion or the construction of new roadways with a projected capital cost of more than
206 \$25,000,000, and prior to expending any funds for the planning, design and construction of any
207 such project, the secretary of transportation shall request that the administrator of the appropriate
208 division of the Massachusetts Surface Transportation Authority, in consultation with the chief

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

213 If a project for the expansion of mass transit has a projected total cost in excess of
214 \$200,000,000, the secretary of transportation shall submit the analysis to the secretary of
215 administration and finance for a determination as to which costs, if any, will become part of the
216 commonwealth's plan of capital expenditures.

217 (5) The long-range transportation plan developed by the secretary of transportation under
218 this section shall ensure that the commonwealth's total 5-year capital expenditures for road and
219 bridge projects across all capital programs for such projects managed by the executive office,
220 excluding competitive grant programs, shall be equitable across the districts established in
221 section 3 of chapter 57. For the purposes of this paragraph, "equitable" shall mean not less than
222 75 per cent of the annual percentage of the total statewide collections of motor vehicle fuel tax
223 generated by each such district; provided, however, that the minimum percentage shall be 85 per
224 cent for districts in which the revenue generated by registered vehicles that have a Fast Lane
225 transponder exceeds the average revenue generated by registered vehicles that have a Fast Lane
226 transponder in districts statewide.

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

230 Section 19A. (a) The executive office shall take such steps as may be necessary to
231 provide for the development, promotion, preservation and improvement of an adequate, safe,
232 efficient and convenient rail system for the movement of passengers. In carrying out the
233 purposes of this section, the executive office shall seek to encourage and develop rail services
234 which promote and maintain the economic well-being of citizens and which preserve the
235 environment and the natural resources.

236 (b) The executive office, or the Massachusetts Surface Transportation Authority acting
237 pursuant to paragraph (6) of subsection (d), shall expend such funds as may be appropriated or
238 otherwise made available for the acquisition, construction, preservation, rehabilitation,
239 reconstruction or other improvement, whether directly, jointly or under contract with other public
240 or private parties, of land and rail rights-of-way and related facilities or equipment, including but
241 not limited to spurs, sidings and bridges, and for such other purposes including, without
242 limitation, planning, engineering and administrative purposes, as maybe incidental thereto;
243 provided, however, that any preservation, rehabilitation, reconstruction or other improvement of
244 land or rail right-of-way and related facilities or equipment shall not be authorized prior to the
245 acquisition of such land, right-of-way and related facilities or equipment.

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

253 for the purpose of property management and maintenance on railroad properties owned by the
254 executive office on behalf of the commonwealth.

255 (c) The executive office or the Massachusetts Surface Transportation Authority, acting
256 pursuant to clause (vi) of subsection (d), may enter into contracts or agreements to provide
257 financial assistance, from such funds as may be provided for such purpose, for all or part of the
258 costs of maintaining rail rights-of-way or related facilities or equipment, or operating rail
259 services in the commonwealth.

260 Such contracts or agreements shall be subject to the following limitations: (i) in
261 determining whether such assistance is necessary or appropriate under this chapter with respect
262 to an operating agreement with a private transportation company, and in determining the terms
263 and conditions under which such assistance shall be given, the secretary shall review the
264 transportation operations of such company and its affiliates and shall make a finding that such
265 assistance will not permit the applicant company to make more than a reasonable return overall;
266 provided, however, that the criteria for reasonable return overall shall be established by the
267 secretary pursuant to regulations promulgated in accordance with chapter 30A; and

268 (ii) any such assistance shall cover only those services which the secretary determines to
269 be in the public interest.

270 (d) The secretary, in addition to any other powers and duties conferred or imposed upon
271 him by this chapter or any other general or special law, shall have the following powers and
272 duties:

273 (i) to serve as the principal source of rail transportation planning for the commonwealth,
274 and may conduct research, surveys, demonstration projects or studies in cooperation with

275 federal, state, regional or local agencies or appropriate private parties for such purpose; provided,
276 however, the secretary shall be responsible for the preparation of continuing, comprehensive and
277 coordinated rail transportation proposals, plans, programs and projects; provided further, that the
278 secretary shall submit the proposals, plans, programs and projects for review or consideration by
279 other governmental agencies as may be required by law or deemed appropriate by the secretary
280 and shall prepare such plans and programs in coordination with related land use and other
281 development plans, so far as practicable;

282 (ii) to apply for, accept and expend on behalf of the commonwealth, any gift, loan or
283 grant-in-aid from the federal government, any agency or instrumentality thereof, or from any
284 foundation, private corporation, group or person, in furtherance of this section; provided,
285 however, that the secretary shall take all necessary action to secure any federal assistance which
286 is or may become available to the executive office, any administrative unit thereof or authority
287 within the executive office including, without limitation, filing applications for assistance,
288 supervising the expenditure of federal grants or loans and making any determinations and
289 certifications necessary or appropriate to the foregoing; provided further that if any federal law,
290 administrative regulation or practice requires any action relating to such federal assistance to be
291 taken by any department, agency or other instrumentality of the commonwealth other than the
292 executive office, such other department, agency or instrumentality shall take such action;

293 (iii) to make and enter into any contracts or agreements necessary or incidental to the
294 performance and execution of the powers and duties of the executive office under this chapter or
295 any general or special law provided, however that any party, public or private, including, without
296 limitation, federal, state and local agencies, authorities or political subdivisions of the
297 commonwealth, or private corporations or companies, may enter into any such contract or

298 agreement, subject to applicable laws; provided further, that any such contract or agreement, if
299 made with the Massachusetts Surface Transportation Authority, may include provision for the
300 transfer to said authority of appropriations or other funds made available to the executive office
301 under subsections (b) and (c) for the purpose of carrying out such contract or agreement; and
302 provided further, that; any contract or agreement made under this chapter, including, without
303 limitation, contracts or agreements entered into by the executive office of administration and
304 finance pursuant to said subsection (c), shall include such provisions, terms or conditions as the
305 secretary of transportation may deem necessary or appropriate;

306 (iv) to acquire by eminent domain under chapter 79, or by purchase, gift, devise, transfer,
307 lease or otherwise, or to hold, lease, pledge, otherwise deal with, transfer, sell or dispose of real
308 and personal property;

309 (v) to exercise all powers and do all acts or things necessary to carry out this section; and

310 (vi) without limitation of the foregoing, to delegate to the Massachusetts Surface
311 Transportation Authority, on such terms and conditions as the secretary may prescribe, any
312 power or duty conferred or imposed upon him by this section; provided, however; that any such
313 delegation shall be in writing.

314 (e) (1) To the extent not inconsistent with federal law, no railroad company which
315 conducts or has conducted operations within the commonwealth shall sell, transfer or otherwise
316 dispose of railroad rights-of-way or related facilities without first offering such rights-of-way or
317 facilities for sale, transfer or disposition to either the executive office, acting on behalf of the
318 commonwealth, or such other department, authority, agency or political subdivision of the
319 commonwealth as may be designated by the executive office for the purpose of any such sale,

320 transfer or disposition; provided, however, that such sale, transfer or disposition may be made by
321 the railroad company to a party other than the executive office or its designee, but only if:

322 (i) the executive office or its designee has notified the railroad company in writing of its
323 rejection of such offer; or

324 (ii) 90 calendar days have elapsed from the date on which such offer or a copy of such
325 offer, as provided in paragraph (2), is made to the executive office.

326 (2) A railroad company shall make the offer required in paragraph (1) in writing and shall
327 send such offer by certified mail to the secretary or his designee. In the event that such offer is
328 made to a designee, a notarized copy of such offer shall be sent by certified mail to the secretary.
329 Any such offer shall include the price at which the company proposes to offer such rights-of-way
330 or facilities to the commonwealth, and such other terms or conditions which the company
331 proposes to include as part of such sale, transfer or disposition. The secretary or his designee
332 shall notify such railroad company in writing and by certified mail of its acceptance or rejection
333 of the offer within 90 calendar days of receipt of such offer and, in the event that the secretary's
334 designee sends such notice, the designee shall also send a notarized copy of such notice to the
335 secretary. The executive office may notify any person that the conditions provided in clauses (i)
336 and (ii) of paragraph (1) have been satisfied and that the commonwealth has declined to exercise
337 its option to acquire the rights-of-way or facilities as provided in said paragraph (1). Any such
338 notice shall be binding on the commonwealth.

339 (3) A railroad company shall not offer to sell, transfer or otherwise dispose of railroad
340 rights-of-way or facilities to any person on terms or conditions more favorable to said person
341 than those offered to the commonwealth.

342 Section 19B. The secretary shall apply for, accept and expend, subject to appropriation,
343 on behalf of the commonwealth, any gift, loan or grant-in-aid from the federal government, or
344 any agency or instrumentality thereof, for demonstration projects and programs as may become
345 available to the commonwealth for the purpose of energy conservation for improved
346 transportation management systems or for improved transportation management systems.

347 SECTION 2A. Section 53 of chapter 7 of the General Laws, as appearing in the 2006
348 Official Edition, is hereby amended by inserting in line 6, after the words, "Turnpike Authority,"
349 the following words:- "the Massachusetts Surface Transportation Authority".

350 SECTION 3. Said section 19 of said chapter 6A, inserted by section 2, is hereby further
351 amended by striking out subsection (b) and inserting in place thereof the following:-

352 (b) The following state agencies shall be within the executive office of transportation: the
353 Massachusetts aeronautics commission; the government center commission established by
354 section 1 of chapter 635 of the acts of 1960; and the registry of motor vehicles. . The
355 Massachusetts Surface Transportation Authority, Massachusetts Bay Transportation Authority,
356 the Massachusetts Port Authority and any duly established regional transportation authority shall
357 also be within the executive office of transportation.

358 SECTION 4. Said section 19 of said chapter 6A, inserted by section 2 is hereby further
359 amended by striking out subsection (b) and inserting in place thereof the following subsection:-

360 (b) The following state agencies shall be within the executive office of transportation: the
361 Massachusetts aeronautics commission; the government center commission established by
362 section 1 of chapter 635 of the acts of 1960; and the registry of motor vehicles. The
363 Massachusetts Surface Transportation Authority, the Massachusetts Port Authority and any duly

364 established regional transportation authority shall also be within the executive office of
365 transportation.

366 SECTION 4A Section 104 of said chapter 6A, inserted by section 3 of chapter 303 of the
367 acts of 2008, is hereby repealed.

368 SECTION 5. Chapter 7 of the General Laws is hereby amended by adding the following
369 14 sections:-

370 Section 57. As used in sections 57 to 70, inclusive, the following words shall have the
371 following meanings, unless the context clearly requires otherwise:- (a) “Affected jurisdiction”,
372 any city or town, or other unit of government within the commonwealth in which all or part of a
373 transportation facility is located or any other public entity directly affected by the transportation
374 facility.

375 “Architectural and engineering services”,: (1) professional services of an architectural or
376 engineering nature, as defined by applicable state law, which are required to be performed or
377 approved by a person licensed, registered or certified to provide such services as described in this
378 definition; (2) professional services of an architectural or engineering nature performed by
379 contract that are associated with research, planning, development, design, construction, alteration
380 or repair of real property; and (3) such other professional services of an architectural or
381 engineering nature, or incidental services, which members of the architectural and engineering
382 professions and employees thereof may logically or justifiably perform, including: studies,
383 investigations, surveying, mapping, tests, evaluations, consultations, comprehensive planning,
384 program management, conceptual designs, plans and specifications, value engineering,

385 construction phase services, soils engineering, drawing reviews, preparation of operating and
386 maintenance manuals and other related services.

387 “Authority”, the Massachusetts Surface Transportation Authority.

388 “Construction”, the process of building, altering, repairing, improving or demolishing
389 any transportation facility, including any structure, building or other improvements of any kind
390 to real property. “Construction” shall not include the routine operation, routine repair or routine
391 maintenance of any existing transportation facility, including structures, buildings or real
392 property.

393 “Force majeure”, an uncontrollable force or natural disaster not within the power of the
394 operator or the commonwealth.

395 “Contract”, any agreement, including a public-private agreement for the procurement,
396 operation or disposal under sections 57 to 70, inclusive, of a transportation facility by the
397 authority.

398 “Contract modification”, any written alteration in specifications, delivery point, rate of
399 delivery, period of performance, price, quantity or other provisions of any contract accomplished
400 by mutual action of the parties to the contract.

401 “Contractor”, any person having a contract with the authority under sections 57 to 70,
402 inclusive.

403 “Cooperative purchasing”, procurement conducted by, or on behalf of, an affected
404 jurisdiction.

405 “Design-build-finance-operate-maintain”, a project delivery method in which the
406 authority enters into a single contract for design, construction, finance, maintenance and
407 operation of a transportation facility over a contractually defined period. No public funds shall
408 be appropriated to pay for any part of the services provided by the contractor during the contract
409 period.

410 “Design-build-operate-maintain”, a project delivery method in which the authority enters
411 into a single contract for design, construction, maintenance and operation of a transportation
412 facility over a contractually defined period. All or a portion of the funds required to pay for the
413 services provided by the contractor during the contract period shall either be appropriated by the
414 commonwealth or by the authority prior to award of the contract or secured by the
415 commonwealth or by the authority through fare, toll or user charges.

416 “Design requirements”, the written description of the transportation facility or service to
417 be procured under sections 57 to 70, inclusive, including:

418 (1) required features, functions, characteristics, qualities and properties required by the
419 authority;

420 (2) the anticipated schedule, including start, duration and completion; and

421 (3) estimated budgets as applicable to the specific procurement for design, construction,
422 operation and maintenance; provided, however, that design requirements may, include drawings
423 and other documents illustrating the scale and relationship of the features, functions and
424 characteristics of the project.

425 “Independent peer reviewer services”, additional architectural and engineering services
426 provided to the authority in design-build-operate-maintain or design-build-finance-operate-
427 maintain procurements to confirm that the key elements of the professional engineering and
428 architectural design provided by the contractor are in conformance with the applicable standard
429 of care.

430 “Maintenance”, includes routine operation, routine maintenance, routine repair,
431 rehabilitation, capital maintenance, maintenance replacement and any other categories of
432 maintenance that may be designated by the authority.

433 “Material default”, failure of a contractor to perform any duties under a public-private
434 agreement which jeopardizes delivery of adequate service to the public and remains unsatisfied
435 after a reasonable period of time and after the operator has received written notice from the
436 authority of the failure.

437 “Operate”, any action to operate, maintain, repair, rehabilitate, improve, equip or modify
438 a transportation facility, including the design and construction of repairs, improvements or
439 modifications to a transportation facility.

440 “Operator”, a private entity that has entered into a public-private agreement to provide
441 design-build-finance-operate-maintain or design-build-operate-maintain services under sections
442 57 to 70, inclusive.

443 “Private entity”, a natural person, corporation, general partnership, limited liability
444 company, limited partnership, joint venture, business trust, public benefit corporation, non-profit
445 entity or other business entity.

446 “Proposal development documents”, drawings and other design-related documents that
447 are sufficient to fix and describe the size and character of a transportation facility as to
448 architectural, structural, mechanical and electrical systems, materials, and such other elements as
449 may be appropriate to the applicable project delivery method.

450 “Public-private agreement”, the contract between a private entity and the authority that
451 relates to the development, financing, maintenance or operation of a transportation facility
452 subject to sections 57 to 70, inclusive.

453 “Request for proposals”, all documents, whether attached to or incorporated by
454 reference, utilized for soliciting proposals for a transportation facility under sections 57 to 70,
455 inclusive.

456 “Responsible bidder or offeror”, a person who has the capability in all respects to fully
457 perform the contract requirements, and the integrity and reliability to assure good faith
458 performance.

459 “Responsive bidder”, a person who has submitted a bid which conforms in all material
460 respects to the invitation for bids.

461 “Transportation facility”, new or existing highway, road, bridge, tunnel, overpass, ferry,
462 airport, public transportation facility, terminal facility, vehicle parking facility, seaport facility,
463 rail facility, intermodal facility or similar facility open to the public and used for the
464 transportation of persons or goods, and any building, structure or networks of buildings,
465 structures, pipes, controls and equipment that provide transportation services, including rolling
466 stock and equipment, and any building, structure, parking area, appurtenances or other property
467 needed to operate such facility that is subject to a public-private agreement.

468 “User fees”, the rate, toll, fee or other charges imposed by an operator or by the authority
469 for use of all or part of a transportation facility.

470 “Utility”, a privately, publicly or cooperatively owned line, facility or system for
471 producing, transmitting or distributing communications, cable television, power, electricity,
472 light, heat, gas, oil, crude products, water, steam, waste, storm water not connected with highway
473 drainage, or any other similar commodity, including any fire or police signal system or street
474 lighting system, which directly or indirectly serves the public.

475 Section 58. (a) Notwithstanding any general or special law to the contrary, the board of
476 directors of the authority, in conjunction with the special public-private partnership infrastructure
477 oversight commission established in section 70, may solicit proposals enter into contracts for
478 design-build-finance-operate-maintain or design-build-operate-maintain services with that
479 responsible and responsive offeror submitting the proposal that is most advantageous to the
480 authority through the sale, lease, operation and maintenance of a transportation facility within the
481 commonwealth; provided, however, that such proposal shall be in full compliance with all
482 applicable requirements of federal, state and local law, including section 26 to 27H, inclusive, of
483 chapter 149; provided further, that any such contract shall not be subject to the competitive bid
484 requirements set forth in sections 38A½ to 38O, inclusive, section 39M of chapter 30, or sections
485 44A to 44M, inclusive, of chapter 149; and provided further, that each such contract shall be
486 awarded pursuant to chapter 30B except for clause (3) of paragraph (b) and paragraphs (e) and
487 (g) of section 6, clause (4) of section 13 and section 16 of said chapter 30B.

488 (b) (1) In soliciting and selecting a private entity with which to enter into a public-private
489 agreement for design-build-finance-operate-maintain or design-build-operate-maintain services,
490 the authority shall utilize the following competitive sealed proposals procurement approach:

491 (2) each request for proposals for design-build-operate-maintain and design-build-
492 finance-operate-maintain services:

493 (A) shall include design requirements;

494 (B) shall solicit proposal development documents; and

495 (C) may, if the authority determines that the cost of preparing proposals is high,
496 considering the size, estimated price and complexity of the procurement:

497 (i) prequalify offerors by issuing a request for qualifications in advance of the request for
498 proposals; and

499 (ii) select a short list of responsible offerors prior to discussions and evaluations,
500 provided that the number of proposals that will be short-listed is stated in the request for
501 proposals and prompt public notice is provided to all offerors as to which proposals have been
502 short-listed; or

503 (iii) pay stipends to unsuccessful offerors; provided, however, that the amount of such
504 stipends and the terms under which such stipends shall be paid shall be included in the request
505 for proposals;

506 (3) adequate public notice of the request for proposals shall be provided;

507 (4) proposals shall be opened so as to avoid disclosure of contents to competing offerors
508 during the process of negotiation and a register of proposals shall be prepared by the authority
509 and shall be open for public inspection after contract award; and

510 (5) (A) The request for proposals shall state the relative importance of price and other
511 factors and subfactors, if any.

512 (B) Each request for proposals for design-build-operate-maintain and design-build-
513 finance-operate-maintain:

514 (i) shall state the relative importance of: (1) demonstrated compliance with the design
515 requirements; (2) offeror qualifications; (3) financial capacity; (4) project schedule; (5)
516 elimination of existing public debt with respect to the transportation facility; (6) lowest user
517 charges or price over the term of the design-build-operate-maintain and design-build-finance-
518 operate-maintain contract; and (7) other factors, if any;

519 (ii) shall, if the contract price is estimated to exceed \$10,000,000, if the contract period of
520 operations and maintenance is 5 years or longer, or if circumstances established by the authority,
521 require each offeror to identify an independent peer reviewer whose competence and
522 qualifications to provide such services shall be an additional evaluation factor in the award of the
523 contract; and

524 (iii) shall not include, as an evaluation factor in the award of the contract, the amount, if
525 any, paid by a contractor to the authority for procurement using design-build-operate-maintain
526 and design-build-finance-operate-maintain .

527 (6) As provided in the request for proposals, and under regulations issued by the
528 authority, discussions may be conducted with responsible offerors who submit proposals
529 determined to be reasonably susceptible of being selected for award for the purpose of
530 clarification to assure full understanding of, and responsiveness to, the solicitation requirements.
531 Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussion
532 and revision of proposals, and such revisions may be permitted after submissions and prior to
533 award for the purpose of obtaining best and final offers. In conducting discussions, there shall be
534 no disclosure of any information derived from proposals submitted by competing offerors.

535 (7) Award shall be made to the responsible offeror whose proposal conforms to the
536 solicitation and is determined in writing to be the most advantageous to the acquiring agency,
537 taking into consideration the price and the evaluation factors set forth in the request for
538 proposals. No other factors or criteria shall be used in the evaluation. The contract file shall
539 contain the basis upon which the award is made. Written notice of the award of a contract to the
540 successful offeror shall be promptly provided to all offerors.

541 (8) The authority may provide debriefings that furnish the basis for the source selection
542 decision and contract award.

543 (c) (1) A private entity may request a review, prior to submission of a solicited proposal,
544 by the authority of information that the private entity has identified as confidential or proprietary
545 to determine whether such information is subject to disclosure under section 10 of chapter 66 or
546 clause twenty-sixth of section 7 of chapter 4.

547 (2) The authority shall take appropriate action to protect confidential or proprietary
548 information that a private entity provides as part of a solicited proposal and that is exempt from

549 disclosure under said section 10 of chapter 66 and said clause twenty-sixth of said section 7 of aid
550 chapter 4.

551 Section 59. (a) The request for proposals shall contain the proposed form of contract or
552 public-private agreement to be executed between the successful offeror and the authority upon
553 award, and shall have been approved as to content and form by the special public-private
554 infrastructure oversight commission and by the authority before the request for proposals is
555 issued, pursuant to section 58. The inspector general and the attorney general shall have 30 days
556 from the receipt of a draft of the proposed form of contract to notify the special public-private
557 infrastructure oversight commission in writing of any material objections to the draft form of
558 contract. Before issuing any request for proposal, the authority shall prepare a written response to
559 reports submitted to it by the special public-private infrastructure oversight commission which
560 response shall state the basis for any substantial divergence between the actions of the authority
561 and the recommendations contained in such reports of said commission. The authority and the
562 successful offeror shall only make non-material changes in the content and form of the public-
563 private agreement contained in the request for proposals.

564 (b) (1) After selecting a solicited or unsolicited proposal for a public-private initiative, the
565 authority shall enter into the public-private agreement for the subject transportation facility with
566 the selected private entity.

567 (2) An affected jurisdiction may be a party to a public-private agreement entered into by
568 the authority and a selected private entity or combination of private entities.

569 (c) A public-private agreement under sections 57 to 70, inclusive, shall provide for the
570 following:

571 (1) the planning, acquisition, engineering, financing, development, design, construction,
572 reconstruction, replacement, improvement, maintenance, management, repair, leasing or
573 operation of a transportation facility including provisions for the replacement and relocation of
574 utility facilities;

575 (2) the term of the public-private agreement, which shall not exceed 50 years without
576 written approval of the governor;

577 (3) the type of property interest, if any, the private entity shall have in the transportation
578 facility;

579 (4) a description of the actions the authority may take to ensure proper maintenance of
580 the transportation facility;

581 (5) whether user fees will be collected on the transportation facility and the basis by
582 which such user fees shall be determined and modified;

583 (6) compliance with applicable Federal, state and local laws;

584 (7) grounds for termination of the public-private agreement by the authority or operator;

585 (8) procedures for amendment of the agreement by mutual agreement and for changes in
586 the agreement by written order from the authority.

587 (9) review and approval by the authority of the operator's plans for the development and
588 operation of the transportation facility;

589 (10) inspection by the authority and the independent peer reviewer of the design and
590 construction of, or improvements to, the transportation facility;

591 (11) maintenance by the operator of a policy of liability insurance or self-insurance
592 reasonably acceptable to the authority;

593 (12) filing by the operator, on a periodic basis, of appropriate financial statements in a
594 form acceptable to the authority;

595 (13) filing by the operator, on a periodic basis, of traffic reports, service quality standards
596 as defined in section 3 of chapter 81D, ridership reports, on time performance reports, or other
597 reports identified by the authority, in a form acceptable to the authority;

598 (14) financing obligations of the operator and the authority;

599 (15) apportionment of expenses between the operator and the authority;

600 (16) the rights and duties of the operator, the authority, and other state and local
601 governmental entities with respect to use of the transportation facility;

602 (17) the rights and remedies available in the event of default or delay;

603 (18) the terms and conditions of indemnification of the operator by the authority, as
604 required by applicable law;

605 (19) assignment, subcontracting or other delegation of responsibilities of the operator or
606 the authority under the agreement to third parties, including other private entities and other state
607 agencies;

608 (20) sale or lease to the operator of private property related to the transportation facility;

609 (21) if, and how, the parties shall share costs of development of the project;

- 610 (22) if, and how, the parties shall allocate financial responsibility for cost overruns;
- 611 (23) liability for nonperformance;
- 612 (24) any incentives for performance;
- 613 (25) any accounting and auditing standards to be used to evaluate progress on the project;
- 614 (26) the operator's plans to obtain a labor and material payment bond, in accordance
615 with section 29 of chapter 149 of the General Laws, covering all construction, reconstruction, or
616 maintenance, including capital maintenance, work of the project and require the payment of
617 prevailing wages for labor performed on the project in accordance with sections 26 to 27H,
618 inclusive, of said chapter 149;
- 619 (27) the operator's plans for labor harmony for the entire term of the agreement,
620 including construction, reconstruction and capital and routine maintenance and adequate
621 remedies to address the operator's failure to maintain labor harmony which shall include, but not
622 be limited to, assessment of liquidated damages and contract termination.
- 623 (28) traffic enforcement and other policing issues, subject to section 66 including any
624 reimbursement by the private entity for such services; and
- 625 (29) other terms and conditions.

626 Section 60. Upon the end of the term of the public-private agreement or in the event of
627 termination of the public-private agreement, the authority and duties of the operator shall cease,
628 except for any duties and obligations that extend beyond the termination as provided in the
629 public-private agreement, and all the rights, title and interest in such transportation facility shall
630 revert to the authority and shall be dedicated to the authority for public use.

631 Section 61. (a) Upon the occurrence and during the continuation of a material default by
632 an operator, not caused by an event of force majeure, and upon the failure by the contractor or its
633 financing institution on the contractor's behalf, to cure such material default within 30 days of
634 written notice of such default by the authority, the authority may:

635 (1) elect to take over the transportation facility, including the succession of all right, title
636 and interest in the transportation facility; and

637 (2) terminate the public-private agreement and exercise any other rights and remedies
638 available.

639 (b) In the event that the authority elects to take over a transportation facility under
640 subsection (a), the authority:

641 (1) shall make interim payments, on behalf of the contractor and for the contractor's
642 account, of any amounts subject to a mechanics lien law of the commonwealth;

643 (2) may develop and operate the transportation facility, impose user fees for the use of the
644 transportation facility, and comply with any service contracts; and

645 (3) may solicit proposals for the maintenance and operation of the transportation facility
646 under section 58.

647 Section 62. (a) (1) The authority may issue and sell bonds or notes of the authority for the
648 purpose of providing funds to carry out sections 57 to 70, inclusive, with respect to the
649 development, financing or operation of a transportation facility or the refunding of any bonds or
650 notes, together with any costs associated with the transaction.

651 (2) Any bond or note issued under this section:

652 (A) constitutes the corporate obligation of the authority;

653 (B) shall not constitute a debt of the commonwealth within the meaning or application of
654 the constitution of the commonwealth; and

655 (C) shall be payable solely as to both principal and interest from:

656 (i) the revenues from a lease to the authority, if any;

657 (ii) proceeds of bonds or notes, if any;

658 (iii) investment earnings on the proceeds of bonds or notes; or

659 (iv) other funds available to the authority for such purpose.

660 (b) (1) For the purpose of financing a transportation facility, the authority and operator
661 may apply for, obtain, issue and use private activity bonds available under any Federal law or
662 program.

663 (2) Any bonds, debt, other securities or other financing issued for the purposes of sections
664 57 to 70, inclusive, shall not be considered a debt of the commonwealth or any political
665 subdivision thereof state or a pledge of the faith and credit of the state or any political
666 subdivision of the commonwealth.

667 (c) Nothing in this section shall limit a local government or any authority of the
668 commonwealth to issue bonds for transportation projects.

669 Section 63. (a) (1) The authority may accept from the United States or any of its agencies
670 funds that are available to the commonwealth for carrying out sections 57 to 70, inclusive,
671 whether the funds are made available by grant, loan or other financial assistance.

672 (2) The authority may enter into agreements or other arrangements with the United States
673 or any of its agencies as may be necessary for carrying out the purposes of sections 57 to 70,
674 inclusive.

675 (b) The authority may accept from any source any grant, donation, gift, or other form of
676 conveyance of land, money, other real or personal property, or other item of value made to the
677 commonwealth or the authority for carrying out the purpose of sections 57 to 70, inclusive.

678 (c) Any transportation facility may be financed in whole or in part by contribution of any
679 funds or property made by any private entity or affected jurisdiction that is party to a public-
680 private agreement under sections 57 to 70, inclusive.

681 (d) The authority may combine Federal, state, local and private funds to finance a
682 transportation facility under sections 57 to 70, inclusive.

683 Section 64. (a) Section 9 of chapter 81B shall apply to:

684 (1) a transportation facility; and

685 (2) tangible personal property used exclusively with a transportation facility that is:

686 (A) owned by the authority and leased, licensed, financed or otherwise conveyed to an
687 operator; or

688 (B) acquired, constructed or otherwise provided by an operator on behalf of the authority.

689 Section 65. The authority may exercise the power of eminent domain to acquire
690 property, rights of way or other rights in property for transportation projects that are part of a

691 public-private agreement for design-build-finance-operate-maintain or design-build-operate-
692 maintain services.

693 Section 66. (a) Law enforcement officers of the commonwealth and of an affected local
694 jurisdiction shall have the same powers and jurisdiction within the limits of a transportation
695 facility as they have in their respective areas of jurisdiction and access to the transportation
696 facility at any time for the purpose of exercising such powers and jurisdiction.

697 (b) The traffic and motor vehicle laws of the commonwealth and, if applicable, any local
698 by-laws or ordinances shall apply to a transportation facility.

699 Section 67. An operator under sections 57 to 70, inclusive, and any utility whose facility
700 is to be crossed or relocated shall cooperate fully in planning and arranging the manner of the
701 crossing or relocation of the utility facility. This section shall not limit or otherwise affect the
702 right of such utility to compensation for such relocation to the extent provided by law.

703 Section 68. Nothing in sections 57 to 70, inclusive, shall limit any waiver of the
704 sovereign immunity of the commonwealth or any officer or employee of the commonwealth with
705 respect to the participation in or approval of all or any part of the transportation facility or its
706 operation.

707 Section 69. The authority may adopt rules and regulations to carry out sections 57 to 70,
708 inclusive.

709 Section 70. There shall be established a special public-private partnership infrastructure
710 oversight commission to comment on and approve all requests for proposals for design-build-
711 finance-operate-maintain or design-build-operate-maintain services, pursuant to section 59.

712 The commission shall have 7 members, none of whom shall be employees of the
713 executive branch or members or employees of the legislature for a period of at least 2 years prior
714 to his appointment. The commission shall include: 4 members to be appointed by the governor, 1
715 of whom shall be a representative from the Massachusetts Organization of State Engineers and
716 Scientists and 3 of whom shall reside in different geographic regions of the commonwealth, for
717 terms of 2 years; 1 member to be appointed by the president of the senate for a term of 2 years; 1
718 member to be appointed by the speaker of the house of representatives for a term of 2 years; 1
719 member to be appointed by the state treasurer, but who shall not be an employee thereof, for a
720 term of 2 years. Each member of the commission shall be an expert with experience in the fields
721 of transportation law, public policy, public finance, management consulting, transportation or
722 organizational change; provided, however, that one of the members appointed by the governor
723 shall be an expert in the field of public finance, 1 member appointed by the governor shall be an
724 expert in the field of transportation and 1 member appointed by the governor shall be the
725 president of the Massachusetts AFL-CIO, or his designee. One of the members shall be
726 appointed by the governor to serve as chairperson of the commission. The members appointed by
727 the governor may be eligible for reappointment; provided, however, that no such member shall
728 serve for more than 3 terms. No member shall have served as a legislative agent for the period of
729 5 years prior to his appointment.

730 No director shall have been a registered legislative agent, as defined in section 39 of
731 chapter 3 for a period of at least 5 years prior to his appointment, no director shall have been a
732 member or employee of the general court or an employee of the executive branch for a period of
733 2 years prior to his appointment, and no director shall have been employed by an organization

734 that has business before the authority, or any predecessor agency or authority, for a period of at
735 least 2 years prior to his appointment.

736 Whenever the authority notifies the commission of its intent to issue a request for
737 proposal for design-build-finance-operate-maintain or design-build-operate-maintain services,
738 the authority shall submit a draft of the request for proposal to the commission for its review and
739 approval. As provided in section 58, no request for proposal shall be issued by the authority for
740 a public-private agreement for design-build-finance-operate-maintain or design-build-operate-
741 maintain services without the commission's written approval. The commission shall provide an
742 initial written response to the request for proposal within 15 days.

743 For each request for proposal for design-build-finance-operate-maintain or design-build-
744 operate-maintain services, the commission shall report on issues surrounding the request for
745 proposal, including, but not limited to: (1) the status of current employees; (2) the policy and
746 regulatory structure for overseeing a privately operated transportation facility and on-going
747 legislative oversight; (3) issues of taxation, profit-sharing and resolution of new revenue
748 producing ideas; (4) advertising and marketing; (5) use of new technologies; (6) lease terms and
749 termination clauses; (7) additional responsibilities by both the private infrastructure operator and
750 the commonwealth during the lease period; (8) the financial valuation of the commonwealth
751 transportation facility; and (9) the anticipated advantages of entering into the anticipated public-
752 private agreement for design-build-finance-operate-maintain or design-build-operate-maintain
753 services.

754 The report shall be delivered within 30 days of the commission's approval of a request
755 for proposal for design-build-finance-operate-maintain or design-build-operate-maintain services

756 to the secretary for administration and finance, the house committee on ways and means, the
757 senate committee on ways and means, the chairmen of the joint committee on transportation, and
758 the state auditor.

759 In order to submit the commission's written approval of a request for proposal for design-
760 build-finance-operate-maintain or design-build-operate-maintain services to the state auditor, the
761 commission's process shall be sufficient to satisfy the requirements of sections 52 to 55,
762 inclusive.

763 Whenever the comments and recommendations of the state auditor are required for any
764 action by the authority, under sections 52 to 55, inclusive, of chapter 7, that approval shall be
765 deemed to have been granted within 30 days of submission thereof, unless the state auditor has
766 communicated his disapproval to the authority, in writing. The state auditor's report shall
767 include reasons why such proposed request for proposal is financially detrimental to the
768 commonwealth and how the commission erred in its findings.

769 Any research, analysis or other staff support that the commission reasonably requires
770 shall be provided by the Massachusetts Surface Transportation Authority.

771 SECTION 6. Chapter 10 of the General Laws is hereby amended by striking out section
772 35T, as appearing in the 2006 Official Edition, and inserting in place thereof the following
773 section:-

774 Section 35T. As used in this section, the following words shall have the following
775 meanings, unless the context otherwise requires:-

776 “Base revenue amount”, for fiscal year 2001 the amount of \$645,000,000, and for each
777 fiscal year thereafter the base revenue amount for the prior fiscal year multiplied by the inflation
778 index for the preceding 12 months, as certified by the secretary of administration and finance, in
779 consultation with the department of revenue, on March 1 of each year, beginning on March 1,
780 2001 as set forth in subsection (b); provided, however, that in no year shall the base revenue
781 amount exceed 103 per cent of the base revenue amount applicable for the prior fiscal year;
782 provided further, that if in any year the inflation index is less than 3 per cent but greater than the
783 per cent increase in gross sales tax revenues received pursuant to chapters 64H and 64I in the
784 preceding 12 months, excluding any portion of such taxes imposed on meals as defined in
785 paragraph (h) of section 6 of said chapter 64H, the base revenue amount shall be adjusted by the
786 same percentage increase in such gross sales tax revenues; provided further, that if in any year
787 the per cent increase in such gross sales tax revenues is zero or less, the base revenue amount
788 shall not be adjusted for the subsequent fiscal year.

789 “Dedicated sales tax revenue amount”, all monies received by the commonwealth equal
790 to 1 per cent of the gross receipts of a sale as defined in chapter 64H and 1 per cent of the sales
791 price of a purchase as defined in chapter 64I from that portion of the taxes imposed under said
792 chapters 64H and 64I as taxes upon the sale and use at retail of tangible property or of services,
793 and upon the storage, use or other consumption of tangible property or of services, including
794 interest thereon and penalties, but not including any portion of such taxes imposed on the sale of
795 meals as defined in paragraph (h) of section 6 of said chapter 64H.

796 “Inflation index”, the per cent change in inflation as measured by the per cent change in
797 the consumer price index for all urban consumers for the Boston metropolitan area as determined
798 by the bureau of labor statistics of the United States Department of Labor.

799 (a) There shall be credited to the Surface Transportation Trust Fund established in section
800 35LL: the dedicated sales tax revenue amount: provided, however, that in any fiscal year the
801 amount shall be not less than the base revenue amount as certified pursuant to subsection (b)
802 there shall also be credited all assessments received by the commonwealth pursuant to section 22
803 of chapter 81D.

804 Before the state treasurer disburses funds to the Massachusetts Surface Transportation
805 Authority, the authority shall first certify that it has made provision in its annual budget pursuant
806 to section 21 of chapter 81B for sufficient amounts to be available to meet debt service payments
807 or other payments due under financing obligations including, without limitation, leases,
808 reimbursement obligations, or interest exchange agreements, for which the commonwealth has
809 pledged its credit or contract assistance or is otherwise liable or as to which the authority has
810 covenanted to maintain net cost of service or contract assistance support. Upon such
811 certification, all amounts in the fund shall be available for expenditure by the authority for any
812 lawful purpose including, without limitation, payment of debt service on debt obligations issued
813 by the authority, and may be pledged to secure debt of the authority in such manner and
814 according to such priority as the authority may determine.

815 In order to increase the marketability of any bonds or notes of the authority which may be
816 secured by or payable from amounts held in the fund, the sums credited to the fund in accordance
817 with this subsection shall be impressed with a trust for the benefit of the authority and the
818 holders, from time to time, of any such bonds or notes and, in consideration of the acceptance of
819 payment for any such bonds or notes, the commonwealth covenants with the purchasers and all
820 subsequent holders and transferees of any such bonds or notes that while any such bond or note
821 shall remain outstanding, and so long as the principal of or interest on any such bond or note

822 shall remain unpaid, the sums to be credited to the fund shall not be diverted from the purposes
823 identified herein and, so long as such sums are necessary, as determined by the authority in
824 accordance with any applicable trust agreement, bond resolution or credit enhancement
825 agreement, for the purposes for which they have been pledged, the rates of the excises imposed
826 by said chapters 64H and 64I shall not be reduced below the dedicated sales tax revenue amount
827 or the base revenue amount and the amount to be assessed on cities and towns pursuant to said
828 section 9 of said chapter 161A shall not be reduced below \$136,026,868 per fiscal year.

829 (b) For purposes of determining the amount to be credited to the fund, the secretary shall,
830 on March 1 of each year beginning on March 1, 2001, certify the base revenue amount for the
831 following fiscal year. On March 15 of each year, beginning on March 15, 2001, the secretary
832 shall, after consultation with and based upon projections of the department of revenue, certify
833 whether the dedicated sales tax revenue amount is projected to exceed the base revenue amount
834 for the upcoming fiscal year. If the secretary certifies that the projected dedicated sales tax
835 revenue amount will be less than the base revenue amount, the comptroller shall for the
836 following fiscal year credit to the fund amounts sufficient to meet the base revenue amount. If
837 the secretary certifies that the projected dedicated sales tax revenue amount will exceed the base
838 revenue amount, then the comptroller shall for the following fiscal year credit to the fund the
839 sales tax revenue amount. On November 15 of each year, beginning on November 15, 2001, the
840 secretary shall certify whether the dedicated sales tax revenue amount, as of that date, is
841 projected to exceed the base revenue amount for the current fiscal year. If the secretary certifies
842 that the dedicated sales tax revenue amount is projected to be less than the base revenue amount,
843 then the comptroller shall credit to the fund amounts sufficient to meet the base revenue amount
844 for that fiscal year. If the secretary certifies that the dedicated sales tax revenue amount is greater

845 than the base revenue amount, then the comptroller shall credit to the fund the dedicated sales tax
846 revenue amount. On April 1 of each year, beginning on April 1, 2002, the secretary shall repeat
847 the certification process required on November 15, and the comptroller shall credit the
848 appropriate amount to the fund.

849 SECTION 7. Section 35U of said chapter 10 is hereby repealed.

850 SECTION 8. Chapter 10 of the General Laws is hereby amended by inserting after
851 section 35KK , inserted by section 2 of chapter 442 of the acts of 2008, the following section:-

852 Section 35LL. There is hereby set up on the books of the commonwealth a separate fund
853 to be known as the Surface Transportation Trust Fund. There shall be credited to the fund all
854 fees received by the registrar of motor vehicles pursuant to chapter 90, all tolls collected pursuant
855 to subsection (j) of section 4 of chapter 81B, all contributions and assessments paid into the
856 treasury of the commonwealth by cities, towns or counties for maintaining, repairing, improving
857 and constructing ways, whether before or after the work is completed, all refunds and rebates
858 made on account of expenditures on ways by the department, all receipts paid into the treasury of
859 the commonwealth and directed to be credited to the Surface Transportation Trust Fund under
860 section 35T, chapter 64A, 64E, 64F or any other applicable general or special law, all monies
861 received by the commonwealth in satisfaction of claims by the commonwealth for damage to
862 highway safety signs, signals, guardrails, curbing and other highway related facilities, and all
863 receipts received by the state treasurer under the provisions of section 8 of chapter 10 on behalf
864 of the registrar or for other surface transportation, as defined herein.

865 Before amounts are credited to the fund, all fees received from the issuance of veterans
866 plates, pursuant to section 2 of chapter 90, in excess of the fees set for the registration of the

867 motor vehicle shall be paid by the registrar into the General Fund. Remaining revenues shall
868 then be used, subject to appropriation;

869 (1) to carry out the laws relative to the use and operation of motor vehicles and trailers
870 and for expenses authorized to administer the law relative to the taxation of the sales of gasoline
871 and certain other motor vehicle fuel; and

872 (2) \$2 from each motorcycle registration fee shall be paid by the registrar or by the
873 person collecting the registration fee into the General Fund and shall be appropriated solely for
874 the purpose of promoting and advancing motorcycle safety.

875 The balance then remaining in the General Fund from the collection of such fees shall be
876 transferred to the fund. Annual receipts into the fund on account of any fiscal year shall be
877 deemed to meet the full obligation of the commonwealth to the Massachusetts Surface
878 Transportation Authority for such fiscal year. Amounts in the fund shall be held by the state
879 treasurer or his designee as trustee and not on account of the commonwealth, and the state
880 treasurer shall disburse amounts in the fund to the authority, without further appropriation, upon
881 the request, from time to time, of the executive director of the authority.

882 The authority shall use the fund:

883 For expenditure, under the direction of the authority, for maintaining, repairing,
884 improving and constructing municipal and county ways and bridges, sidewalks adjacent to such
885 ways and bridges, bikeways and other projects eligible for funding as a transportation
886 enhancement project as described in the Intermodal Surface Transportation Efficiency Act of
887 1991, P.L. 102-240, salt storage sheds, bikeways and public use off-street parking facilities
888 related to mass transportation, for engineering services and expenses related to highway

889 transportation enhancement and mass transportation purposes, for care, repair, storage,
890 replacement, purchase and long-term leasing of road building machinery, equipment and tools,
891 for the erection and maintenance of direction signs and warning signs and for necessary or
892 beneficial improvements to unpaved municipal and county ways together with any money which
893 any municipality or county may appropriate for such purposes to be used on the same ways,
894 sheds, bikeways, bridges, machinery, equipment, tools and facilities. Such engineering services,
895 including surveying services, shall be performed by only architectural, engineering or surveying
896 firms prequalified by the authority; provided, however, that a municipality may seek a waiver of
897 this requirement from the authority if the municipality demonstrates to the satisfaction of the
898 authority that it is cost prohibitive to use a prequalified firm. Such ways, sheds, bikeways,
899 bridges, machinery, equipment, tools and facilities shall remain town or county ways, sheds,
900 bikeways, bridges, machinery, equipment, tools and facilities. No revenue credited to the fund
901 shall be transferred from the fund to any other fund of the commonwealth for any other purpose.
902 The authority shall withhold or withdraw the unexpended balance of any funds assigned by it
903 under this subdivision if the municipality fails to comply with the official standards for traffic
904 control established by the authority or with any provision of a traffic control agreement
905 negotiated between the authority and a municipality, as required by the United States Secretary
906 of Commerce under section 109 of Title 23 of the United States Code.

907 (b) for expenditure, under the direction of the authority, for maintaining, repairing and
908 improving state highways and bridges, including highways and bridges managed until July 1,
909 2009 by the department of conservation and recreation, the turnpike and the metropolitan
910 highway system, all as defined in chapter 81B;

911 (c) for expenditure, under the direction of the authority, in addition to federal aid
912 payments received under section 49 of chapter 81C, for construction of state highways;

913 (d) for expenditure, under the direction of the authority, for engineering services and
914 expenses, for care, repair, storage, replacement and purchase of road building machinery and
915 tools, for snow removal, for the erection and maintenance of direction signs and warning signs
916 and for the care of shrubs and trees on state highways, and for expenses incidental to the
917 foregoing or incidental to the purposes specified in subdivisions (a), (b) or (c) of this clause;

918 (e) to meet interest, sinking fund and serial payments on all debts paid from highway
919 fund receipts before July 1, 2009, including those paid in accordance with section 20 of chapter
920 29.

921 (g) for contributions to regional transit authorities under section 23 of chapter 161B;

922 (h) for expenditure for the operations of the division of public transit of the authority

923 (i) for expenditure, under the direction of the authority, for infrastructure improvements
924 in mass transportation facilities throughout the commonwealth; and

925 (j) for expenditures to meet any remaining assistance requirements from the
926 commonwealth to the Route 3 North Transportation Improvements Association outstanding as of
927 July 1, 2009; provided that no new pledges of additional assistance to said Association shall be
928 incurred after July 1, 2009.

929 Except as provided herein, revenues credited to the fund shall not be transferred to any
930 other fund of the commonwealth for any purpose.

931 SECTION 9. Section 63 of said chapter 10 of the General Laws is hereby repealed.

932 SECTION 9A. Subsection (a) of section 63A of chapter 10 of the General Laws is
933 hereby amended by striking out the second sentence and inserting in place thereof the following
934 sentence:-

935 The executive office of transportation and public works shall disburse monies from the
936 fund solely for the purpose of paying the costs of, or reimbursing the commonwealth or the
937 Massachusetts Turnpike Authority or any successor agency or authority for costs incurred in
938 connection with, repairs and maintenance of the central artery and the Ted Williams tunnel, as
939 those terms are defined in section 3 of chapter 81B, if such repairs and maintenance relate to
940 conditions not caused by ordinary or routine wear and tear.

941 SECTION 10. Sections 1 to 4B, inclusive, and sections 13 and 14 of chapter 16 of the
942 General Laws are hereby repealed.

943 SECTION 10A. Sections, 4C, 4D, 4E, 4F, and 4G of said chapter 16, inserted by section
944 6 of chapter 303 of the acts of 2008 are hereby repealed.

945 SECTION 11. Section 1 of chapter 21 of the General Laws, as appearing in the 2006
946 Official Edition, is hereby amended by striking out in lines 33 and 36 the word “parkways” each
947 time it appears.

948 SECTION 12. Section 11A of chapter 21A of the General Laws, as so appearing, is
949 hereby amended by striking out in line 6 the words “commissioner of highways” and inserting in
950 place thereof the following words:- administrator of roads and bridges.

951 SECTION 13. Section 3I of chapter 23A of the General Laws is hereby amended by
952 inserting after the words “Authority”, each time it appears, the following words:- or any
953 successor agency,

954 SECTION 14. Section 2O of chapter 29 of the General Laws is hereby repealed.

955 SECTION 14 1/2. Subsection (a) of section 39M1/2 of chapter 30 of the General Laws,
956 inserted by section 12 of chapter 303 of the acts of 2008, is hereby amended by striking out the
957 definition of “Major contract” and inserting in place thereof the following definition:-

958 “Major contract”, a contract by which the commonwealth or any of its public agencies or
959 authorities is to procure the construction, repair or rehabilitation of a publicly-owned highway,
960 railway, bridge, tunnel, building platform or any component thereof and for which the certified
961 estimate of cost exceeds \$50,000,000 , or a contract or lease by which the commonwealth or any
962 of its public agencies or authorities is to procure, directly or indirectly the construction, repair or
963 rehabilitation of a privately-owned, publicly-used highway, railway, bridge, tunnel, building
964 platform or any component thereof.

965 SECTION 14A. Section 1 of chapter 30B of the General Laws is hereby amended by
966 striking out, in line 45, as appearing in the 2006 Official Edition the word ", designers".

967 SECTION 14B. Subsection (b) of said section 1 of said chapter 30B is hereby amended
968 by inserting after clause (32), as so appearing, the following clause:-

969 (32A) contracts with architects, engineers and related professionals;

970 SECTION 14C. Section 2 of said chapter 30B, as so appearing, is hereby amended by
971 inserting before the definition of “Bid” the following definition:-

972 "Architect and engineers, a person performing professional services of an architectural or
973 engineering nature, as defined by law, which are required to be performed or approved by a
974 person licensed, registered or certified to provide such services as described herein; professional
975 services of an architectural or engineering nature performed by contract that are associated with
976 research, planning, development, design, investigations, inspections, tests, evaluations,
977 consultations, program management, value engineering, construction, alteration, or repair of real
978 property and such other professional services of an architectural or engineering nature, or
979 incidental services, which members of the architectural and engineering professions and
980 individuals in their employ may logically or justifiably perform, including studies;
981 investigations; surveying and mapping; soil tests; construction phase services; drawing reviews;
982 evaluations; consultations; comprehensive planning; program management; conceptual designs,
983 plans and specifications; soils engineering; cost estimates or programs; preparation of drawings,
984 plans, or specifications; supervision or administration of a construction contract; construction
985 management or scheduling; preparation of operation and maintenance manuals and other related
986 services.

987 SECTION 14D. Said section 2 of said chapter 30B, as so appearing, is hereby further
988 amended by striking out the definition of "Designer".

989 SECTION 14E. Said section 2 of said chapter 30B, as so appearing, is hereby further
990 amended by inserting after the definition of "Purchase description" the following definition:-

991 "Related professionals", professionals engaged in professional services, including land
992 surveying, landscape architecture, environmental science, planning, and licensed site
993 professionals, which are required to be performed or approved by a person licensed, registered,

994 or certified to provide such services as described herein, including professional services
995 performed by contract that are associated with research, planning, development, design,
996 investigations, inspections, surveying and mapping, tests, evaluations, consultations,
997 comprehensive planning, program management, value engineering, construction, alteration, or
998 repair of real property and such other professional services or incidental services which members
999 of the related professions and individuals in their employ may logically or justifiably perform,
1000 including master plans, studies, surveys, soil tests, cost estimates or programs; preparation of
1001 drawings, plans, or specifications; supervision or administration of a construction contract;
1002 construction management or scheduling; conceptual designs, plans and specifications;
1003 construction phase services, soils engineering, drawing reviews, cost estimating, preparation of
1004 operation and maintenance manuals and other related services; provided, however, that nothing
1005 herein shall be construed to constitute regulation or oversight of any designated firms or
1006 identified professional services.

1007 SECTION 14F. Said chapter 30B is hereby further amended by adding the following
1008 section:-

1009 Section 21. (a) For the purposes of this section the following terms shall have the
1010 following meanings:

1011 "Agency", a department, commission, council, board, bureau, committee, institution,
1012 agency, state college or university, government corporation, authority or other establishment or
1013 procurement office of the commonwealth.

1014 "Architectural and engineering services", (i) professional services of an architectural or
1015 engineering nature, as defined by state law, which are required to be performed or approved by a

1016 person licensed, registered or certified to provide those services as described herein; (ii)
1017 professional services of an architectural or engineering nature performed by contract that are
1018 associated with research planning, development, design, investigations, inspections, tests,
1019 evaluations, consultations, program management, value engineering, construction, alteration, or
1020 repair of real property; and (iii) such other professional services of an architectural or
1021 engineering nature, or incidental services, which members of the architectural and engineering
1022 professions and individuals in their employ may logically or justifiably perform, including
1023 studies; investigations; surveying and mapping; soil tests; construction phase services; drawing
1024 reviews; evaluations; consultations; comprehensive planning; program management; conceptual
1025 designs, plan and specifications; soils engineering; cost estimates or programs; preparation of
1026 drawings, plans, or specifications; supervision or administration of a construction contract;
1027 construction management or scheduling; preparation of operation and maintenance manuals and
1028 other related services.

1029 “Firm”, an individual, firm, partnership, corporation, association, or other legal entity
1030 permitted by law to practice the professions of architecture, engineering, land surveying,
1031 landscape architecture, environmental science, planning or program management. “Project”, a
1032 capital improvement project or a design, study, plan, survey or new or existing program activity
1033 of a state agency, including the development of new or existing programs that require
1034 architectural, engineering or related professional services, but shall not include a public building
1035 construction project undertaken under section 149 or 149A of chapter 7.

1036 “Related Professional Services”, (i) professional services, including land surveying,
1037 landscape architecture, environmental science and planning, which are required to be performed
1038 or approved by a person licensed, registered, or certified to provide such services as described

1039 herein; (ii) professional services performed by contract that are associated with research,
1040 planning, development, design, investigations, inspections, surveying and mapping, tests,
1041 evaluations, consultations, comprehensive planning program management, value engineering,
1042 construction, alteration or repair of real property; and (iii) such other professional services, or
1043 incidental services, which members of the related professions as described herein and individuals
1044 in their employ may logically or justifiably perform, including master plans, studies, surveys,
1045 soil tests, cost estimates or programs; preparation of drawings, plans or specifications
1046 supervision or administration of a construction contract; construction management or scheduling;
1047 conceptual designs, plans and specifications; construction phase services, soils engineering,
1048 drawing reviews, cost estimating, preparation of operation and maintenance manuals, and other
1049 related services; provided, however, that nothing herein shall be construed to constitute a
1050 regulation or oversight of any designated firms or identified professionals' services.

1051 (b) For those agencies that prequalify architectural, engineering, and related services, the
1052 agency head shall encourage firms engaged in the lawful practice of their profession to submit
1053 annually a statement of qualifications and performance data.

1054 (c) Whenever a project requiring architectural, engineering, or related professional
1055 services is proposed for a state agency, the agency shall provide no less than 14 days advance
1056 notice published in a professional services bulletin or advertised on the official state agency
1057 website setting forth the projects and services to be procured. The professional services bulletin
1058 shall be made available to each firm that requests the information. The professional services
1059 bulletin shall include a description of each project and shall state the time and place for an
1060 interested firm to submit a letter of interest and, if required by the public notice, a statement of

1061 qualifications. If the agency determines that a sole source selection of a qualified firm is in the
1062 best interest of the agency, then the public notice provisions of this subsection shall not apply.

1063 (d) An agency shall evaluate the firms' submitting letters of interest and other
1064 prequalified firms, taking into account qualifications, and the agency may consider, but shall not
1065 be limited to considering, ability of professional personnel, past record and experience,
1066 performance data on file, willingness to meet time requirements, location, workload of the firm
1067 and any other qualifications based on factors that the agency may determine in writing are
1068 applicable. The agency may conduct discussions with and require presentations by firms deemed
1069 to be the most qualified regarding their qualifications, approach to the project and ability to
1070 furnish the required services. In no case shall an agency, prior to selecting a firm for negotiation
1071 seek formal or informal submission of verbal or written estimates of costs or proposals in terms
1072 of dollars, hours required, percentage of construction cost, or any other measure of
1073 compensation.

1074 (e) (1) An agency shall select architects, engineers and related professional firms on the
1075 basis of qualifications for the type of professional services required. An agency may
1076 solicit or use pricing policies and proposals or other pricing information to determine consultant
1077 compensation only after the agency has selected a firm and initiated negotiations with the
1078 selected firm.

1079 (2) The procedures that an agency creates for the screening and selection of firms shall be
1080 within the sole discretion of the agency and may be adjusted to accommodate the agency's scope,
1081 schedule and budget objectives for a particular project. Adjustments to accommodate an agency's
1082 objectives may include provision for the direct appointment of a firm if the value of the project

1083 does not exceed \$25,000, or if the agency determines that a sole source selection of a qualified
1084 firm is in the best interest of the agency and the project is not publicly advertised.

1085 (3) The decision of an agency that has complied with this chapter shall be final and
1086 binding.

1087 (f) (1) The agency and the selected firm shall discuss and refine the scope of services for
1088 the project and shall negotiate conditions including, but not limited to, compensation level and
1089 performance schedule based on scope of services. The compensation level paid shall be
1090 reasonable and fair to the agency as determined solely by the agency. In making such
1091 determination, the agency shall take into account the estimated value of the services to be
1092 rendered, the scope, complexity, and professional nature thereof.

1093 (2) If the agency and the selected firm are unable for any reason to negotiate a contract at
1094 a compensation level that is reasonable and fair to the agency, the agency shall, in writing,
1095 formally terminate negotiations with the selected firm. The agency shall then negotiate with the
1096 second ranked most qualified firm. The negotiation process shall continue in this manner through
1097 successive ranked firms until an agreement is reached or the agency terminates the consultant
1098 contracting process.

1099 (g) This chapter shall not apply to architectural, engineering and related professional
1100 services contracts of less than \$25,000 or sole source contracts that are awarded to a qualified
1101 firm as determined to be in the best interest of the agency, where only 1 firm has been solicited
1102 regarding the project and the project is not publicly advertised.

1103 (h) This chapter shall not apply to the procurement of architectural, engineering, and
1104 related professional services by agencies: (i) when an agency determines in writing that it is in

1105 the best interest of the state to proceed with the immediate selection of a firm: or (ii) in
1106 emergencies when immediate services are necessary to protect the public health and safety
1107 including, but not limited to, earthquake, tornado, storm, or natural or man-made disaster.

1108 (i) Each agency shall evaluate the performance of each firm upon completion of a
1109 contract. That evaluation shall be made available to the firm which may submit a written
1110 response, with the evaluation and response retained solely by the agency. The evaluation and
1111 response shall not be made available to any other person or firm shall be exempt from disclosure
1112 under section 10 of chapter 66.

1113 (j) Each contract for architectural, engineering, and related professional services by an
1114 agency shall contain a certificate signed by a representative of the agency and the firm that each
1115 has complied with this chapter.

1116 SECTION 15. Chapter 64A of the General Laws is hereby amended by striking out
1117 section 13, as appearing in section 4 of chapter 233 of the acts of 2008, and inserting in place
1118 thereof the following section:-

1119 Section 13. All sums received from the excise imposed on aviation fuel, and related
1120 penalties, forfeitures, interest, costs of suits and fines, less all amounts for reimbursement under
1121 sections 7 and 7A, shall be credited to the Surface Transportation Trust Fund, established in
1122 section 35LL of chapter 10, and may be used for airport development projects approved and
1123 carried out at airports and landing facilities under 49 U.S.C. App. s 2210; and all other sums
1124 received under the excise imposed in section 4, and relative penalties, forfeitures, interest, costs
1125 of suits and fines, less all amounts for reimbursement under said sections 7 and 7A, shall be
1126 credited to the Surface Transportation Trust Fund to be used for transportation-related purposes.

1127 SECTION 16. Chapter 64E of the General Laws is hereby amended by striking out
1128 Section 13, as appearing in the 2006 Official Edition, and inserting in place thereof the
1129 following section:-

1130 Section 13. All sums received under this chapter as excises, penalties, forfeitures,
1131 interest, costs of suits and fines shall be credited to the Surface Transportation Trust Fund,
1132 established in section 35KK of chapter 10, to be used for transportation-related purposes.

1133 SECTION 17. Chapter 64F is hereby amended by striking out section 14, as appearing in
1134 the 2006 Official Edition, and inserting in place thereof the following section:-

1135 Section 14. All sums received under this chapter as excises, penalties, forfeitures,
1136 interest, costs of suits and fines shall be credited to the Surface Transportation Trust Fund,
1137 established in section 35KK of chapter 10, to be used for transportation-related purposes.

1138 SECTION 18. Chapter 81 of the General Laws is hereby repealed.

1139 SECTION 19. Chapter 81A of the General Laws is hereby repealed.

1140 SECTION 20. The General Laws are hereby amended by inserting after chapter 81A the
1141 following 2 chapters:-

1142 Chapter 81B

1143 THE MASSACHUSETTS SURFACE TRANSPORTATION AUTHORITY

1144 Section 1. There is hereby created a body politic and corporate to be known as the
1145 Massachusetts Surface Transportation Authority which, shall be within the executive office of
1146 transportation, but not under the supervision and regulation of said executive office or any other

1147 department, commission, board, bureau or agency, except as specifically provided in any general
1148 or special law to the contrary. The authority may subject to the provisions of this chapter, to
1149 own, construct, maintain, repair, reconstruct, improve, rehabilitate, finance, refinance, use,
1150 police, administer, control and operate the state highway system and the turnpike.

1151 The authority is hereby constituted a public instrumentality. The exercise by the
1152 authority of the powers conferred by this chapter shall be deemed and held to be the performance
1153 of an essential governmental function. Section 3 of chapter 12 shall apply to the authority.

1154 Section 2. The authority shall be managed by a board of 11 directors, 1 of whom shall be
1155 the secretary of transportation who shall serve as chairman of the board and 10 of whom shall be
1156 appointed by the governor. No director shall be additionally compensated for such service.

1157 None, except for the foregoing appointment, shall be members of the general court or employees
1158 of the executive branch or employees of the legislature. One director shall be selected by the
1159 governor from a list of 3 candidates proposed by the Massachusetts Association of Regional
1160 Transit Authorities; 1 shall be a representative of the service area of the Massachusetts Bay
1161 Transportation Authority, or any successor agency thereof; 1 shall be an expert in the field of
1162 construction of transportation projects; 2 shall be experts in the field of public or private finance
1163 or accounting; 1 shall be a representative of an environmental organization or environmental
1164 public interest group; 1 shall be shall a member of a national or international labor organization;
1165 and 1 shall be an expert in the field of transportation law or organizational change. Not more
1166 than 6 of the 11 directors shall be members of the same political party. Directors shall reside in
1167 different geographic regions of the commonwealth such that at least: 1 director shall reside in
1168 Berkshire, Franklin or Hampshire county; 1 director shall reside in Hampden county; 1 director
1169 shall reside in Worcester county; 1 director shall reside in Middlesex county; 1 director shall

1170 reside in Essex county; 1 director shall reside in Plymouth, Barnstable, Dukes or Nantucket
1171 county; and 1 director shall reside within the turnpike corridor between exits 11A east, at the
1172 interchange with Route 495, and exit 14 at the interchange with Route 128. No director shall
1173 have been a registered legislative agent, as defined in section 39 of chapter 3 of the General
1174 Laws for a period of at least 5 years prior to his appointment, no director shall have been a
1175 member of the general court or employee of the executive branch or of the general court for a
1176 period of 2 years prior to his appointment, and no director shall have been employed by an
1177 organization that has business before the authority, or any predecessor agency or authority, for a
1178 period of at least 2 years prior to his appointment.

1179 Before entering upon the duties of his office, each member of the authority shall take an
1180 oath before the governor to administer the duties of his office faithfully and impartially and a
1181 record of such oath shall be filed in the office of the state secretary.

1182 Except for the chairperson, directors appointed after January 31, 2009 shall serve until
1183 June 30, 2011. After June 30, 2011, 6 directors shall serve a term of 2 years and 5 directors shall
1184 serve a term of 3 years. Any director, except the chairman, may be removed for cause by the
1185 governor. In the event of a vacancy, a successor shall be named in the same manner as the
1186 vacated director and such successor shall serve for the remained of the unexpired term. A
1187 majority of the directors shall constitute a quorum but a majority vote of the entire membership
1188 shall be required to take any particular action. The directors shall meet monthly. The directors
1189 shall serve without pay but each director shall be reimbursed for his actual expenses necessarily
1190 incurred in the performance of his duties.

1191 Section 3 of chapter 12 shall apply to the board of directors. The authority may
1192 indemnify any member, officer or employee from personal expenses or damages incurred,
1193 arising out of any claim, suit, demand or judgment which arose out of any act or omission of
1194 such member, officer or employee, including the violation of the civil rights of any person under
1195 any federal law if, at the time of such act or omission such member, officer or employee was
1196 acting within the scope of his official duties or employment.

1197 Notwithstanding any other provision of this chapter, as soon as a quorum of the board of
1198 directors is appointed, the authority shall undertake the following: (i) appointment of a chief
1199 executive officer whose term of employment shall not extend beyond 5 years at a time; (ii), in
1200 coordination with the secretary of transportation, development of rules and regulations for the
1201 implementation of this chapter; (iii) implement any powers or enact any rule and regulations to
1202 affect the implementation of this chapter. Until the appointment and qualification of the board of
1203 directors of the authority constituting a quorum of the board is achieved, the secretary of
1204 transportation, may assume such rights and powers authorized by this section, with approval of
1205 the Governor, for a period not to exceed 90 days.

1206 Section 3. As used in this chapter, chapter 81C and 81D, the following words shall,
1207 unless the context clearly requires otherwise, have the following meanings:-

1208 “Authority”, the Massachusetts Surface Transportation Authority established by section
1209 1.

1210 “Boston extension”, all roadways and tunnels for vehicular traffic that constitute that
1211 portion of interstate highway route 90 beginning at, and including, the interchange of interstate
1212 highway route 90 and state highway route 128 in the town of Weston and ending in the city of

1213 Boston at the interchange of interstate highway route 90 and interstate highway route 93 and
1214 such additional highway and bridge components as the general court may, from time to time,
1215 determine and including such real property and any improvements thereon, personal property,
1216 equipment, licenses, appurtenances and interests in land acquired or leased in connection with or
1217 incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement,
1218 repair, maintenance or administration of such roadways and tunnels as are necessary for the safe
1219 and efficient operation and maintenance thereof or which are otherwise convenient or desirable
1220 to carry out the purposes of this chapter.

1221 “Callahan tunnel”, the tunnel for vehicular traffic constructed under the provisions of
1222 chapter 598 of the acts of 1958 between the North End section of the city of Boston and the East
1223 Boston section of said city and including such real property and any improvements thereon,
1224 personal property, equipment, licenses, appurtenances and interests in land acquired or leased in
1225 connection with or incident to the construction, ownership, operation, rehabilitation,
1226 reconstruction, improvement, repair, maintenance or administration of such tunnel as are
1227 necessary for the safe and efficient operation and maintenance thereof or which are otherwise
1228 convenient or desirable to carry out the purposes of this chapter.

1229 “Central artery”, all roadways and tunnels for vehicular traffic constructed by the
1230 highway department that constitute that portion of interstate highway route 93 beginning at a
1231 point immediately south of the Southampton street interchange, and continuing to and including
1232 the interchange of interstate highway route 93 and Massachusetts avenue in the South End
1233 section of the city of Boston and continuing to and including the interchange of interstate
1234 highway route 90 and interstate highway route 93 in the South Bay section of the city of Boston,
1235 and continuing to and including the interchange of state highway route 1 and interstate highway

1236 route 93 in the Charlestown section of the city of Boston including, but not limited to the Charles
1237 river crossing portion of interstate highway route 93 and such additional highway and bridge
1238 components as the general court may, from time to time, determine, but excluding the central
1239 artery north area. "Central artery" shall also include such real property and any improvements
1240 thereon, personal property, equipment, licenses, appurtenances and interests in land acquired or
1241 leased in connection with or incident to the construction, ownership, operation, rehabilitation,
1242 reconstruction, improvement, repair, maintenance or administration of such roadways and
1243 tunnels as are necessary for their safe and efficient operation and maintenance thereof or which
1244 are otherwise convenient or desirable to carry out the purposes of this chapter.

1245 "Central artery north area", all roadways and tunnels for vehicular traffic constructed by
1246 the highway department consisting of a portion of state highway route 1 beginning at, but not
1247 including, the southern boundary of the Tobin memorial bridge and continuing to the interchange
1248 of interstate highway route 93 and state highway route 1, including such real property and any
1249 improvements thereon, personal property, equipment, licenses, appurtenances and interests in
1250 land acquired or leased in connection with or incident to the construction, ownership, operation,
1251 rehabilitation, reconstruction, improvement, repair, maintenance or administration of such
1252 roadways and tunnels as are necessary for their safe and efficient operation and maintenance
1253 thereof or which are otherwise convenient or desirable to carry out the purposes of this chapter.

1254 "Chief executive officer", the chief executive officer of the authority, appointed by the
1255 board pursuant to section 4.

1256 "Cost", as applied to any project of the authority any or all costs, whenever incurred, of
1257 carrying out and placing such projects in operation including, without limiting the generality of

1258 the foregoing, amounts for the following: acquisition, construction expansion improvement and
1259 rehabilitation of facilities; acquisition of real or personal property; demolitions and relocations;
1260 labor, materials, machinery and equipment; services of architects, engineers and environmental
1261 and financial experts and other consultants; feasibility studies, plans, specifications and surveys;
1262 interest prior to and during the carrying out of any project and for a reasonable period thereafter;
1263 reserves for debt service or other capital or current expenses; costs of issuance; and working
1264 capital, administrative expenses; legal expenses and other expenses necessary or incidental to the
1265 aforesaid, to the financing thereof and to the issuance therefor of bonds under this chapter.

1266 "Costs of issuance", any amounts payable or reimbursable directly or indirectly by the
1267 authority and related to the sale and issuance of bonds and the investment of the proceeds thereof
1268 and of revenues securing the same including, without limiting the generality of the foregoing,
1269 printing costs, filing and recording fees, fees and charges of trustees, depositories, authenticating
1270 agents and paying agents, legal and auditing fees and charges, financial consultant fees, costs of
1271 credit ratings, premiums for insurance of the payment of bonds and fees payable for letters or
1272 lines of credit or other credit facilities securing bonds, underwriting or placement costs, fees and
1273 charges for execution, transportation and safekeeping of bonds, costs and expenses of refunding
1274 and other costs, fees and charges in connection with the foregoing.

1275 "Current expenses", the authority's current expenses, whether or not annually recurring,
1276 of maintaining, repairing and operating the assets under the possession, custody and control of
1277 the authority and engaging in other activities authorized by this chapter including, without
1278 limiting the generality of the foregoing, amounts for administrative expenses of the authority
1279 including costs of salaries and benefits, as provided in this chapter, cost of insurance, payments
1280 for engineering, financial, accounting, legal and other services rendered to the authority, taxes

1281 upon the authority or its income, operations or property and payments in lieu of such taxes, costs
1282 incurred or payable by the authority with respect to the assets under the possession, custody and
1283 control of the authority, costs of issuance not financed in the cost of a project, and other current
1284 expenses required or permitted by law to be paid by the authority including the funding of
1285 reasonable reserves for upgrading, maintenance, repair, replacements, insurance, emergency
1286 contingencies or operations.

1287 “Division of roads and bridges”, the division of roads and bridges within the authority
1288 established pursuant to chapter 81C.

1289 “Division of public transit”, the division of public transit within the authority established
1290 pursuant to chapter 81D.

1291 “Metropolitan highway system”, the integrated system of roadways, bridges, tunnels,
1292 overpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways,
1293 service stations, restaurants, tourist information centers and administration, storage, maintenance
1294 and other buildings that the authority owns, constructs or operates and maintains pursuant to this
1295 chapter which consists of the Boston extension, the Callahan tunnel, the central artery, the
1296 central artery north area, the Tobin memorial bridge, the Sumner tunnel and the Ted Williams
1297 tunnel and any additional highway, tunnel and bridge components as the general court may, from
1298 time to time, determine.

1299 “Metropolitan highway system revenues”, (i) all rates, fees, tolls, rentals or other charges
1300 and other earned income and receipts as derived from or with respect to the ownership,
1301 operation, lease, rent or other use or disposition of the metropolitan highway system or any part

1302 thereof; and (ii) all other funds received by the authority, from whatever source, relating to the
1303 metropolitan highway system.

1304 “Notes or bonds”, the notes, bonds or other evidences of indebtedness of the authority
1305 issued pursuant to this chapter.

1306 “Massachusetts Port Authority”, the Massachusetts Port Authority established pursuant to
1307 chapter 465 of the acts of 1956.

1308 "Revenues", all charges and other receipts derived by the authority from operation of the
1309 assets under the possession, custody and control of the authority and all other activities or
1310 properties of the authority including, without limiting the generality of the foregoing, proceeds of
1311 grants, gifts or appropriations to the authority, investment earnings and proceeds of insurance or
1312 condemnation, and the sale or other disposition of real or personal property.

1313 “State highway system”, all roadways, bridges, tunnels, overpasses, interchanges, parking
1314 facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
1315 information centers and administration, storage, maintenance and other buildings that the
1316 authority owns, constructs or operates and maintains pursuant to this chapter and any additional
1317 highway, tunnel and bridge components as the general court may from time to time determine.
1318 The term “state highway system” shall include the turnpike.

1319 “State public transit system”, all publicly funded modes of transportation, but not
1320 including roads and bridges.

1321 “Sumner tunnel”, the vehicular tunnel under Boston harbor, heretofore constructed and
1322 financed by the city of Boston under chapter 297 of the acts of 1929, including such real property

1323 and any improvements thereon, personal property, equipment, licenses, appurtenances and
1324 interests in land acquired or leased in connection with or incident to the construction, ownership,
1325 operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of
1326 such tunnel as are necessary for the safe and efficient operation and maintenance thereof or
1327 which are otherwise convenient or desirable to carry out the purposes of this chapter.

1328 “Ted Williams tunnel”, all or any segments of the roadways, bridges, viaducts and
1329 tunnels for vehicular traffic constructed by the highway department that constitute the interstate
1330 highway route 90 extension and its connecting roadways and tunnels, including: (i) the harbor
1331 tunnel crossing beneath Boston harbor, beginning at and including the interchanges of state
1332 highway route 1A and the Logan airport access and egress roadways with interstate highway
1333 route 90 and continuing beneath Boston harbor to and including the interchange of interstate
1334 highway route 90 and South Boston Bypass road, but excluding the Logan airport access and
1335 egress roadways owned by the Massachusetts Port Authority on March 1, 1997 and any
1336 additional access and egress roadways acquired by the Massachusetts Port Authority after March
1337 1, 1997; (ii) the seaport access highway beginning at the interchange of interstate highway routes
1338 90 and 93 and continuing to the interchange of interstate highway route 90 and South Boston
1339 Bypass road; and (iii) South Boston Bypass road, a portion of which is also known as South
1340 Boston Haul road, beginning at the interchange of interstate highway route 93 and South Boston
1341 Bypass road and continuing to the interchange of the seaport access highway in the South Boston
1342 section of the city of Boston, including such real property and any improvements thereon,
1343 personal property, equipment, licenses, appurtenances and interests in land acquired or leased by
1344 the highway department in connection with or incident to the construction, ownership, operation,
1345 rehabilitation, reconstruction, improvement, repair, maintenance or administration of such

1346 roadways and tunnels as are necessary for the safe and efficient operation and maintenance
1347 thereof or which are otherwise convenient or desirable to carry out the purposes of this chapter.

1348 “Tobin memorial bridge”, the bridge formerly known as the Mystic river bridge in the
1349 city of Chelsea.

1350 “Turnpike”, the limited access express toll highway, designated as interstate highway
1351 route 90, and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities,
1352 entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
1353 information centers and administration, storage, maintenance and other buildings that the
1354 authority may own, construct or operate and maintain pursuant to this chapter and any additional
1355 highway, tunnel or bridge components as the general court may, from time to time, determine,
1356 shall be included within the turnpike, extending from the town of West Stockbridge on the
1357 commonwealth’s border with New York state to, but not including, the interchange of interstate
1358 highway route 90 and state highway route 128 in the town of Weston.

1359 “Turnpike corridor”, the cities and towns of the commonwealth from the New York state
1360 border to state highway route 128 through which the turnpike runs and municipalities contiguous
1361 to such cities and towns.

1362 “Turnpike revenues”, (i) all rates, fees, tolls, rentals or other charges and other earned
1363 income and receipts derived from or with respect to the ownership, operation, lease, rent or other
1364 use or disposition of the turnpike or any part thereof; and (ii) all other funds received by the
1365 authority, from whatever source, relating to the turnpike.

1366 Section 4. The authority may:

1367 (a) make, and from time to time, revise and repeal by-laws, rules, regulations and
1368 resolutions for the regulation of its affairs and the conduct of its business;

1369 (b) adopt an official seal and alter the same at its pleasure;

1370 (c) maintain offices at such places within the commonwealth as it may determine
1371 and to conduct meetings of the authority in accordance with the by-laws of the authority and the
1372 provisions of the second paragraph of section 59 of chapter 156B;

1373 (d) sue and be sued in its own name, plead and be impleaded;

1374 (e) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,
1375 administer, control and operate the state highway system or any part thereof and, consistent with
1376 agreements entered into with the authority to the extent applicable, as it may determine;
1377 provided, however, that chapter 91 shall not apply to the authority, except for any parts or areas
1378 thereof subject to said chapter 91 on March 1, 1997;

1379 (f) acquire sites abutting the state highway system and construct or contract for
1380 the construction of buildings and appurtenances for gasoline stations, restaurants, parking
1381 facilities, tourist information centers and other services and lease such facilities in such manner
1382 and under such terms as it may determine;

1383 (g) issue notes or bonds for any of its corporate purposes related to the turnpike
1384 payable solely from turnpike revenues or portions thereof pledged for the payment thereof and to
1385 refund its notes or bonds pertaining to the turnpike or any part thereof or payable from such
1386 revenues, as provided in this chapter;

1387 (h) issue notes or bonds for any of its corporate purposes related to the
1388 metropolitan highway system payable solely from the metropolitan highway system revenues or
1389 portions thereof pledged for the payment thereof and refund notes or bonds thereof pertaining to
1390 the metropolitan highway system or any part thereof or payable from such revenues, as provided
1391 in this chapter;

1392 (i) issue bonds, notes and other evidences of indebtedness as provided in this
1393 chapter;

1394 (j) fix and revise, from time to time, and charge and collect tolls for transit over
1395 the turnpike; provided, however, that it shall furnish upon request to a user of the turnpike a toll
1396 receipt showing the amount of toll paid, the classification of the vehicle, the date of payment and
1397 place of exit from the turnpike; provided further, that the authority shall convene at least 2 public
1398 hearings, each to be held in a community within the turnpike corridor, at least 30 days prior to
1399 the effective date of any proposed change in toll structure on the turnpike and shall allow for a 1
1400 week comment period after each such hearing, during which written testimony and comments
1401 shall be accepted;

1402 (k) [no section k.]

1403 (l) adopt such rules and regulations pursuant to chapter 30A and not repugnant to
1404 the provisions of the General Laws made applicable to the authority, as the authority determines
1405 necessary or appropriate to provide for or govern the construction or reconstruction, including
1406 contractor qualification, operation, maintenance, repair, rehabilitation, improvement, use,
1407 policing, control or administration of the state highway system or the authority's business or
1408 property; provided, however, such regulations may include the authority to grant easements,

1409 permits or other forms of authorization for the installation, construction, maintenance, repair,
1410 renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits, cables, wires,
1411 towers, poles and other equipment and appliances of any public utility, private entity or
1412 corporation or person owning or operating such facilities in, on, along, over or under the state
1413 highway system; provided, further, that such regulations may impose penalties for violations
1414 thereof which, in the case of civil penalties, may be recovered only after notice and hearing
1415 conducted by the authority or its designee and subject to judicial review and enforcement
1416 pursuant to said chapter 30A or such other civil proceedings under the laws of the
1417 commonwealth or the United States as the law may provide and, in the case of criminal penalties,
1418 may be recovered in a proceeding in a trial court of the commonwealth by indictment or
1419 complaint; provided, further, that the amount of any such civil or criminal penalty shall not
1420 exceed \$500 for each offense, unless the law otherwise provides; provided, further, that the full
1421 amount of a civil penalty shall be paid to the authority and 80 per cent of any penalty recovered
1422 in a criminal proceeding shall be accounted for and paid to the authority; provided, further, that
1423 the authority may provide in such regulations for adjudicatory proceedings that it or its designee
1424 conducts which are subject to judicial review and enforcement according to said chapter 30A;

1425 (m) acquire, lease, hold and dispose of real and personal property or any interest
1426 therein in the exercise of its powers and the performance of its duties pursuant to this chapter;
1427 provided, however, that the authority shall issue semi-annual reports to the secretary of
1428 administration and finance, the house and senate committees on ways and means, the joint
1429 committee on transportation and the house and senate committees on bonding, capital
1430 expenditures and state assets, detailing the financial transactions and revenues associated with
1431 the sale, concession or lease of real property held in the name of or under the control of the

1432 authority, whether by purchase or otherwise, and any transactions relating to real property
1433 currently pending; and provided further, that the semi-annual report shall include the current
1434 market values of the real properties related to the transactions;

1435 (n) place and maintain or grant permission by easement or otherwise to any public
1436 utility, corporation or person to place and maintain on or under or within the turnpike or the
1437 metropolitan highway system or any part thereof, ducts, pipes, pipelines, mains, conduits, cables,
1438 wires, towers, poles or other structures to be so located as not to interfere with the safe and
1439 convenient operation and maintenance of the state highway system and to contract with any such
1440 public utility, corporation or person for such permission on such terms and conditions as may be
1441 fixed by the authority; provided, however, that the construction, maintenance and repair of any
1442 such ducts, pipes, pipelines, mains, conduits, cable, wires, towers, poles or other structures shall
1443 be subject to such directions and regulations as the authority may impose.

1444 Whenever the authority shall determine that it is necessary that any such ducts,
1445 pipes, pipelines, mains, conduits, cable, wires, towers, poles or other structures which are now or
1446 hereafter may be located in, on, along, over or under the state highway system be relocated or
1447 removed, the public utility, corporation or person owning or operating such facilities shall
1448 relocate or remove the same in accordance with the order of the authority; provided, however,
1449 that in case of any such relocation or removal of facilities, the public utility, corporation or
1450 person owning or operating the same, its successors or assigns may maintain and operate such
1451 facilities, with the necessary appurtenances, in the new location for as long a period and upon the
1452 same terms and conditions as it had the right to maintain and operate such facilities in their
1453 former location; and provided further, that otherwise, the authority shall have the power to grant

1454 such easements over any real property held by the authority as will not in the judgment of the
1455 authority unduly interfere with the operation of any of its mass transportation facilities;

1456 (o) acquire in the name of the authority by purchase or otherwise, on such terms
1457 and conditions and in such manner as it may deem proper or by the exercise of the power of
1458 eminent domain in accordance with chapter 79 or any alternative method now or hereafter
1459 provided by law, such public lands and any fee simple absolute or lesser interest in private
1460 property, or part thereof or rights therein as it may deem necessary for carrying out this chapter;

1461 (p) designate the locations and establish, limit and control such points of ingress
1462 to and egress from the state highway system as may be necessary, convenient or desirable in the
1463 judgment of the authority to insure the proper operation and maintenance of the state highway
1464 system and to prohibit entrance to the state highway system from any point or points not so
1465 designated;

1466 (q) (i) construct grade separations at locations where the state highway system
1467 intersects with or abuts public highways or rail lines and to change and adjust the lines and
1468 grades of such highways or rail lines so as to accommodate the same to the design of such grade
1469 separation; and (ii) change the location of any portion of any public highway or rail line which
1470 intersects or abuts the state highway system in order to improve the safety or efficiency of the
1471 state highway system; provided, however, that if the authority shall find it necessary to change
1472 the location of a public highway, it shall reconstruct such highway in as good a condition as the
1473 original highway and at such location as the authority deems most favorable and, provided
1474 further, that all costs incident to construction, realignment or reconstruction conducted pursuant
1475 to this clause shall be borne by the authority;

1476 (r) enter upon any lands, waters and premises in the commonwealth, after 30 days
1477 notice by registered or certified mail and without the necessity of any judicial orders or other
1478 legal proceedings, for the purpose of making surveys, soundings, drillings and examinations as
1479 the authority may deem necessary, convenient or desirable for carrying out the purposes of this
1480 chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be
1481 deemed an entry under any condemnation proceedings which may be then pending; provided,
1482 however, that the authority shall provide reimbursement for any actual damage resulting to such
1483 lands, waters and premises as a result of such activities; and provided further, that the
1484 commonwealth hereby consents to the use of all lands owned by it, including lands lying
1485 underwater, which are deemed by the authority to be necessary, convenient or desirable for the
1486 construction, operation or maintenance of the state highway system;

1487 (s) make and enter into all contracts and agreements necessary, convenient or
1488 desirable in the performance of its duties and the execution of its powers under this chapter;
1489 provided, however, that sections 26 to 29, inclusive, and sections 44A to 44 J, inclusive, of
1490 chapter 149 and sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of the
1491 authority to the same extent and in the same manner as they are applicable to the commonwealth;
1492 provided further, that notwithstanding this clause, the authority may, with the approval of the
1493 secretary of the executive office of transportation, without competitive bids and notwithstanding
1494 any general or special law to the contrary, award a contract, otherwise subject to this section,
1495 limited to the performance of emergency repairs necessary to preserve the safety of persons or
1496 property;

1497 (t) appoint and employ officers and employees to serve at the pleasure of the
1498 directors, except as may otherwise be provided in collective bargaining agreements, and to fix

1499 the compensation and conditions of employment thereof, employ personnel as hereinafter
1500 provided and to engage architectural, engineering, accounting, management, legal, financial and
1501 environmental consulting and other professional services; provided, however, that the authority
1502 shall engage consultants to perform only those services for the authority which regular
1503 employees of the Authority are unable to perform owing to lack of special expertise or other
1504 inability to perform such services on the schedule or in the manner required by the authority;

1505 (u) accept gifts, grants and loans from agencies of local, state and federal
1506 governments, or from private agencies or persons, and to accede to such conditions and
1507 obligations as may be imposed as a prerequisite to any such gift, grant or loan;

1508 (v) adopt a fiscal year to conform with the fiscal year of the commonwealth;

1509 (w) receive and apply its revenues to the purposes of the authority without
1510 appropriation or allotment by the commonwealth or any political subdivision thereof;

1511 (x) enter into agreements with other parties including, without limiting the
1512 generality of the foregoing, government agencies, municipalities, authorities, private
1513 transportation companies, railroads and other concerns, providing: (i) for construction, operation
1514 and use of any mass transportation facility and equipment held or later acquired by the authority;
1515 provided, however, that any agreement entered into by the authority for the construction or
1516 acquisition of mass transportation facilities or equipment of more than \$1,000,000, which is
1517 financed in whole or in part from the proceeds of bonds, the debt service payments on which are
1518 assisted by the commonwealth or made from the dedicated revenue source, shall not become
1519 effective until approved by the secretary of transportation; and provided further, that said
1520 secretary shall notify the secretary of administration and finance of any such approval; (ii) for

1521 joint or cooperative operation of any mass transportation facility and equipment with another
1522 party; (iii) for operation and use of any mass transportation facility and equipment for the
1523 account of the authority, for the account of another party or for their joint account; or (iv) for the
1524 acquisition of any mass transportation facility and equipment of another party if the whole or any
1525 part of the operations of such other party takes place within the area constituting the authority;
1526 provided, however, that any such other party is hereby given power and authority to enter into
1527 any such agreements, subject to applicable laws ; provided further, that any agreement with a
1528 private company under this chapter which is to be financed from the proceeds of bonds or bond
1529 anticipation notes and which provides for the rendering of transportation service by such
1530 company and for financial assistance to such company by subsidy, lease or otherwise shall
1531 include such service quality standards for such service as the authority may deem appropriate
1532 and shall not bind the authority for a period of longer than 1 year from its effective date, but this
1533 shall not prohibit agreements for longer than 1 year if the authority's obligations thereunder are
1534 subject to annual renewal or annual cancellation by the board's authority; and provided further,
1535 that such agreements may provide for cash payments for services rendered, but not more than
1536 permits any private company a reasonable return;

1537 (y) establish transit facilities and related infrastructure, including terminals, stations,
1538 access roads, parking, pedestrian access facilities, bicycle parking and access facilities as may be
1539 deemed necessary and desirable; provided, however, that the authority may charge reasonable
1540 fees for the use of such facilities as it may deem desirable, or it may allow the use of such
1541 facilities free of charge;

1542 (z) to employ a private project ombudsman who shall, in consultation with the secretary
1543 of transportation, assist municipalities and private entities to develop and advance projects

1544 critical to the economic development of a community and connecting to the state transportation
1545 system, and to ensure regional equity in the transportation system. The administrator is
1546 authorized to establish guidelines outlining the responsibilities and obligations of the private
1547 project ombudsman, who shall be experienced in the field of real estate development and
1548 economic development. Those responsibilities and obligations shall include, but not be limited
1549 to, sufficient authority to supervise, assist, and provide necessary guidance for municipal or
1550 private entity projects and the authority, subject to the administrator's approval, to review project
1551 proposals and expedite project development where possible.

1552 The division shall establish and charge a reasonable fee to cover the costs of processing,
1553 reviewing, and approving a project proposal submitted to the private project ombudsman by a
1554 municipality or private entity.

1555 (aa) do all acts and things necessary, convenient or desirable to carry out the powers
1556 expressly granted in this chapter.

1557 Section 5. The authority shall develop and implement a single integrated asset
1558 management system to oversee and coordinate the maintenance, preservation, reconstruction and
1559 investment of all of the assets in its possession, custody and control. The authority may use
1560 programs and services offered by the division of capital asset management and maintenance and
1561 the information technology division to aid in its development of an integrated asset management
1562 system as long as, in the judgment of the authority, such programs and services compare
1563 favorably with those available from private vendors and are offered at competitive prices.

1564 Section 6. (a) The chief executive officer shall operate and administer an office of
1565 performance management and innovation within the authority that shall, among other things,

1566 administer this section. The authority and its divisions shall report to the office of performance
1567 management and innovation with regard to setting goals and establishing performance measures
1568 to improve the authority and divisions' operations and the delivery of transportation services and
1569 projects in the commonwealth.

1570 The office of performance management and innovation shall be charged with evaluating
1571 the goals and measures established by the authority and its divisions and monitoring the results
1572 reported. The office shall recommend changes to proposed goals and measures as are
1573 appropriate to align goals and measures with the strategic priorities of the chief executive officer
1574 and the secretary of transportation. The office shall report regularly to the public on the progress
1575 the authority and its divisions are making at achieving stated goals. The office shall be
1576 responsible for the establishment and, in cooperation with each of the divisions, operation of an
1577 asset management system for all departments and shall report regularly on the condition of assets
1578 and infrastructure. Reports on performance shall include measures of: (i) maintenance activity
1579 and results; (ii) usage on all modes of transportation; (iii) operational performance; and (iv)
1580 planning, design and construction, including on-time and on-budget project delivery.

1581 The office shall annually publish a "Scorecard" identifying the number of projects
1582 actively under construction and those completed in the previous year by type, value and location,
1583 and those planned for the following year. Notwithstanding any other provision of law, the office
1584 shall determine the appropriate measures and standards of performance in all categories and
1585 reporting on performance trends.

1586 The office will be responsible to report publicly and transparently and to make all reports
1587 available through an on-line system.

1588 The chief executive officer shall establish a performance measurement system for the
1589 divisions of the authority, which shall establish program goals, measure program performance
1590 against those goals and report publicly on progress to improve the effectiveness of transportation
1591 design and construction, service delivery and policy decision-making. Performance
1592 measurements shall include, for at least the then current fiscal year and the previous 5 fiscal
1593 years, all modes of transportation. Performance measurements shall include the number of
1594 projects completed, the percentage of projects completed early or on time, the percentage of
1595 projects completed under budget or on-budget, the number of projects in construction phase and
1596 the percentage of projects advertised early or on time. Performance measurements shall include
1597 usage information for all modes of transportation, including measures of throughput, utilization
1598 and ridership. This information shall be presented with measurements of congestion, on-time
1599 performance, if appropriate, and incidents that have caused delays or closures. Performance
1600 measurements shall include assessments of maintenance performance by asset class, mode and
1601 region, including a breakdown of highway pavement, bridge and track, for subway, commuter
1602 and commonwealth-owned freight rail, by condition level, with an explanation of current year
1603 and future year planned maintenance expenditures and their expected result. Reporting on
1604 planned maintenance programming shall include an assessment of the categories of maintenance-
1605 related activity as described in the American Association of Highway and Transportation
1606 Officials' Maintenance Manual for Roadways and Bridges. The division of roads and bridges
1607 shall expand and enhance its project information system and shall develop additional means to
1608 establish a centralized system, available on the internet, to document performance measurements
1609 and the progress and status of all planning, design, construction and maintenance projects
1610 undertaken by the authority, and all road and bridge projects of any city or town that are funded,

1611 in whole or in part, by the commonwealth. A municipality shall have access to the system at no
1612 cost, shall enter such information into the system as may be required by the division of roads and
1613 bridges and shall otherwise fully participate in the system as a condition of receiving financial
1614 assistance from the commonwealth. All information in the project information system shall be a
1615 public record unless otherwise exempted by law. A report of the project information system and
1616 performance measurements shall be published annually and made available to the public not later
1617 than December 31. The report shall also be filed annually with the clerks of the senate and house
1618 of representatives, the chairs of the house and senate committees on ways and means and the
1619 senate and house chairs of the joint committee on transportation. The performance measurement
1620 system shall require each division to develop a strategic plan for program activities and
1621 performance goals. The system shall require annual program performance reports which shall be
1622 submitted to the house and senate committees on ways and means and the joint committee on
1623 transportation.

1624 The chief executive officer shall use the performance criteria established in this section to
1625 determine the quality of service of all private entities, including commuter rail providers, that
1626 perform transportation services on behalf of the authority. The results of such performance
1627 measures shall be criteria used in negotiating any contracts.

1628 Section 7. Unless otherwise required under section 6A of chapter 31 or any other general
1629 or special law the chief executive officer shall design and implement a program for performance
1630 evaluation of employees. The sole purpose of the program shall be the improvement of the
1631 performance of individual employees and the authority and, notwithstanding any general or
1632 special law to the contrary, all information compiled by said program shall be confidential shall
1633 not be public records under section 10 of chapter 66 or clause Twenty-sixth of section 7 of

1634 chapter 4. The authority may consult with individuals and organizations and may contract for
1635 technical assistance for the purpose of the program to the extent it deems necessary.

1636 Section 8. (a) The chief executive officer of the authority shall, notwithstanding any
1637 general or special law to the contrary, identify administrative activities and functions common to
1638 the separate offices, divisions and commissions within the authority and may designate such
1639 functions as "core administrative functions" to improve administrative efficiency and preserve
1640 fiscal resources. Common functions that may be designated core administrative functions
1641 include, but shall not be limited to, human resources, financial management, information
1642 technology, legal, procurement, workers' compensation insurance pursuant to chapter 152 and
1643 asset management. All employees performing functions so designated shall be employed
1644 directly by the chief executive officer. The authority may make such services available to the
1645 agencies, offices, divisions and commissions within the executive office of transportation
1646 through a written interagency service agreement; provided, however, that a copy of such
1647 agreement shall be provided to the house and senate committees on ways and means and the joint
1648 committee on transportation before such services are provided. The authority shall charge the
1649 agencies, departments, offices, divisions and commissions of the executive office of
1650 transportation for such services, subject to appropriation.

1651 (b) The authority may enter into agreements under section 22A and 22B of chapter 7 and,
1652 in all respects not governed by general or special laws expressly made applicable to the
1653 authority, shall adhere to good business practices to be determined by the authority in its
1654 procurement of equipment, materials, property, supplies and services.

1655 (c) The authority shall use the state accounting system, the state payroll system and the
1656 state-supported internet application for procurement. The authority shall, to the maximum extent
1657 feasible, prioritize the elimination of redundant systems for asset management and information
1658 technology.

1659 (d) On December 15 and at 6-month intervals thereafter, the chief executive officer of the
1660 authority shall report to the joint committee on transportation, the joint committee on bonding,
1661 capital expenditures and state assets and the house and senate committees on ways and means on
1662 the authority's progress in implementing the requirements of this section, the capital
1663 expenditures made by the authority in implementing the requirements of this section and on the
1664 administrative savings that have been achieved through the implementation of the requirements
1665 of this section.

1666 (e) The chief executive officer of the authority shall appoint a manager to serve as
1667 director of system integration, whose primary responsibility shall be to develop a plan and
1668 oversee the implementation of the merger and integration of the organizations and assets
1669 comprising the highway division.

1670 Section 9. The exercise of the powers granted by this chapter shall be in all respects for
1671 the benefit of the people of the commonwealth, for the increase of their commerce and prosperity
1672 and for the improvement of their health and living conditions and, as the operation and
1673 maintenance of the state highway system or state public transit system by the authority shall
1674 constitute the performance of essential governmental functions, the authority shall not be
1675 required to pay any taxes or assessments upon the state highway system or state public transit
1676 system or any property acquired or used by the authority this chapter or upon the income

1677 therefrom, except as may be otherwise provided by this chapter, and the notes or bonds issued
1678 under this chapter, the transfer and the income therefrom, including any profit made on the sale
1679 thereof, shall at all times be free from taxation by and within the commonwealth.

1680 Section 10. The authority may charge and collect and, from time to time, fix and revise
1681 tolls for transit over the turnpike and the different parts or sections thereof, subject to such
1682 classifications of vehicles and manners of collection as the authority determines desirable and
1683 subject to clause (j) of section 4. Such tolls shall be so fixed and adjusted as to provide, at a
1684 minimum, a fund sufficient with other revenues, if any, to pay: (1) costs incurred in furtherance
1685 of this chapter related to the turnpike including, but not limited to, the cost of owning,
1686 maintaining, repairing, reconstructing, improving, rehabilitating, policing, using, administering,
1687 controlling and operating the turnpike; provided, however, that the authority may not charge or
1688 collect a toll for transit through the Callahan tunnel, the Sumner tunnel or the Third Harbor
1689 tunnel by official emergency vehicles of the commonwealth or any municipality, political
1690 subdivision or instrumentality thereof; provided further, that the authority may not charge and
1691 collect tolls for transit through the Callahan tunnel, the Sumner tunnel or the Third Harbor tunnel
1692 by private passenger vehicles registered in the East Boston section of the city of Boston or the
1693 South Boston section of the city of Boston, as the Boston transportation department has
1694 determined the geographical boundaries of said sections of Boston, that are greater than the tolls
1695 in effect for vehicles registered in said East Boston section at existing tunnel toll facilities on the
1696 effective date of section 14 of chapter 102 of the acts of 1995; and provided further, that the
1697 authority may not charge and collect tolls for transit through the Callahan or Sumner tunnels to
1698 private passenger vehicles registered in the North End section of the city of Boston, as the
1699 Boston transportation department has determined the geographical boundaries of such section,

1700 that are greater than the tolls in effect for such transit through either the Sumner tunnel or
1701 Callahan tunnel for vehicles on the effective date of section 14 of chapter 102 of the acts of
1702 1995; provided further, that the authority shall continue operation of the 50 per cent toll discount
1703 program approved by the Massachusetts Turnpike Authority board of directors in open meeting
1704 on June 28, 2002 for account holders who participate in the authority's electronic toll collection
1705 system; and (2) the principal of, redemption premium, if any, and the interest on notes or bonds
1706 relating to the turnpike as the same shall become due and payable and to create and maintain
1707 reserves established for any of the authority's corporate purposes. Such tolls shall not be subject
1708 to supervision, regulation, approval or disapproval by any department, division, commission,
1709 board, bureau or agency of the commonwealth or any political subdivision thereof. The authority
1710 shall maintain the confidentiality of all information including, but not limited to, photographs or
1711 other recorded images and credit and account data, relative to account holders who participate in
1712 its electronic toll collection system. Such information shall not be a public record and shall be
1713 used for enforcement purposes only with respect to toll collection regulations. An account holder
1714 may, upon written request to the authority, have access to all information pertaining solely to the
1715 account holder. For each violation of applicable authority regulations related to electronic toll
1716 collection, a violation notice shall be sent to the registered owner of the vehicle in violation. The
1717 notice shall include the registration number of the vehicle, the state of issuance of such
1718 registration and the date, time and place of the violation. The notice may be based in whole or in
1719 part upon inspection of any photographic or other recorded image of a vehicle and the written
1720 certification by a state police officer or other person employed by or under contract with the
1721 authority or its electronic toll collection system contractor that it is so based shall be prima facie

1722 evidence of the facts contained therein and shall be admissible in any administrative or judicial
1723 proceeding to adjudicate the liability for such violation.

1724 Section 11. The authority may take by eminent domain in accordance with chapter 79 or
1725 any alternative method now or hereafter provided by general law, any public land and any fee
1726 simple absolute or lesser interest in private property or part thereof or rights therein as it may
1727 deem necessary for carrying out this chapter.

1728 Whenever a parcel of private property so taken is used in whole or in part for residential
1729 purposes, the owner of such parcel may, within 30 days of the date of the authority's notice to
1730 vacate such parcel, appeal to the authority for a postponement of the date set for such vacating,
1731 whereupon the authority shall grant to the owner a postponement of 3 months from the date of
1732 such appeal; provided, however, that the appeal for such postponement shall be in the form of a
1733 written request to the authority sent by registered mail, return receipt requested; and provided
1734 further, that the provisions of section 40 of said chapter 79 shall govern the rights of the authority
1735 and of any person whose property shall be so taken.

1736 The authority shall have the power, in the process of constructing, reconstructing,
1737 repairing, rehabilitating, improving, policing, using or administering all or any part of the
1738 turnpike or metropolitan highway system to take by eminent domain pursuant to chapter 79, such
1739 land abutting the turnpike or metropolitan highway system as it deems necessary or desirable for
1740 the purposes of removing or relocating all or any part of the facilities of any public utility,
1741 including rail lines, and may thereafter lease the same or convey an easement or any other
1742 interest therein to such utility company upon such terms as it, in its sole discretion, may
1743 determine. Notwithstanding any general or special law to the contrary, the relocation of the

1744 facilities of any public utility, including rail lines, in accordance with this section shall be valid
1745 upon the filing of the plans thereof with the department of telecommunications and energy, if
1746 applicable.

1747 Except as otherwise provided by law, any sale of real property shall be awarded, after
1748 advertisement for bids, to the bidder who is the highest responsible bidder. The authority shall
1749 have the right to reject all bids and to readvertise for bids. Before any real property shall be so
1750 sold or conveyed, notice that such real property is for sale shall be publicly advertised in 2 daily
1751 newspapers of general circulation published in the city of Boston, and, if such real property is
1752 located in any other city or town, in a newspaper of general circulation published in such other
1753 city or town, once a week for 3 successive weeks. Such advertisements shall state the time and
1754 place where all pertinent information relative to the real property to be sold or conveyed may be
1755 obtained and the time and place of opening the bids in answer to such advertisements and that
1756 the authority reserves the right to reject any or all such bids. All bids in response to
1757 advertisements shall be sealed and shall be publicly opened by the authority. The authority may
1758 require, as evidence of good faith, that a deposit of a reasonable sum, to be fixed by the
1759 authority, accompany the proposals. This paragraph shall not be applicable to any sale of real
1760 property by the authority to the commonwealth or any city, town or public instrumentality nor to
1761 a sale of real property which is determined by the authority to have a fair market value of \$5,000
1762 or less.

1763 The authority may sell the buildings or other structures upon any lands taken by it or may
1764 remove the same and shall sell, if a sale is practicable or, if not, shall lease, if a lease is
1765 practicable, any lands or rights or interest in lands or other property taken or purchased for the

1766 purposes of this chapter, whenever the same shall, in the opinion of the authority, cease to be
1767 needed for such purpose.

1768 Notwithstanding any general or special law to the contrary, all counties, cities, towns and
1769 other political subdivisions and all public agencies, authorities and commissions of the
1770 commonwealth may lease, lend, grant or convey to the authority, at its request, upon such terms
1771 and conditions as the proper authorities of such counties, cities, towns, political subdivisions,
1772 agencies, authorities and commissions may deem reasonable and fair and without the necessity
1773 for any advertisement, order of court or other action or formality, other than the regular and
1774 formal action of the authorities concerned, any real property, improvements or personal property
1775 which may be necessary or convenient to the effectuation of the authorized purposes of the
1776 authority, including public roads, bridges and other real property, improvements or personal
1777 property already devoted to public use.

1778 Section 12. Notwithstanding chapters 134 and 147, if money, goods or other property
1779 which has been abandoned, mislaid or lost on the premises of the authority comes into the
1780 possession of the authority and remains unclaimed for a period of 120 days, the authority may
1781 sell the same, excepting money so unclaimed, at public auction after notice of such sale has been
1782 published for 3 successive weeks in a newspaper published in the city or town wherein such sale
1783 shall occur. The net proceeds of such sale, after deducting the cost of storage and the expenses of
1784 the sale, and all money so unclaimed, shall be paid into and become the property of the authority
1785 and may be applied by the authority to any of its corporate purposes. If such property is in the
1786 possession of the authority and remains unclaimed for a period of 120 and is of the value of \$3 or
1787 less, the authority may donate the same to a charitable organization.

1788 Section 13. The authority and its employees shall be subject chapter 150E and, for
1789 purposes of said chapter 150E, the authority shall be deemed to be an employer or public
1790 employer and a legislative body. The authority may designate a representative to act in its
1791 interest in labor relations matters with its employees. Rights and obligations under the most
1792 recent existing or expired collective bargaining agreements with respect to employees transferred
1793 to the authority and with respect to all employee organizations representing such employees at
1794 the time of transfer, except to the extent expressly inconsistent with this chapter, shall be
1795 assumed by, and imposed upon, the authority and employees transferred to the authority who are
1796 subject to such agreements shall continue to be represented by the employee organizations that
1797 are parties to such agreements until such time as they elect to be otherwise represented in
1798 accordance with said chapter 150E. Existing bargaining units shall remain in full force and effect
1799 for those employees transferred to the authority until the expiration of the collective bargaining
1800 units covering those employees. Collective bargaining agreements in effect at the time of transfer
1801 shall continue in effect until their stated expiration date and successor negotiations shall be
1802 conducted and resolved between the authority and the employee organizations representing
1803 employees covered by such collective bargaining agreements in accordance with the chapter
1804 150E and this chapter. The terms and conditions of expired collective bargaining agreements
1805 under renegotiation at the time of transfer shall be observed by the authority and the authority
1806 shall conclude and resolve negotiations for successor agreements with the employee
1807 organizations representing employees covered by such collective bargaining agreements in
1808 accordance with the said chapter 150E and this chapter.

1809 Nothing in this section shall be construed as conferring upon the employees of the
1810 authority the right to strike, nor as detracting from the obligations of the authority and the
1811 employees to submit all grievances and other disputes to arbitration.

1812 Section 14. Whenever any employee or former employee of the authority dies, and the
1813 authority owes his estate any sum or sums by reason of services rendered by him for wages
1814 vacation allowances, and neither a duly appointed executor or administrator nor an administrator
1815 has made written demand for payment upon the treasurer of the authority and treasurer shall not
1816 otherwise have actual notice that proceedings relative to the formal probate or settlement of such
1817 estate have been commenced in any probate court, such sum or sums may, in the discretion of
1818 the authority, be paid after the expiration of 30 days from the death of such employee to such
1819 person as may have been nominated as beneficiary, on a form approved by the directors and filed
1820 with the treasurer by such employee during his lifetime or, if there is no such beneficiary, to the
1821 surviving spouse or next of kin of such employee. Payments made as provided in this section
1822 shall discharge all liability of the authority to all persons with respect to such sum or sums.

1823 Section 15. Notwithstanding section 13, the authority or any organizations representing
1824 employees of the authority shall not be permitted to submit any dispute over the terms of a
1825 collective bargaining agreement to arbitration except in accordance with sections 15 through 19,
1826 inclusive; provided, however, that this section shall not limit the rights of organizations
1827 representing employees of the authority to submit grievances to arbitration in accordance with
1828 the collective bargaining agreement between the parties.

1829 Section 16. In the event the directors and any organizations representing employees of
1830 the authority have not reached an agreement within 90 days from the date of the expiration of the

1831 agreement, either party may notify the other that it desires mediation. The parties may agree
1832 upon a person to serve as a mediator or, if unable to agree on said mediator, either party or the
1833 parties acting jointly may petition the board of conciliation and arbitration to appoint a mediator
1834 from a list of qualified persons maintained by the board.

1835 After a reasonable period of mediation, not to exceed 45 days from the date of
1836 appointment, said mediator shall issue a report indicating the results of his services in resolving
1837 the impasse. If at the conclusion of mediation the impasse still exists, the mediator shall so
1838 certify. In the event, the mediator shall certify in his report the last best offer of each party on
1839 each unresolved issue which has been submitted to mediation and shall also certify the
1840 agreement of the parties on each issue on which agreement has been reached and shall submit
1841 such certifications to the arbitrator selected by the parties. In such event, so long as the mediator
1842 shall also certify that the parties have bargained in good faith, either party may notify the other
1843 that it desires arbitration of the dispute. Within 10 days of said notice, the parties shall meet to
1844 select a single neutral arbitrator. If, within 15 days, the parties fail to select such single arbitrator,
1845 either party may forthwith petition the board of conciliation and arbitration to request a list of 5
1846 arbitrators from the American Arbitration Association and said Association shall certify to the
1847 board that such arbitrators on the list it provides possess the qualifications as provided in section
1848 30. The parties shall thereupon meet to select such arbitrator by striking 1 name each until 1
1849 name remains and that person shall serve as the neutral arbitrator. If, after 10 days, one of the
1850 parties declines to strike their names, the other party shall strike 2 names and the board shall
1851 forthwith select the arbitrator from the remaining 3 names.

1852 Section 17. The single arbitrator, whether agreed upon by the parties or selected by the
1853 board of conciliation and arbitration, shall be a legal resident of the commonwealth and shall be
1854 experienced in state and local finance.

1855 Section 18. The arbitrator shall rely primarily on the following factors in determining the
1856 basis for an award:

1857 (a) the financial ability of the authority to meet additional costs, which shall include, but
1858 not be limited to: (i) the statutory requirement that the authority produce revenues in excess of
1859 expenses; (ii) the financial ability of the individual communities and the commonwealth to meet
1860 additional costs; (iii) the average per capita tax burden, average annual income and sources of
1861 revenue within the commonwealth, and the effect of any arbitration award on the respective
1862 property tax rates of the cities and towns within the authority's district;

1863 (b) the overall compensation presently received by the employees, having regard not only
1864 for wages for time actually worked but also for wages for time not worked, including vacations,
1865 holidays and other excused time;

1866 (c) all benefits received by the employees, including insurance, pension, as well as the
1867 continuity and stability of employment;

1868 (d) the hazards of employment, physical, educational and mental qualifications, job
1869 training and skills involved;

1870 (e) a comparison of wages, hours, and conditions of employment of the employees
1871 involved in the arbitration proceedings with the wages, hours and conditions of employment of

1872 other employees performing similar services within the commonwealth and with other
1873 employees generally in public and private employment within the commonwealth;

1874 (f) the average consumer price for goods and services, commonly known as the cost of
1875 living;

1876 (g) changes in any of the foregoing circumstances during the pendency of the arbitration
1877 proceedings;

1878 (h) such other factors, not confined to the foregoing, which are normally or traditionally
1879 taken into consideration in the determination of wages, hours and conditions of employment
1880 through voluntary collective bargaining, mediation, fact-finding, arbitration or otherwise
1881 between parties, in the public service of the commonwealth, and which are not precluded from
1882 bargaining under section 13; and

1883 (i) The stipulation of the parties.

1884 Section 19. The arbitrator shall be limited in making his award to choosing between the
1885 last best offers of the parties on each issue as certified in the mediator's report or any award in
1886 the range between the last best offers of the parties. The arbitrator shall make no award on any
1887 issue found by him to be not authorized by law to be submitted to arbitration, but shall state such
1888 finding in his written opinion. Within 30 calendar days of an award, the arbitrator shall issue a
1889 written opinion inclusive of an analysis of all statutory factors applicable to the proceedings. Any
1890 determination by the arbitrator, if supported by material and substantial evidence on the record,
1891 shall be binding upon the parties and upon the appropriate legislative or appropriating body and
1892 may be enforced at the insistence of either party or by the arbitrator in the superior court. The
1893 scope of arbitration shall be limited to wages, hours and conditions of employment and shall not

1894 include any provisions for any cost of living adjustment which are based on changes in the
1895 consumer price index after the expiration of the contract period covered by the award. In
1896 addition, any wage or salary adjustments shall be expressed in per cent or dollar amounts, and in
1897 no case shall there be any provision for salary adjustments to occur after the expiration of the
1898 contract period covered by the award.

1899 The cost, if any, of the mediation and of arbitration proceedings exclusive of the expenses
1900 of the individual parties provided for under sections 15 to 19, inclusive, shall be divided equally
1901 by the parties and shall be in accordance with a schedule of payments established by the
1902 American Arbitration Association.

1903 Section 20. All sums of money payable under sections 31, 34, 34A, 35 and 35A of
1904 chapter 152 directly to a retired member of the Massachusetts Bay Transportation Authority
1905 retirement system or to the legal representative or dependents of a deceased member on account
1906 of his death, including so much of the amount of any lump sum settlement payable under such
1907 sections directly to any such persons as is allocable to the period following the retirement or
1908 death of such member, but excluding any payments for or amounts allocable to any period to the
1909 date his retirement allowance became effective, shall be offset against and payable in lieu of any
1910 pension payable on his account by reason of the same injury, but not against his accumulated
1911 total deductions or any annuity derived therefrom. If any such pension exceeds the compensation
1912 payable on account of such member under said chapter 152 when both are reduced to the same
1913 periodical basis, the excess only shall be paid as a pension so long as such compensation
1914 continues. If any such pension is less than or equal to such compensation, no pension shall be
1915 paid so long as such compensation continues to be equal to or greater than such pension.

1916 In all cases in which a member or a beneficiary receives delayed compensation payments
1917 or an amount of any lump sum settlement payable directly to him under sections 31, 34, 34A, 35
1918 or 35A of chapter 152 subsequent to his receipt of payments under any pension granted under the
1919 Massachusetts Bay Transportation Authority retirement system by reason of the same injury, no
1920 further pension payments shall be made unless and until such time as the total amounts which by
1921 then would have been payable as compensation and pension together, if there had been no delay
1922 in making such compensation payments, shall exceed the total amounts of compensation and
1923 pension actually paid by them after due allowance in either case for the allocation of any such
1924 lump sum settlement.

1925 If a member or a beneficiary entitled to a pension under the Massachusetts Bay
1926 Transportation Authority retirement system, and also having a right to compensation under said
1927 chapter 152 by reason of the same injury or death of such member, as the case may be, neglects
1928 or fails to prosecute fully such right or to cooperate with the Massachusetts Bay Transportation
1929 Authority retirement system in its prosecution thereof, as provided for by section 73 of said
1930 chapter 152, the Massachusetts Bay Transportation Authority retirement board may, during the
1931 period of such neglect or failure, suspend such member's or beneficiary's right to further
1932 payment. Under the circumstances set forth in the said section 73, the duty of said board to
1933 prosecute shall be mandatory.

1934 Section 21. The authority shall adopt an annual budget for its current expenses which
1935 budget the authority shall have submitted for comment and recommendation to the road and
1936 bridge advisory board established under section 58 of chapter 81C and the Massachusetts transit
1937 advisory board established under section 5 of chapter 81D not less than 60 days prior to the
1938 adoption thereof. Except in case of an emergency, no current expenses may be incurred in

1939 excess of those shown in the annual current expense budget. The authority may from time to
1940 time adopt amendments to current expense budgets which the authority shall have submitted for
1941 comment and recommendation to the advisory board for each division not less than 30 days prior
1942 to the adoption thereof. The authority periodically shall also adopt and revise capital expenditure
1943 budgets for the capital facility programs developed by the executive office of transportation. The
1944 current expense and capital expenditure budgets of the authority shall be deemed not to be
1945 regulations or adjudications for purposes of chapter 30A. Proposed capital expenditure budgets
1946 shall be submitted to the advisory board for each division for such consultation not less than 60
1947 days prior to adoption or revision by the authority. The authority shall prepare a written response
1948 to reports relative to its finances submitted to it by the advisory board for each division which
1949 response shall state the basis for any substantial divergence between the actions of the authority
1950 and the recommendations contained in such reports of the advisory board. The authority shall be
1951 deemed to be a public agency subject to the recordkeeping and reporting requirements of
1952 paragraph (4) of section 40A of chapter 7.

1953 The authority shall establish a Stabilization Fund into which it shall deposit revenues in
1954 excess of expenses pursuant to section 30 until the fund balance is equal to or greater than 5 per
1955 cent of total revenues of the fiscal year most recently ended. The authority may draw funds from
1956 the Stabilization Fund only in the event that, after implementing all efficiencies and savings
1957 possible, annual revenues are projected to be less than annual expenses, or if it has insufficient
1958 funds on-hand to pay current expenses. The authority may not assume draws from the
1959 Stabilization Fund in preparing its budget pursuant to this section. In the event the authority
1960 draws funds from the Stabilization Fund, it shall file with the secretary of administration and
1961 finance, the secretary of transportation and construction, the joint committee on transportation

1962 and the house and senate committees on ways and means a financial plan that projects to produce
1963 in the following fiscal year an excess of revenues over expenses.

1964 The authority shall also establish a Toll and Fare Stability Fund, into which it shall
1965 deposit revenues in excess of expenses pursuant to section 30. The authority may assume draws
1966 from the Fare Stability Fund in preparing its budget pursuant to this section. Funds in said Fare
1967 Stability Fund shall be utilized within 5 fiscal years after being deposited.

1968 Section 22. (a) The authority may provide, by resolution of the board of directors, for the
1969 issuance, from time to time, of bonds of the authority for any of its corporate purposes or for the
1970 borrowing of money in anticipation of the issuance of such bonds. Bonds issued by the authority
1971 may be issued as general obligations of the authority or as special obligations payable solely for
1972 particular revenues or funds as may be provided for in any bond resolution, trust agreement or
1973 other agreement securing bonds. The authority may also provide, by resolution of the board of
1974 directors, for the issuance, from time to time, of temporary notes in anticipation of the revenues
1975 to be collected or received by the authority, or in anticipation of the receipt' of other grants or
1976 aid. The issue of such notes shall be governed by this chapter relating to the issue of bonds of the
1977 authority other than such temporary notes as the same may be applicable; provided, however,
1978 that notes issued in anticipation of revenues shall mature not later than 1 year from the respective
1979 dates thereof and notes issued in anticipation of grants, or other aid and renewals thereof, shall
1980 mature not later than 6 months after the expected date of receipt of such grant or aid. The
1981 aggregate principal amount of all bonds issued under this chapter shall not exceed
1982 \$10,000,000,000 outstanding at any one time; provided, however, that bonds for the payment or
1983 redemption, of which, either at or prior to maturity, refunding bonds shall have been issued, shall
1984 be excluded in the computation of outstanding bonds.

1985 (b) Bonds of each issue shall be dated, may bear interest at such rate or rates, including
1986 rates variable from time to time as determined by an index, banker's loan rate or other method
1987 determined by the authority, and shall mature or otherwise be payable at such time or times, as
1988 may be determined by the authority, and may be made redeemable before maturity at the option
1989 of the authority or the holder thereof at such price or prices and under such terms and conditions
1990 as may be fixed by the authority. Prior to the initial issuance of each series of bonds, the
1991 authority shall advise the advisory boards established by chapter 81C and 81D, the finance
1992 advisory board established in section 97 of chapter 6 and the executive office for administration
1993 and finance of the timing and terms thereof. The authority shall determine the form of bonds,
1994 including interest coupons, if any, to be attached thereto, and the manner of execution of such
1995 bonds, and shall fix the denomination or denominations of such bonds and the place or places of
1996 payment of principal, redemption premium, if any, and interest, which may be at any bank or
1997 trust company within or without the commonwealth. In case any officer whose signature or a
1998 facsimile of whose signature shall appear on any bonds or coupons shall cease to hold such
1999 office before the delivery thereof, such signature or facsimile shall nevertheless be valid and
2000 sufficient for all purposes as if such officer had remained in office until delivery. The authority
2001 may provide for authentication of bonds by a trustee, fiscal agent, registrar or transfer agent.
2002 Bonds may be issued in bearer or in registered form, or both, and, if notes, may be made payable
2003 to bearer or to order, as the authority may determine, and provision may be made for the
2004 registration of any coupon bonds as to principal alone and also as to both principal and interest,
2005 for the reconversion into coupon bonds of bonds registered as to both principal and interest and
2006 for the interchange of bonds registered as to both principal and interest and for the interchange of
2007 registered and coupon bonds. The authority may also establish and maintain a system of

2008 registration for any bonds whereby the name of the registered owner, the rights evidenced by the
2009 bonds, the transfer of the bonds and such rights and other similar matters are recorded in books
2010 or other records maintained by or on behalf of the authority, and no instrument evidencing such
2011 bond or rights need be delivered to the registered owner by the Authority. A copy of the books or
2012 other records of the authority pertaining to any bond registered under such registration system
2013 certified by an authorized officer of the authority or by the agent of the authority maintaining
2014 such system shall be admissible in any proceeding without further authentication. The authority
2015 may adopt regulations with respect to the operation of such system. The board of directors may
2016 by resolution delegate to any director or directors or officer or officers of the authority or any
2017 combination thereof the power to determine any of the matters set forth in this section. In the
2018 discretion of the authority, bonds of the authority may be issued with such terms as will cause the
2019 interest thereon to be subject to federal income taxation. The authority may sell its bonds in the
2020 manner, either at public or private sale, for the price, at the rate or rates of interest, or at discount
2021 in lieu of interest, as it may determine will best effect the purposes of this chapter.

2022 (c) Said authority may issue interim receipts or temporary bonds, with or without
2023 coupons, exchangeable for definitive bonds when the bonds shall have been executed and are
2024 available for delivery. The authority may also provide for replacement of any bonds which shall
2025 have become mutilated or shall have been destroyed or lost. The authority, by itself or through
2026 such agent as it may select, may purchase and invite offers to tender for the purchase of any
2027 bonds of the authority at any time outstanding; provided, however, that no such purchase by the
2028 Authority shall be made at a price, exclusive of accrued interest, if any, exceeding the principal
2029 amount thereof or, if greater, the redemption price of such bonds when next redeemable at the

2030 option of the authority, and may resell any bonds it determines will best effect the purposes of
2031 this chapter.

2032 (d) In the discretion of the board of directors, any bonds issued hereunder may be secured
2033 by a bond resolution or trust agreement or other agreement in such form and executed in such
2034 manner as may be determined by the board of directors between the authority and the purchasers
2035 or holders of such bonds or between the authority and a corporate trustee which may be any trust
2036 company or bank having the powers of a trust company within or without the commonwealth. A
2037 trust agreement may pledge or assign, in whole or in part, any receipts, fees, revenues or other
2038 payments received or to be received by the authority, including without limitation amounts
2039 provided to the trust in accordance with section 35LL of chapter 10, grants, appropriations or
2040 other assistance from the commonwealth or the United States or any political subdivision or
2041 instrumentality of either, investment earnings on its funds and accounts and any other fees,
2042 charges or other income received or receivable by the authority and any contract or other rights
2043 to receive the same, whether then existing or thereafter coming into existence, and whether then
2044 held or thereafter acquired by the trust, and the proceeds thereof. A trust agreement may contain,
2045 without limitation, provisions for protecting and enforcing the rights, security and remedies of
2046 the bondholders, provisions defining defaults and establishing remedies, which may include
2047 acceleration and may also contain restrictions on remedies by individual bondholders. A trust
2048 agreement may also contain covenants of the trust concerning the custody, investment and
2049 application of moneys, the issuance of additional or refunding bonds, the use of any surplus bond
2050 proceeds, the establishment of reserves and the regulation of other matters customarily treated in
2051 trust agreements. At the request of the authority, the state treasurer shall join in any trust
2052 agreement or to otherwise agree with the authority, any lender or any trustee for bondholders to

2053 hold the Surface Transportation Trust Fund, established pursuant to said section 35LL of said
2054 chapter 10, in compliance with any covenants and provisions relating thereto in any trust
2055 agreement. In no circumstances shall the authority mortgage its real property or fixed assets to
2056 secure its bonds.

2057 (e) (1) Bonds may be issued by the authority in the form of lines of credit or other
2058 banking arrangements under terms and conditions determined by the authority. In addition to
2059 other lawful security, bonds may be secured, in whole or in part, by financial guaranties, by
2060 insurance, by letters or lines of credit or by other credit enhancement issued to the authority or to
2061 a trustee or other person, by any bank, trust company, insurance or surety company or other
2062 financial institution, within or without the commonwealth. The authority may pledge or assign,
2063 in whole or in part, revenues, funds or other assets or property held or to be received by the
2064 authority, and any contract or other rights to receive the same, whether then existing or thereafter
2065 coming into existence and whether then held or thereafter acquired by the authority, and the
2066 proceeds thereof, as security for any such guaranties or insurance or for the reimbursement to
2067 any issuer of a line or letter of credit.

2068 (2) The authority shall comply with all regulations and guidelines promulgated by the
2069 finance advisory board established in section 97 of chapter 6. At least 10 business days before
2070 entering into any security transaction involving a derivative financial product, the authority shall
2071 notify the finance advisory board of its intent to enter into such a transaction. For purposes of the
2072 preceding sentence, “derivative financial product” shall mean financial instruments with values
2073 derived from or based upon the value of other assets or on the level of an interest rate index
2074 including, but not limited to, a call option on a bond, an interest rate swaptions, caps, floors,

2075 collars, inverse floaters, auction rate securities or any other financial transaction other than fixed-
2076 rate, long-term borrowing.

2077 (f) It shall be lawful for any bank or trust company to act as a depository or trustee of the
2078 proceeds of bonds, revenues or other moneys under a bond resolution, trust agreement or other
2079 agreement of the authority and to furnish indemnification and to provide security as may be
2080 required by the authority. Any pledge of revenues and other funds made by the authority under
2081 this chapter shall be valid and binding and shall be deemed continuously perfected for the
2082 purposes of the uniform commercial code and other laws when such pledge is made. The
2083 revenues and funds, rights therein and thereto and proceeds so pledged and then held or
2084 thereafter acquired or received by the authority shall immediately be subject to the lien of such
2085 pledge without any physical delivery or segregation thereof or further act, and the lien of any
2086 such pledge shall be valid and binding against all parties having claims of any kind in tort,
2087 contract or otherwise against the authority, whether or not such parties have notice thereof. The
2088 bond resolution, trust agreement or any other agreement by which a pledge is created need not be
2089 filed or recorded to perfect such pledge except in the records of the authority and no filing need
2090 be made under the uniform commercial code. Any pledge or assignment made under the
2091 authority of this chapter is an exercise of the political and governmental powers of the Authority,
2092 and revenues or funds, contract or other rights to receive the same and the proceeds thereof
2093 which are subject to the lien of a pledge or assignment created under this chapter shall not be
2094 applied to any purposes not permitted by such pledge or assignment.

2095 (g) Any holder of a bond issued by the authority under this chapter or of any of the
2096 coupons appertaining thereto and any trustee or other representative under a bond resolution,
2097 trust agreement or other agreement securing the same, except to the extent the rights herein given

2098 may be restricted by the resolution, trust agreement or other agreement, may bring suit upon the
2099 bonds or coupons and may, either at law or in equity, by suit, action, mandamus, or other
2100 proceeding for legal or equitable relief, including proceedings for the appointment of a receiver
2101 to take possession and control of the business and properties of the authority, to operate and
2102 maintain the same, to make any necessary repairs, renewals and replacements in respect thereof
2103 and to fix, revise and collect charges, protect and enforce any and all rights under the laws of the
2104 commonwealth or granted hereunder or under such bond resolution, trust agreement or other
2105 agreement, and may enforce and compel performance of all duties required by this chapter or by
2106 such bond resolution, trust agreement or other agreement, to be performed by the authority or by
2107 any officer thereof.

2108 (h) Before the issuance of any bonds of the authority, each member of the board of
2109 directors and each officer of the authority charged with responsibility for the issuance thereof
2110 shall execute a surety bond conditioned on the faithful performance of the duties of the office of
2111 each such director and officer, in the sum of \$100,000 payable to the authority, or, in lieu
2112 thereof, the authority shall obtain a blanket bond in the same amount covering all such persons,
2113 and such bonds or bonds shall be filed in the office of the state secretary.

2114 Section 23. The authority may issue refunding bonds for the purpose of paying any of its
2115 bonds issued pursuant to this chapter at or prior to maturity or upon acceleration or redemption
2116 or purchase and retirement. Refunding bonds may be issued at such times at or prior to the
2117 maturity, redemption or purchase and retirement of the refunded bonds as the board of directors
2118 deems to be in the interest of the authority. Refunding bonds may be issued in sufficient amounts
2119 to pay or provide for payment of the principal of the bonds being refunded, together with any
2120 redemption premium thereon, any interest or discount accrued or to accrue to the date of

2121 payment of such bonds, the costs of issuance of the refunding bonds, the expenses of paying,
2122 redeeming or purchasing the bonds being refunded, the costs of holding and investing proceeds
2123 of refunding bonds pending such payment, redemption or purchase and such reserves for debt
2124 service or other capital or current expenses from the proceeds of such refunding bonds as may be
2125 required by a bond resolution, trust agreement or other agreement securing bonds. The issue and
2126 sale of refunding bonds, the maturities and other details thereof, the security therefor, the rights
2127 of the holders thereof, and the rights, duties and obligations of the authority in respect of the
2128 same shall be governed by this chapter relating to the issue of bonds other than refunding bonds
2129 insofar as the same may be applicable.

2130 Section 24. Bonds issued by the authority are hereby made securities in which all public
2131 officers and agencies of the commonwealth and its political subdivisions, all insurance
2132 companies, trust companies in their commercial departments, savings banks, cooperative banks,
2133 banking associations, investment companies, executors, administrators, trustees and other
2134 fiduciaries may properly invest funds, including capital in their control or belonging to them.
2135 Such bonds are hereby made securities which may properly be deposited with and received by
2136 any state or municipal officer of any agency or political subdivision of the commonwealth for
2137 any purpose for which the deposit of bonds or obligations of the commonwealth or any political
2138 subdivision is now or may hereafter be authorized by law.

2139 Section 25. Bonds may be issued under this chapter without obtaining the consent of any
2140 executive office, department, division, commission, board, bureau or agency of the
2141 commonwealth or any political subdivision thereof, and without any other proceedings or the
2142 happening of any condition or acts other than those proceedings, conditions or acts which are
2143 specifically required therefor, and the validity of and security for any bonds issued by the

2144 authority pursuant to this chapter shall not be affected by the existence or nonexistence of any
2145 such consent or other proceedings, conditions or acts. Provisions of this chapter relating to the
2146 preparation, adoption or approval of programs and budgets shall not affect the issue of bonds and
2147 bonds may be issued either before or after such preparation, adoption or approval.

2148 Section 26. Bonds issued under the provisions of this chapter shall not be deemed to be a
2149 debt or a pledge of the faith and credit of the commonwealth or of any of its political
2150 subdivisions, but shall be payable solely from the funds of the authority from which they are
2151 made payable pursuant to this chapter. Bonds issued under this chapter shall recite that neither
2152 the commonwealth nor any political subdivisions thereof shall be obligated to pay the same and
2153 that neither the faith and credit nor the taxing power of the commonwealth or of any political
2154 subdivision thereof is pledged to the payment of the principal of or interest on such bonds.
2155 Further, every bond shall recite whether it is a general obligation of the authority or a special
2156 obligation thereof payable solely from particular revenues or funds pledged to its payment. The
2157 aggregate principal amount of all bonds issued under this chapter shall not exceed
2158 \$10,000,000,000 outstanding at any one time; provided, however, that bonds for the payment of
2159 redemption of which, either at or prior to maturity, refunding bonds shall have been issued shall
2160 be excluded in the computation of outstanding bonds.

2161 Section 27. Notwithstanding any of the provisions of this chapter or any recitals in any
2162 bonds issued hereunder, all such bonds shall be deemed to be investment securities under the
2163 uniform commercial code.

2164 Section 28. All moneys received pursuant this chapter, whether as proceeds from the
2165 issue of bonds or as revenues or otherwise, shall be deemed to be trust funds to be held and

2166 applied solely as provided in this chapter. The resolution authorizing the notes or bonds or the
2167 trust agreement securing such notes or bonds shall provide that any officer with whom, or any
2168 bank or trust company with which, such moneys shall be deposited shall act as trustee of such
2169 moneys and shall hold and apply the same for the purposes hereof, subject to such regulations as
2170 this chapter and such resolution or trust agreement may provide.

2171 Section 29. (a) The authority shall, at all times, keep full and accurate accounts of its
2172 receipts, expenditures, disbursements, assets and liabilities which shall be open to inspection by
2173 any officer or duly appointed agent of the commonwealth. The authority shall submit an annual
2174 report, in writing, to the governor, the president of the senate, the speaker of the house of
2175 representatives, the chairman of the senate committee on ways and means, the chairman of the
2176 house committee on ways and means and the chairmen of the joint committee on transportation.
2177 The report shall include audited financial statements by an independent accounting firm relating
2178 to the operations, properties, and capital facility expenditures, including costs of land
2179 acquisitions, of the authority maintained in accordance with generally accepted accounting
2180 principles so far as applicable, and audited by an independent certified public accountant firm.

2181 (b) Not later than December 31, 2011 and every 5 years thereafter, the authority shall
2182 submit to the governor, the president of the senate, the speaker of the house of representatives,
2183 the chairman of the senate committee on ways and means, the chairman of the house committee
2184 on ways and means and the chairmen of the joint committee on transportation a progress report
2185 on the authority's attainment of its statutory purposes. Each such 5-year progress report shall be
2186 prepared by the authority with the assistance of an independent citizen panel which shall include
2187 persons selected by the authority and approved by the regional transit advisory board established
2188 by section 27 of chapter 161B, the parkways advisory board established by section 60 of chapter

2189 81C, the road and bridge advisory board established in section 58 of chapter 81C and the mass
2190 transit advisory board established by section 5 who are experienced in environmental protection,
2191 civil engineering and public management and finance. The report shall include recommendations
2192 concerning the future activities of the authority including, but not limited to, changes in this
2193 chapter, chapter 81C, chapter 81D and chapter 161B or the authority's administrative procedures
2194 necessary or desirable for improving the delivery of services. The costs of preparing the report
2195 shall be provided for in the current expense budgets of the Authority.

2196 Section 30. Annual revenues in excess of expenses shall be allocated in the following
2197 order:

2198 (1) to fully fund all debt service reserves required under the trust agreements of any
2199 bonds of the authority then outstanding, and to fund in advance the debt service reserve
2200 requirements of any bond issuances planned for the upcoming fiscal year, in each case to the
2201 extent required by an applicable bond resolution or trust agreement securing bonds of the
2202 authority;

2203 (2) to fund the Stabilization Fund established pursuant to the second paragraph of section
2204 21;

2205 (3) 50 per cent of any revenues in excess of expenses remaining after all debt service
2206 reserve requirement and the Stabilization Fund are fully funded shall be deposited in the Toll and
2207 Fare Stability Fund established pursuant to the third paragraph of said section 21;

2208 (4) 50 per cent of any revenues in excess of expenses remaining after all debt service
2209 reserve requirement and the Stabilization Fund are fully funded shall pay for capital
2210 improvements in lieu of bond proceeds or be applied to the retirement of outstanding bonds.

2211 Section 32. The authority shall be a public employer as defined in section 1 of chapter
2212 258.

2213 Section 33. The authority shall be deemed to be a public agency for purposes of, and
2214 shall be subject to, sections 44A to 44H, inclusive, of chapter 149, and section 39M of chapter
2215 30, and shall comply with requirements applicable to an independent public authority for
2216 publication of contract information in the central register established under section 20A of
2217 chapter 9 . The authority shall not be subject to supervision under section 22 of chapter 7, but
2218 may enter into agreements under section 22A and 22B of chapter 7 and, in all respects not
2219 governed by general or special laws expressly made applicable to the authority, shall adhere to
2220 good business practices to be determined by the authority in its procurement of equipment,
2221 materials, property, supplies and services.

2222 Section 34. (a) All local bodies and all public agencies, instrumentalities, commissions
2223 and authorities of the commonwealth are hereby authorized and empowered to undertake
2224 activities, programs and projects in conjunction with the authority in furtherance of the purposes
2225 of this chapter including, without limiting the generality of the foregoing, to join in
2226 investigations and studies, and to grant applications and applications for project approvals.

2227 (b) Except with respect to real property acquired or held for purposes described in Article
2228 XCVII of the amendments to the constitution of the commonwealth, all local bodies and all
2229 public agencies, instrumentalities, commissions and authorities of the commonwealth, may lease,
2230 lend, grant or convey to the authority, upon such terms and conditions as the proper authorities of
2231 such public bodies, public agencies, instrumentalities, commissions and authorities of the
2232 commonwealth may deem appropriate and without the necessity of any action or formality other

2233 than the regular and formal action of such public bodies, agencies, instrumentalities,
2234 commissions and authorities of the commonwealth, any interest in any real or personal property
2235 which may be necessary or convenient to effect the purposes of the authority.

2236 Section 35. Under this chapter, chapter 81C and chapter 81D: (i) no lands or easements
2237 taken or acquired for the purposes authorized by article XCVII of the amendments to the
2238 constitution of the commonwealth shall be used for other purposes or disposed of; and (ii) no
2239 lands devoted to the public use shall be diverted to another inconsistent public use, except in all
2240 instances in accordance with the laws and the constitution of the commonwealth.

2241 Section 36. The superior court department of the trial court shall have jurisdiction to
2242 enforce rights and duties created by this chapter, and on complaint of the authority may restrain
2243 violations of the authority's regulations and otherwise enforce by any appropriate remedy,
2244 including without limiting the generality of the foregoing, injunctive relief, the regulations,
2245 licenses, permits, orders, penalties and charges of the authority. Penalties and charges established
2246 by or under authorization of this chapter shall be collected for the account of the authority and
2247 paid over to the authority. Except for rights of action expressly conferred upon the Authority, no
2248 provision of this chapter shall create private rights of action in enforcement proceedings.

2249 Section 37. Notwithstanding any general or special law or this chapter to the contrary, no
2250 officer of the authority shall enter into any consent decree in any court of any jurisdiction
2251 without prior approval of the governor.

2252 Section 38. The authority and its corporate existence shall continue until terminated by
2253 law; provided, however, that no such law shall take effect so long as the authority shall have
2254 bonds outstanding without adequate provision for the complete payment or satisfaction thereof.

2255 Upon termination of the authority, the title to all funds and other properties owned by it which
2256 remain after the payment or satisfaction of all bonds of the authority shall vest in the
2257 commonwealth. The obligations, debts and liabilities of the authority shall be assumed by and
2258 imposed upon the commonwealth.

2259 Section 39. Chapter 12A shall apply to the authority.

2260 Section 40. There shall be an internal special audit unit within the authority which shall
2261 monitor the quality, efficiency and integrity of the authority's operating and capital programs and
2262 seek to prevent, detect and correct fraud, waste and abuse in the expenditure of public or private
2263 transportation funds. The unit shall be headed by a director, who shall be appointed by the
2264 inspector general council, established in section 3 of chapter 12A.. Employees of the internal
2265 special audit unit shall have experience in accounting, auditing, financial analysis, applicable
2266 law, business management, and public administration, shall devote their full-time efforts to the
2267 unit and shall not be assigned direct operating responsibilities.

2268 At any time, the director may report and refer his findings to the inspector general so that
2269 the inspector general may conduct an investigation as defined in chapter 12A and the results of
2270 such investigation may be referred to the attorney general for appropriate action.

2271 Section 41. Notwithstanding any general or special law to the contrary, the authority
2272 shall not seek federal approval for, nor undertake the design, installation and construction of,
2273 new toll facilities on the state highway system.

2274 Section 42. The authority shall be subject to section 8 of chapter 268A of the General
2275 Laws and thereby shall be prohibited from implementing competitively procured owner-
2276 controlled insurance programs.

2277 Section 43. The authority shall adopt and implement: (i) a buy green initiative for
2278 authority projects in furtherance of the greenhouse gas emission limits established in chapter
2279 21N; and (ii) a build green initiative for the construction of new transportation facilities over
2280 10,000 square feet in accordance with applicable law.

2281 CHAPTER 81C

2282 THE DIVISION OF ROADS AND BRIDGES

2283 Section 1. (a) Without limiting the generality of the powers granted to the authority
2284 under the provisions of chapter 81B or other provisions of this chapter, the following provisions
2285 are made for the operation, improvement and construction of the state highway system.

2286 (b) There is hereby established a division of roads and bridges within the authority. The
2287 division shall consist of the following bureaus: administrative services; parkway maintenance;
2288 trails and bikeways; highway engineering; highway construction; and highway maintenance.
2289 Each such bureau shall be under the direction, control and supervision of the administrator of the
2290 division of roads and bridges, as defined in section 2. The administrator shall assign to all
2291 officials, agents and employees of the bureaus their respective duties.

2292 Section 2. The division shall be under the direction of an administrator, who shall be
2293 appointed by the chief executive officer of the authority and who shall serve at his pleasure. The
2294 administrator shall be responsible for administering and enforcing this chapter relative to the
2295 administration of each bureau or other section thereof under his control and supervision unless
2296 otherwise provided herein, subject to the supervision of the chief executive officer of the
2297 authority.

2298 The administrator shall be exempt from chapter 31 and the position of administrator shall
2299 be classified in accordance with section 45 of chapter 30 and the salary shall be determined in
2300 accordance with section 46C of said chapter 30. The administrator shall be appointed with due
2301 regard to his fitness, by reason of his experience in matters relating to transportation
2302 infrastructure, including roads and bridges, such as the construction, operations or financing
2303 thereof or other relevant experience relative to the efficient exercise of his powers and duties.
2304 The commissioner shall administer this section and the General Laws, rules and regulations that
2305 grant powers to or impose duties upon the division , subject to the supervision of the chief
2306 executive officer.

2307 (a) The administrator shall establish a procedure for recommending to the chief executive
2308 officer approval or disapproval of all contracts, including specifications, made by the division,
2309 and any changes, alterations, amendments or modifications thereof and for contract appeals of all
2310 claims made under any contract with the division with the exception of claims subject to section
2311 39Q of chapter 30. Any person aggrieved by a decision of the chief executive officer acting in
2312 regard to contract appeals may bring suit against the authority for recovery of damages based on
2313 such claim under chapter 258.

2314 To assist the chief executive officer and administrator in performing this function, the
2315 chief executive officer may appoint and remove a person of legal training and experience, who
2316 shall be a member of the bar of the commonwealth, to the position of hearing examiner. The
2317 hearing examiner shall devote full-time during business hours to the duties of his position. The
2318 position shall be classified in accordance with section 45 of chapter 30 and the salary shall be
2319 determined in accordance with section 46C of said chapter 30. The chief executive officer may
2320 refer any dispute concerning contracts, contract specifications or the execution of contracts not

2321 subject to the said section 39Q of said chapter 30 to the hearing examiner for a report on the
2322 matter including a recommendation as to the disposition of the dispute.

2323 The hearing examiner shall hear all claims by contractors from determinations of the
2324 department with the exception of claims subject to said section 39Q of said chapter 30 and shall,
2325 after hearing, render to the chief executive officer a report of the matter including a
2326 recommendation as to the disposition of the claim. The examiner shall, at the request of the
2327 contractor or of the division or on his own motion, summon witnesses and require the production
2328 of books and records and take testimony under oath. Such report shall be maintained as public
2329 records in a place and form fully accessible to the public.

2330 (b) The administrator shall appoint and may remove all employees in the division, subject
2331 to the approval of the chief executive officer of the authority. Except as provided in this chapter
2332 or as otherwise provided by law, all such appointments and removals shall be made in
2333 accordance with chapter 31. From time to time, the administrator may, subject to appropriation
2334 and regulation, employ such consultants as he may consider necessary; provided, however, that
2335 such consultants shall be engaged to perform only those services for the division which regular
2336 employees of the division are unable to perform owing to lack of special expertise or other
2337 inability to perform such services on the schedule or in the manner required by the division.

2338 The administrator may appoint and remove, without regard to chapter 31 but with the
2339 approval of the chief executive officer: a chief engineer; 5 deputy chief engineers; an assistant
2340 chief engineer; a highway and structures engineer; a bridge engineer; highway engineers;
2341 parkway engineers; district highway engineers; a director to serve in the division of
2342 administrative services; 4 executive assistants to the administrator; a director of the right of way

2343 bureau; and a director of public information. The total number of appointments to be made by
2344 the administrator under this paragraph shall not exceed 35. No person holding an appointment
2345 under this paragraph shall be subject to chapter 31 or section 9A of chapter 30. Nothing in this
2346 section shall be deemed to exempt the positions named herein from sections 45 to 50, inclusive,
2347 of said chapter 30. So far as practicable in the judgment of the administrator, appointments to
2348 said positions not classified under said chapter 31 shall be made by promoting employees of the
2349 division serving in positions so classified. Any person appointed to the position of chief
2350 engineer, deputy chief engineer, assistant chief engineer, highway and structures engineer, bridge
2351 engineer, parkway engineer, highway engineer or district highway engineer, shall be a person of
2352 experience and skill as an engineer and shall be: (i) an employee of the bureau holding an office
2353 or position classified under said chapter 31 with permanent status of senior civil engineer or
2354 higher; (ii) a registered professional engineer; or (iii) a person who has received the degree of
2355 bachelor of science in an appropriate engineering discipline from an accredited college or
2356 university. If an employee of the division having permanent status in a position classified under
2357 or having tenure by reason of section 9A of said chapter 30 is so promoted to such unclassified
2358 position, upon termination of service in such unclassified position the employee shall be restored
2359 to the position from which he was promoted; or to a position equivalent thereto in the salary
2360 grade in the same state agency; or if he had been promoted in accordance with said chapter 31
2361 during promotion in the unclassified position, to the position to which he was so promoted or to a
2362 position equivalent thereto in salary grade in the same state agency. In cases of restoration under
2363 said chapter 31, or under said section 9A of said chapter 30, such restoration shall be without
2364 impairment of civil service status or tenure under said section 9A, and without loss of the
2365 seniority, retirement and other rights to which uninterrupted service in the position would have

2366 entitled the employee; provided, however, that if his service in such unclassified position has
2367 been terminated for cause, the employee's right to be restored shall be determined by section 43
2368 of said chapter 31. During the period of such appointment the person so appointed shall be
2369 eligible to take any competitive promotional examination for which he or she would otherwise
2370 have been eligible.

2371 (c) The administrator shall, from time to time, establish such bureaus, section, and district
2372 and other offices as shall be necessary for the efficient and economical administration of the
2373 division and, if necessary for such purpose, may, from time to time, with the approval of the
2374 chief executive officer, consolidate or abolish the same. The administrator shall prepare and keep
2375 current a general statement of the organization of the division, of the assignment of functions to
2376 its various administrative units, officials and employees, and of the established places at which
2377 and the methods whereby the public may secure information or make requests, such statement to
2378 be known as the division's "description of organization". The administrator shall file with the
2379 state secretary an attested copy of such description and of each amendment thereto.

2380 (d) With the approval of the personnel director, the chief executive officer may establish
2381 in the division of roads and bridges a program of engineering internship and, may recruit
2382 qualified persons to serve in the division as highway engineer interns.

2383 The number of persons employed in the division as highway engineer interns shall at no
2384 time exceed 7, nor may such highway engineer interns employed by the division be placed in a
2385 salary grade higher than that of a junior civil engineer in the division.

2386 No person shall be appointed or employed as a highway engineer intern except upon
2387 requisition made by the administrator and upon certification by the personnel director from an

2388 eligible list prepared in accordance with the provisions of chapter 31 and the rules made
2389 thereunder; provided, however, that the personnel director shall establish such eligible list before
2390 June 1 in each calendar year by holding a competitive examination which shall be open only to
2391 persons who, as candidates for the degree of bachelor of science in engineering are enrolled in at
2392 least the junior year as students in any college of the commonwealth, or are Massachusetts
2393 residents attending a college of recognized standing outside the commonwealth, and to persons
2394 who, within the 4 years next preceding, have been awarded the degree of bachelor of science in
2395 engineering from a college of recognized standing. The eligible list established each year shall
2396 expire upon the establishment of the eligible list in the following year. No person shall be
2397 certified for appointment as a highway engineer intern unless he has been awarded the degree of
2398 bachelor of science in engineering.

2399 Upon appointment as a highway engineer intern, made in accordance with chapter 31 and
2400 the rules made thereunder, the appointee shall sign an agreement binding him to serve as
2401 highway engineer intern for a minimum of 2 years unless his employment is sooner terminated
2402 by the administrator. It shall be the duty of the administrator to rotate the assignments of each
2403 intern during his period of employment in order that he may acquire diversified experience in the
2404 engineering programs of the division.

2405 The names of persons appointed as highway engineer interns shall be entered in order of
2406 date of appointment on a list to be known as "highway engineer intern list" in the division of
2407 civil service.

2408 Upon completion of 2 years of employment as interns under agreements provided for in
2409 this section, persons shall be eligible without further examination for appointment as junior civil

2410 engineers providing a vacancy exists in said title in the division and, upon requisition of the
2411 administrator, the names of such persons shall be certified for appointment by the personnel
2412 director from the highway engineer intern list, in accordance with the rules of the civil service
2413 commission, except that the basis of certification shall be the order of appointment to such
2414 highway engineer intern list.

2415 (e) The administrator may establish a co-operative engineer program and may enter into
2416 agreements with colleges of recognized standing within the commonwealth, including colleges
2417 which have summer programs, which have established a curriculum leading to a degree of
2418 bachelor of science in engineering on a co-operative basis, contemplating regularly rotating work
2419 activity in the field of engineering and an equal period of classroom training. He may employ
2420 persons enrolled as candidates for the degree of bachelor of science in engineering in any such
2421 colleges to serve in the division in the position of student engineer; provided, however, that the
2422 position of student engineer shall be in a grade lower than that of junior civil engineer in the
2423 division, and provided that at no time shall the number of persons employed in the division as
2424 student engineers exceed 8. Upon completion of not less than 2 years of employment as student
2425 engineer, a person shall be eligible to apply for the examination for highway engineer intern. No
2426 person shall be employed as a student engineer for more than 6 years.

2427 (f) The administrator may promulgate rules and regulations to effectuate the purposes of
2428 this chapter.

2429 (g) There shall be an office of outdoor advertising within the division, for the purpose of
2430 regulating and controlling, in the public interest, the erection and maintenance of billboards,
2431 signs, or other advertising devices in accordance with state and federal law. The office shall be

2432 under the administration and supervision of an executive officer who shall be an employee of the
2433 division. The executive officer shall arrange for the cooperation of district engineers of the
2434 division of roads and bridges and other field employees of the division in reporting the location
2435 of billboards, signs or other advertising devices along state highways, and in enforcing the rules
2436 and regulations of the office. Whenever any action by the office is required to be in writing,
2437 such writing shall be sufficient when signed by the executive officer. The executive officer shall
2438 make an annual report for the preceding calendar year setting forth the number of permits
2439 granted, the number of permits refused, the number of hearings held, the number of illegal signs
2440 removed, and other relevant matters to the general court and to the administrator of the division
2441 of roads and bridges in January of each year.

2442 Section 2A. Unless otherwise required under section 6A of chapter 31 or any other
2443 general or special law to the contrary, the administrator shall design and implement a program
2444 for performance evaluation of employees. The sole purpose of the program shall be the
2445 improvement of the performance of individual employees and the division and, notwithstanding
2446 any general or special law to the contrary, all information compiled by said program shall be
2447 confidential and exempt from clause Twenty-sixth of section 7 of chapter 4 and section 10 of
2448 chapter 66. The division may consult with individuals and organizations and may contract for
2449 technical assistance for the purpose of the program to the extent it deems necessary.

2450 Section 3. The division may:

2451 (a) administer the design, construction, operation and maintenance of the roads and
2452 bridges of the commonwealth;

2453 (b) enter into any contracts and agreements necessary or desirable to carry out its
2454 purposes;

2455 (c) make and, from time to time revise, regulations for the conduct of the business of the
2456 division, and all regulations otherwise required by law;

2457 (d) collaborate with other agencies and authorities, in consultation with the chief
2458 executive officer, as may be appropriate in fields related to transportation, development, public
2459 safety and security;

2460 (e) prepare and submit to the chief executive officer an annual report containing, in
2461 substance, the description of the organization of the bureau, reviewing the work of the division,
2462 recommending legislation and other action by the chief executive officer, and containing such
2463 information relating to the state highway system as appropriate, including information required
2464 by the chief executive officer;

2465 (f) submit such other reports as the chief executive officer requires;

2466 (g) compile statistics relative to the public ways of counties, cities and towns, and make
2467 such investigations relative thereto as it considers expedient;

2468 (h) be consulted by, and shall without charge advise, officers of counties, cities or towns
2469 having the care of and authority over public ways as to the construction, maintenance, alteration
2470 or repair thereof but such advice shall not impair the legal duties and obligations of any county,
2471 city or town;

2472 (i) prepare maps of the commonwealth on which shall be shown county, city and town
2473 boundaries, the public ways and the state highway system, with the names thereof if practicable,

2474 and may sell such maps or other maps prepared by it, from time to time, in connection with the
2475 work under its charge relative to the state highway system, at such prices and on such conditions
2476 as it may determine;

2477 (j) collect, collate and make available, geoscience data of the commonwealth for the
2478 purpose of aiding in the search for and evaluation of reserve sources of water, gas, materials
2479 suitable for road building and all other minerals within the land and water boundaries of the
2480 commonwealth, the location of which it shall, so far as practicable, designate on maps which
2481 shall be open to inspection by the public;

2482 (k) give public notice of and hold at least 1 public meeting annually in each county for
2483 the open discussion of questions relative to the public ways;

2484 (l) maintain offices at such places within the commonwealth as it may determine and
2485 conduct meetings of the division in accordance with the by-laws of the authority and the
2486 division;

2487 (m) construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer,
2488 control and operate the state highway system or any part thereof as it may determine; provided,
2489 however, that chapter 91 shall not apply to the division, except for any parts or areas thereof
2490 subject to said chapter 91 on March 1, 1997;

2491 (n) acquire sites abutting the state highway system and to construct or contract for the
2492 construction of buildings and appurtenances for gasoline stations, restaurants, parking facilities,
2493 tourist information centers and other services and to lease such facilities in such manner and
2494 under such terms as it may determine;

2495 (o) adopt such rules and regulations pursuant to chapter 30A and not repugnant to the
2496 provisions of the General Laws made applicable to the authority, as the division determines
2497 necessary or appropriate to provide for or govern the construction or reconstruction, including
2498 contractor qualification, operation, maintenance, repair, rehabilitation, improvement, use,
2499 policing, control or administration of the state highway system or the division's business or
2500 property. Such regulations may include the division to grant easements, permits or other forms of
2501 authorization for the installation, construction, maintenance, repair, renewal, relocation and
2502 removal of tracks, pipes, pipelines, mains, conduits, cables, wires, towers, poles and other
2503 equipment and appliances of any public utility, private entity or corporation or person owning or
2504 operating such facilities in, on, along, over or under the state highway system.

2505 Such regulations may impose penalties for violations thereof which, in the case of civil
2506 penalties, may be recovered only after notice and hearing conducted by the division or its
2507 designee and subject to judicial review and enforcement pursuant to said chapter 30A or such
2508 other civil proceedings under the laws of the commonwealth or the United States as the law may
2509 provide and, in the case of criminal penalties, may be recovered in a proceeding in a trial court of
2510 the commonwealth by indictment or complaint. The amount of any such civil or criminal
2511 penalty, with the exception of penalties imposed under section 19, shall not exceed \$500 for each
2512 offense, unless the law otherwise provides. The full amount of a civil penalty shall be paid to the
2513 authority and 80 per cent of a penalty recovered in a criminal proceeding shall be accounted for
2514 and paid to the authority. The division may further provide in such regulations for adjudicatory
2515 proceedings that it or its designee conducts which are subject to judicial review and enforcement
2516 according to said chapter 30A;

2517 (p) place and maintain or grant permission by easement or otherwise to any public utility,
2518 corporation or person to place and maintain on or under or within the state highway system or
2519 any part thereof, ducts, pipes, pipelines, mains, conduits, cables, wires, towers, poles or other
2520 structures to be so located as not to interfere with the safe and convenient operation and
2521 maintenance of the state highway system and to contract with any such public utility, corporation
2522 or person for such permission on such terms and conditions as may be fixed by the division. The
2523 construction, maintenance and repair of any such ducts, pipes, pipelines, mains, conduits, cable,
2524 wires, towers, poles or other structures shall be subject to such directions and regulations as the
2525 division may impose.

2526 Whenever the division shall determine that it is necessary that any such ducts, pipes,
2527 pipelines, mains, conduits, cable, wires, towers, poles or other structures which are now or
2528 hereafter may be located in, on, along, over or under the state highway system be relocated or
2529 removed, the public utility, corporation or person owning or operating such facilities shall
2530 relocate or remove the same in accordance with the order of the division. In case of any such
2531 relocation or removal of facilities, the public utility, corporation or person owning or operating
2532 the same, its successors or assigns may maintain and operate such facilities, with the necessary
2533 appurtenances, in the new location for as long a period and upon the same terms and conditions
2534 as it had the right to maintain and operate such facilities in their former location;

2535 (q) acquire in the name of the authority by purchase or otherwise, on such terms and
2536 conditions and in such manner as it may deem proper or by the exercise of the power of eminent
2537 domain in accordance with the provisions of chapter 79 or any alternative method now or
2538 hereafter provided by law, such public lands and any fee simple absolute or lesser interest in

2539 such private property, or part thereof or rights therein as it may deem necessary for carrying out
2540 this chapter;

2541 (r) designate the locations and establish, limit and control such points of ingress to and
2542 egress from the state highway system as may be necessary, convenient or desirable in the
2543 judgment of the authority to insure the proper operation and maintenance of the state highway
2544 system and to prohibit entrance to the state highway system from any point or points not so
2545 designated;

2546 (s) to: (1) construct grade separations at locations where the state highway system
2547 intersects with or abuts public highways or rail lines and to change and adjust the lines and
2548 grades of such highways or rail lines so as to accommodate the same to the design of such grade
2549 separation; and (2) change the location of any portion of any public highway or rail line which
2550 intersects or abuts the state highway system in order to improve the safety or efficiency of the
2551 state highway system; provided, however, that if the division shall find it necessary to change the
2552 location of a public highway, it shall reconstruct the same in as good a condition as the original
2553 highway and at such location as the division deems most favorable. All costs incident to
2554 construction, realignment or reconstruction conducted pursuant to this clause shall be borne by
2555 the authority;

2556 (t) to enter upon any lands, waters and premises in the commonwealth, after 30 days
2557 notice by registered or certified mail and without the necessity of any judicial orders or other
2558 legal proceedings, for the purpose of making surveys, soundings, drillings and examinations as
2559 the division deems necessary, convenient or desirable for carrying out the purposes of this
2560 chapter and such entry shall not be deemed a trespass nor shall an entry for such purposes be

2561 deemed an entry under any condemnation proceedings which may be then pending. The
2562 authority shall provide reimbursement for any actual damage resulting to such lands, waters and
2563 premises as a result of such activities. The commonwealth hereby consents to the use of all lands
2564 owned by it, including lands lying underwater, which are deemed by the authority to be
2565 necessary, convenient or desirable for the construction, operation or maintenance of the state
2566 highway system;

2567 (u) make and enter into all contracts and agreements necessary, convenient or desirable in
2568 the performance of its duties and the execution of its powers under this chapter including, but not
2569 limited to, contracts or agreements with state, local or regional public agencies and authorities
2570 which the division deems necessary, convenient or desirable for the ownership, construction,
2571 operation, maintenance, repair, reconstruction, improvement, rehabilitation, use, control,
2572 administration or policing of the state highway system, or any part thereof, and agreements with
2573 the Federal Highway Administration with respect to compliance with the provisions of Titles 23
2574 and 49 of the United States Code as they may apply to the state highway system; provided,
2575 however, that sections 26 to 29, inclusive, and sections 44A to 44J, inclusive, of chapter 149 and
2576 sections 39F to 39M, inclusive, of chapter 30 shall apply to contracts of the division to the same
2577 extent and in the same manner as they are applicable to the commonwealth. Notwithstanding this
2578 clause, the division may, with approval of the authority, without competitive bids and
2579 notwithstanding any general or special law to the contrary, award a contract, otherwise subject to
2580 this section, limited to the performance of emergency repairs necessary to preserve the safety of
2581 persons or property;

2582 (u 1/2) administer the design and construction of all recreational trails and bikeways of
2583 the commonwealth;

2584 (v) accept gifts, grants and loans from agencies of local, state and federal governments, or
2585 from private agencies or persons, and to accede to such conditions and obligations as may be
2586 imposed as a prerequisite to any such gift, grant or loan; and

2587 (w) do all acts and things necessary, convenient or desirable to carry out the powers
2588 expressly granted in this chapter.

2589

2590 Section 4. Real property of the division other than property leased pursuant to sections 5
2591 and 6, if leased, used or occupied in connection with a business conducted for profit shall, at the
2592 discretion of the municipality for the privilege of such lease, use or occupancy be valued,
2593 classified, assessed and taxed annually as of January 1 to the lessee, user or occupant in the same
2594 manner and to the extent as if such lessee, user or occupant were the owner thereof in fee. No tax
2595 assessed under this section shall be a lien upon the real estate to which it is assessed nor shall any
2596 tax be enforced by any sale or taking of such real estate but the interest of any lessee therein may
2597 be sold or taken by the collector of the city or town in which the real estate lies for the
2598 nonpayment of such taxes in the manner provided by law for the sale or taking of real estate for
2599 nonpayment of annual taxes. Such collector shall have for the collection of taxes under this
2600 section all other remedies provided by chapter 60 for the collection of annual taxes upon real
2601 estate.

2602 Section 5. In addition to any other power the division may have to make leases, the
2603 division may lease at 1 time or from time to time for terms not to exceed 99 years, upon such
2604 terms and conditions as the authority in its discretion deems advisable, air rights over land owned
2605 or held by the authority in connection with the state highway system, including rights for

2606 support, access, utilities, light and air, for such purposes as, in the opinion of the authority, shall
2607 not impair the construction, full use, safety, maintenance, repair, operation or revenues of the
2608 state highway system; provided, however, that any such lease for a period of 40 years or more
2609 shall be subject to the approval of the governor. Any lease granted under this section may, with
2610 the consent of the authority, be assigned, pledged or mortgaged and the lien of such pledge or
2611 mortgage may be foreclosed by appropriate action. The proceeds from any such lease shall be
2612 paid into the treasury of the commonwealth for credit to the surface transportation trust fund.

2613 Use of air rights leased under this section respecting land within the territorial limits of
2614 the city of Boston and the construction and occupancy of buildings or other things erected or
2615 affixed pursuant to any such lease shall be made in accordance with the provisions of the state
2616 building code enacted pursuant to chapter 143 and such other requirements as the authority
2617 deems necessary or advisable to promote the public health, convenience and safety of persons
2618 and property but shall not be subject to any other building, fire, garage, health or zoning law or
2619 any building, fire, garage, health or zoning ordinance, rule or regulation applicable in the city of
2620 Boston.

2621 The division shall not lease any air rights in a particular location unless it shall find that
2622 the construction and use of buildings or other things to be erected or affixed pursuant to any such
2623 lease shall be in no way detrimental to the maintenance, use and operation of the state highway
2624 system and, in the city of Boston, unless the division shall also find, after consultation with the
2625 mayor that the construction and use of such buildings or other things shall preserve and increase
2626 the amenities of the community.

2627 The construction or occupancy of any building or other thing erected or affixed under any
2628 lease under this section of air rights respecting land outside the territorial limits of the city of
2629 Boston shall be subject to the building, fire, garage, health and zoning laws and the building, fire,
2630 garage, health and zoning ordinances, by-laws, rules and regulations applicable in the city or
2631 town in which such building or other thing is located.

2632 A copy of all leases granted by the division under this section shall be filed by the
2633 authority with the governor and with the mayor or chairperson of the board of selectmen of the
2634 respective city or town and such leases shall be deemed to be public records within the meaning
2635 of chapter 66.

2636 Neither such air rights nor any buildings or other things erected or affixed pursuant to any
2637 such lease nor the proceeds from any such lease shall be taxed or assessed to the division under
2638 any general or special law; provided, however, that buildings and other things erected or affixed
2639 pursuant to any such lease shall be taxed to the lessee thereof or his assigns in the same manner
2640 and to the same extent as if such lessee or his assigns were the owners of the land in fee;
2641 provided, further, that no part of the value of the land shall be included in any such assessment;
2642 and provided further, that payment of any such taxes shall not be enforced by a lien upon or sale
2643 or taking of such land except that the leasehold estate may be sold or taken by the collector of
2644 taxes of the city or town wherein such real estate is situated for the nonpayment of any tax
2645 assessed as aforesaid in the manner provided by law for the sale or taking of real estate for
2646 nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under
2647 this section all other remedies provided by the General Laws for the collection of taxes by
2648 collectors of cities and towns.

2649 The division shall include in any lease of such air rights a provision whereby the lessee
2650 agrees, in the event that the foregoing tax provision is determined by any court of competent
2651 jurisdiction to be inapplicable, to pay annually to the city or town wherein such building or other
2652 thing leased is located, a sum of money in lieu of taxes which would otherwise be assessed for
2653 such year.

2654 Each lease made pursuant to this section shall require that the lessee file with the division
2655 a statement under oath containing the names and addresses of the officers and directors, in the
2656 case of a corporation, and in the case of a partnership or other voluntary association, the name
2657 and address of all persons having a financial or beneficial interest in said lease. The lessee shall,
2658 within 30 days after any change in the said officers or directors, or of persons holding any such
2659 interest, file a corrected statement under oath with the division.

2660 No billboards shall be erected under this section.

2661 Section 6. In addition to any other power the division may have to make leases, the
2662 division may lease at one time or from time to time for terms not to exceed 99 years, upon such
2663 terms and conditions as the authority in its discretion deems advisable, land owned by the
2664 division and no longer required for the maintenance, repair, reconstruction, improvement, use,
2665 administration or operation of the state highway system; provided, however, that any such lease
2666 for a period of 40 years or more shall be subject to the approval of the governor. A lease granted
2667 under this section may, with the consent of the authority, be assigned, pledged or mortgaged and
2668 the lien of such pledge or mortgage may be foreclosed by appropriate action.

2669 The construction or occupancy of any building or other thing erected or affixed under any
2670 lease of land under this section shall be subject to the building, fire and zoning laws, ordinances
2671 or by-laws applicable in the city or town wherein such building or other thing is located.

2672 A copy of all leases granted by the division under this section shall be filed by the
2673 authority with the governor and with the mayor or chairman of the board of selectmen of the
2674 respective city or town and such leases shall be deemed to be public records within the meaning
2675 of chapter 66.

2676 Neither such land nor any buildings or other things erected or affixed pursuant to any
2677 such lease nor the proceeds from any such lease shall be taxed or assessed to the authority under
2678 any general or special law; provided, however, that such land and buildings and other things
2679 erected or affixed pursuant to any such lease shall be taxed to the lessee thereof or his assigns in
2680 the same manner and to the same extent as if such lessee or his assigns were the owners of the
2681 land in fee; provided further, that payment of any such taxes shall not be enforced by a lien upon
2682 or sale or taking of such land except that the leasehold estate may be sold or taken by the
2683 collector of taxes of the city or town wherein such land is situated for the nonpayment of any tax
2684 assessed as aforesaid in the manner provided by law for the sale or taking of real estate for
2685 nonpayment of local taxes. Such collector shall have for the collection of taxes assessed under
2686 this section all other remedies provided by the General Laws for the collection of taxes by
2687 collectors of cities and towns.

2688 The division shall include in any lease of such land a provision whereby the lessee
2689 agrees, in the event that the foregoing tax provision is determined by any court of competent

2690 jurisdiction to be inapplicable, to pay annually to the city or town in which such leased land is
2691 located a sum of money in lieu of taxes which would otherwise be assessed for such year.

2692 Section 7. County commissioners and city and town officers who have the care of and
2693 authority over public ways shall, on request, furnish the division with any information required
2694 by it concerning such ways.

2695 Section 8. Steam road rollers and other road machinery, purchased by the division and
2696 owned by the authority shall be managed and maintained under the direction of the division,
2697 which may engage competent engineers and mechanics to operate and keep said machines in
2698 repair, may purchase all needed materials and supplies, and may incur such other expenses as
2699 may be necessary to operate, maintain and transport said machines. Upon the application of the
2700 selectmen or road commissioners of a town of not more than 12,000 inhabitants, the division
2701 may furnish such road machinery for use by the town in building or repairing ways therein. The
2702 expenses incurred under this section shall be paid by the towns using said machines, as
2703 apportioned and directed by the division. For the purpose of providing suitable quarters for the
2704 storage of supplies, the storage and repair of road rollers and other road machinery and tools and
2705 other equipment owned by the authority and for the construction, operation and maintenance of
2706 inter-departmental communications systems, the division may take by eminent domain or acquire
2707 by purchase or gift land and buildings and construct or alter buildings or other structures on any
2708 land so acquired. Any person whose property has been taken or injured by any action of the
2709 division under authority of this section may recover compensation therefor from the authority
2710 under chapter 79.

2711 Section 9. If county commissioners, aldermen or selectmen adjudge that public necessity
2712 and convenience require that the division lay out and take charge of a new or existing way as part
2713 of the state highway system in whole or in part, in their county, city or town, they may apply, by
2714 a written petition, to the division, requesting that said way be laid out and taken charge of by the
2715 division.

2716 Section 10. If the division determines, after public notice and a hearing of all parties
2717 interested, that public necessity and convenience require that a way should be laid out or be
2718 taken charge of by the authority, it shall file in the office of the county commissioners for the
2719 county where the way is situated a certified copy of a plan thereof and a certified copy of a
2720 certificate that it has laid out and taken charge of said way in accordance with said plan, and
2721 shall file in the office of the clerk of each town where the way is situated a copy of the plan
2722 showing the location of the portion lying therein and a copy of the certificate that it has laid out
2723 and taken charge of said highway in accordance with said plan, and thereafter said way shall be a
2724 state highway, and shall be constructed by the division at the expense of the authority; but any
2725 state highway so laid out and constructed may be abandoned or discontinued as provided in
2726 section 18. The width of a state highway shall be such as the division deems necessary. If the
2727 width of a state highway be less than that of the way previously existing, that portion of the way
2728 which lies between the boundary or location lines of the state highway and the boundary lines of
2729 the way previously existing shall remain a public way unless the division determines that it
2730 should be abandoned, or the county commissioners of the county, or the city or town in which
2731 the way is situated, having jurisdiction of the way, abandon at any time said portion in the
2732 manner provided by law for the alteration, relocation or discontinuance of public ways.

2733 Section 11. The division may alter the location of a state highway in a city or town by
2734 filing a plan thereof and a certificate that the division has laid out and taken charge of said state
2735 highway, as altered in accordance with said plan, in the office of the county commissioners for
2736 the county where said highway is situated, and by filing a copy of the plan or location as altered
2737 in the office of the clerk of such city or town.

2738 Section 12. If it is necessary to acquire land for the purposes of a state highway outside
2739 the limits of an existing public way, the division may take the same by eminent domain on behalf
2740 of the authority under chapter 79. When injury has been caused to the real estate of any person
2741 by the laying out or alteration of a state highway, he may recover compensation therefor from the
2742 authority under said chapter 79. The mayor, if so authorized by the aldermen, or the selectmen, if
2743 so authorized by the town, may stipulate in writing in behalf of the city or town to indemnify and
2744 save harmless the authority against all claims and demands for damages which may be sustained
2745 by any persons whose property has been taken for, or has been injured by the laying out or
2746 alteration of, any highway which the division proposes to lay out and construct or alter as a state
2747 highway, and thereupon such city or town shall be liable ultimately for the amount of any verdict
2748 against the authority for such damages, and for costs, and the amount thereof may be recovered
2749 by the authority in contract.

2750 Section 13. In connection with the laying out, alteration or reconstruction of a state
2751 highway, the division may alter or relocate connecting ways as may be necessary. Land or rights
2752 in land may be acquired for this purpose by eminent domain under chapter 79 by the division on
2753 behalf of the city or town in which the land lies, or on behalf of the authority, at the option of the
2754 division. The division may take or acquire by eminent domain under said chapter 79, easements
2755 in land outside the location of limited access state highways, said easements to be taken on

2756 behalf of those owners of land abutting said highways, whose rights of access to and egress from
2757 their land, and any other rights necessary to make the same available for use, shall become
2758 inoperative due to the construction of said highway. Control of the land or rights in the land
2759 acquired under this section shall not vest in the city or town until such time as the work for
2760 which the land or rights in land have been acquired has been completed by said division, except
2761 that the city or town shall be responsible for snow and ice control on such portions of the
2762 highway as may be opened to traffic prior to final completion or acceptance of the project. Any
2763 person whose property has been taken or injured by any action of said division under authority of
2764 this section may recover from the authority under said chapter 79 such damages therefor as he
2765 may be entitled to.

2766 Section 14. Wherever in this chapter the division is authorized to take land by eminent
2767 domain under chapter 79, in connection with the laying out, widening or relocating of a public
2768 way, the division may take, or institute proceedings for the taking of, an easement in land
2769 adjoining the location of the public way consisting of the right to have the land of the location
2770 protected by having the surface of the adjoining land slope from the boundary of the location.

2771 Section 15. If the division determines that public necessity and convenience require that
2772 a limited access way shall be laid out, it shall lay out such way in the same manner as state
2773 highways. A limited access way is hereby defined to be a highway over which the easement of
2774 access in favor of abutting land exists only at such points and in such manner as is designated in
2775 the order of laying out. All laws in regard to the laying out, relocation, alteration or
2776 discontinuance of state highways and to damages therefor shall apply to limited access ways. If a
2777 limited access way is laid out in whole or in part in the location of an existing public way, the
2778 owners of land abutting upon such existing public way shall be entitled to recover damages

2779 under chapter 79 for the taking of or injury to their easements of access to such public way. No
2780 highway, town way or private way shall be laid out by county commissioners, by the selectmen
2781 of a town or by the appropriate officer or board of a city which crosses, enters upon or unites
2782 with a limited access way, without the consent in writing of the division. In connection with the
2783 laying out or alteration of a limited access highway, the division may take in fee or otherwise, by
2784 purchase, gift, devise, or by eminent domain under said chapter 79, land or rights in land
2785 adjoining the highway location whose right of access has been acquired and may provide for
2786 abutting motorist information service facilities and comfort stations.

2787 The division may provide information services which may include indoor commercial
2788 and non-commercial advertising displays, directories, bulletin boards, wall maps, and the
2789 building wherein such services are provided shall be staffed with attendants for the convenience,
2790 necessity and safety of the traveling public on limited access highways. The building within
2791 which such information services are provided shall be operated, and maintained internally, by a
2792 person, firm, corporation, county, municipality or other state department or agency. In the event
2793 that an information center is to be operated and maintained by a person, firm, corporation,
2794 county, municipality or other state department or agency, the division, subject to rules,
2795 regulations and standards determined by the division and the department of economic
2796 development and with the approval of the Federal Highway Administration, may enter into a
2797 lease or memorandum of understanding for a term of years or on terms which the division deems
2798 appropriate regarding the operation and maintenance of such information centers and the
2799 operation and maintenance of adjacent sanitary facilities.

2800 All income due the division from leases authorized by this section shall be paid to the
2801 state treasurer and credited to the surface transportation trust fund.

2802 The office of travel and tourism shall be designated by the division as the agent to
2803 participate with the division in the selection of lessees and to oversee the operation of
2804 information centers and control advertising in accordance with lease agreements, subject to
2805 approval by the Federal Highway Administration.

2806 Section 16. The division may grant easements within state highway locations for wires,
2807 pipes, poles, conduits and cattle passes.

2808 Section 17. The division may sell at public or private sale any land, or rights in land, the
2809 title to which has been acquired by the division, upon determination by the board of directors of
2810 the authority established by section 2 of chapter 81B that such land or rights in land are no longer
2811 necessary for the division's purposes. In the event of such public or private sale, the division
2812 shall execute a deed thereof, with or without covenants of title and warranty, in the name and on
2813 behalf of the authority, to the purchaser, his heirs and assigns, and deposit the deed with the state
2814 treasurer, together with a certificate of the terms of the sale and the price paid or agreed to be
2815 paid at such sale. Upon receipt of the payment, and upon the terms agreed to in the deed, the
2816 treasurer shall deliver the deed to the purchaser. The state treasurer may, through the attorney
2817 general, file suit and collect the payment and otherwise enforce the terms of any such sale.

2818 The division may, with the approval of the authority, transfer to another division, or to a
2819 city, town, or public authority or agency, any land the title to which has been acquired by it and
2820 which the board of commissioners determines is no longer necessary for the division's purposes.

2821 The division may also, with the approval of the authority, lease or rent any land, or rights
2822 in land, the title to which has been acquired by it, and which land, or rights therein, said board of
2823 directors determines are not presently needed for the division's purposes.

2824 The provisions of this section with reference to the sale, leasing or renting of land
2825 acquired by the division, shall also apply to land, or rights in land, acquired by the division for
2826 maintenance sites.

2827 The division may also transfer to another state agency, land acquired from such state
2828 agency, which is no longer needed for the purposes for which it was acquired. Such land shall be
2829 subject to such restrictions as may be imposed by the division for the use thereof.

2830 Section 18. Whenever the division deems it necessary to make surveys, soundings,
2831 drillings or examinations to obtain information for or to expedite the construction of state
2832 highways or other projects under its jurisdiction, the division, its authorized agents or employees
2833 may, after due notice by registered or certified mail, enter upon any lands, waters and premises,
2834 not including buildings, in the commonwealth for the purpose of making surveys, soundings,
2835 drillings and examinations as they may deem necessary or convenient for the purposes of this
2836 chapter, and such entry shall not be deemed a trespass nor shall an entry for such purposes be
2837 deemed an entry under any condemnation proceedings which may be then pending. The division
2838 shall make reimbursement for any injury or actual damage resulting to such lands, waters and
2839 premises caused by any act of its authorized agents or employees and shall so far as possible
2840 restore such lands to the same condition as prior to the making of such surveys, soundings,
2841 drillings or examinations.

2842 Section 19. Whenever, in connection with the laying out, widening, relocating,
2843 constructing or altering of a public way by the division, land or an easement therein owned by a
2844 public utility company is taken by the division by eminent domain under chapter 79, thereby
2845 necessitating the relocation of the facilities of such company, the division shall acquire by

2846 purchase or otherwise or take by eminent domain under said chapter 79 such land or easements
2847 therein as such company may designate for the relocation of such facilities, and convey the same
2848 to such company. Such conveyance shall be in lieu of any damages for the value of the land or
2849 easements therein of such company so taken by the division, not including, however, any
2850 damages for the cost of such relocation for which the authority shall be liable.

2851 Section 20. Notwithstanding any general or special law to the contrary, the division
2852 may, with the approval of the chief executive officer of the authority, lease land adjacent to, over
2853 or under a state highway for use as a public parking facility; provided, however, that: (1) the
2854 term of any such lease shall not exceed 5 years (2) section 8A of chapter 29 relative to notice of
2855 and proposals for any contract in excess of \$5,000 for work under the supervision or control of
2856 the division shall apply to such leases; (3) the lessee has filed with the division a statement under
2857 oath containing the names and addresses of the officers and directors in the case of a corporation,
2858 or of the person or persons in the case of a partnership or other voluntary association, or of any
2859 other person or persons, having any financial or beneficial interest in such lease; (4) the lessee
2860 shall within 30 days after any change in the stockholders or persons holding any such interest file
2861 a statement thereof under oath with the division; and (5) no such lease shall be renewed or
2862 extended except in accordance with this section applicable to a new lease.

2863 Whoever wilfully violates any provision of this section shall be punished by a fine of not
2864 more than \$1,000.

2865 Section 21. The division may enter into agreements with railroad corporations, transit
2866 authorities or other public authorities or municipalities for the purpose of performing any work
2867 which may be necessary in connection with the construction of highways, roads, bridges and

2868 other public works undertaken by said division whenever such construction or work entails
2869 relocation, alteration or other work on the tracks, bridges, roads, pipes, sewers, conduits, wires,
2870 or other property of such railroad corporation, transit authority or other public authority or
2871 municipality and which may disrupt the free flow of public transportation. Whenever any such
2872 agreement provides that a railroad corporation, transit authority or other public authority, and
2873 municipality perform such construction or work for which the authority is obligated to assume a
2874 part of the cost, the agreement may provide for the monthly advancement by the division to such
2875 railroad corporation transit authority or other public authority or municipality of funds covering
2876 the estimated cost of such construction or work then in progress.

2877 Section 22. In any federally aided program, the division of roads and bridges, in this
2878 section referred to as the division, shall do all things necessary to comply with the Uniform
2879 Relocation Assistance and Real Property Acquisition Policies Act of 1970 (Public Law 91-646),
2880 as amended and supplemented, or with any other federal act relating to relocation assistance or
2881 acquisition, insofar as the federal government requires compliance with said Public Law 91-646
2882 or such other federal acts in order to receive such federal aid. Under a federally aided program,
2883 in relation to any person whose real property is acquired, in whole or in part, by the division for a
2884 highway purpose, or any person lawfully occupying real property acquired by the division for
2885 highway purposes, or any person who vacated real property at the written request of the division
2886 because of a proposed acquisition for highway purposes, the division is hereby authorized and
2887 directed to make such payments, provide such assistance and do such other things as are
2888 necessary for the division to comply with the Federal Uniform Relocation Assistance and Real
2889 Property Acquisition Policies Act of 1970. If a highway project is not federally aided, then in
2890 relation to any person whose real property is acquired, in whole or in part, by the division for

2891 highway purposes, or any person lawfully occupying real property acquired by the division for
2892 highway purposes, or any person who vacates real property at the written request of the division
2893 because of a proposed acquisition for highway purposes, the division shall make the same
2894 payments, provide the same assistance and do the same things as the division would be required
2895 to pay to, provide or do for such persons under a federally aided program. This section shall not
2896 affect the obligations of the division under chapter 79A.

2897 Section 23. Whenever land or an easement therein is taken by the division by eminent
2898 domain for the purpose of relocating certain facilities of a public utility company, as authorized
2899 by section 19, the said public utility company, its authorized agents or employees, after due
2900 notice by registered mail to the persons in possession of land so taken, may enter upon any such
2901 lands, waters and premises, not including buildings, as said company may deem necessary or
2902 convenient for the purpose of relocating its facilities, and such entry shall not be deemed a
2903 trespass, nor an entry under any condemnation proceedings which may then be pending.

2904 Section 24. Whenever a federal-aid highway program or project requires the use of any
2905 land which is part of a public park, recreation area or wildlife and waterfowl refuge of national,
2906 state or local significance as determined by the federal, state or local officials having jurisdiction
2907 thereof, or any land which is part of an historic site of national, state or local significance, as so
2908 determined by such officials, and there is no feasible and prudent alternative to the use of such
2909 land, the division, in order to minimize harm to such park, recreational area, wildlife and
2910 waterfowl refuge or historic site, may acquire by eminent domain under chapter 79, purchase or
2911 otherwise on behalf of the authority or on behalf of any division, department, public body,
2912 agency or instrumentality of the commonwealth or on behalf of any political subdivision thereof,
2913 land to replace that which was required for use in the highway program. The division shall

2914 convey such replacement land or transfer the custody, care and control of such replacement land
2915 to the owner of the public park, recreational area, wildlife and waterfowl refuge or historic site
2916 required for highway use, including private owners or any department, public body, agency of
2917 the commonwealth or to any political subdivision thereof and such conveyance or transfer may
2918 be partially or entirely in lieu of damages for the land acquired from such owners; provided,
2919 however, that in the case of private owners such conveyance may be made only with the consent
2920 of such owner. The words "historic site" as used in this section shall include archeological sites
2921 as defined and regulated by sections 26A to 27C of chapter nine.

2922 Section 25. The division, when about to construct a state highway, shall advertise in 2 or
2923 more newspapers published in each county in which the highway lies, and in 3 or more daily
2924 newspapers published in Boston, for sealed proposals for the construction of such highway,
2925 stating the time and place for opening such proposals, and reserving the right to reject any and all
2926 proposals. If a proposal is satisfactory, the division, with the approval of the authority, shall
2927 make a contract in writing on behalf of the authority for such construction. After the proposals
2928 have been accepted or rejected they shall be kept by the division, and shall be open to public
2929 inspection for 3 years, and may then be destroyed by the division. The division may, in the same
2930 manner and under the same conditions, contract for the grading of a state highway or for
2931 furnishing labor, materials or any other element in its construction. The construction of all state
2932 highways shall be under the supervision and subject to the approval of the division and in
2933 accordance with plans and specifications furnished by it, and shall be fairly apportioned by the
2934 division among the different counties.

2935 Section 26. Every contract for engineering survey services awarded by the division shall
2936 be awarded to the lowest responsible and eligible bidder on the basis of competitive sealed bids

2937 publicly opened and read forthwith upon expiration of the time for filing thereof; provided,
2938 however, that the division may reject any and all bids if it is in the public interest to do so.

2939 For purposes of this section, the term “lowest responsible and eligible bidder” shall have
2940 the same meaning as is set forth in paragraph (c) of section 39M of chapter 30.

2941 Section 27. The mayor, selectmen or road commissioners or the board or officer having
2942 charge of the maintenance and care of highways, if so authorized by the city council or by the
2943 town, may agree in writing, in behalf of such city or town, to contribute money, labor or
2944 materials toward the cost of any state highway which the division proposes to lay out and
2945 construct within such city or town.

2946 Section 28. The division shall have the same power as aldermen, selectmen or road
2947 commissioners in relation to the purchase or taking of land to furnish materials for the
2948 construction, repair or improvement of public ways in the manner provided in section 38 of
2949 chapter 82; provided, however, that all contracts for such purchase and all takings by the division
2950 shall first be approved by the authority. Such purchases or taking shall not operate in any way to
2951 interfere with the control of the police departments of the various municipalities within the land
2952 so taken. Land taken under this section shall be held and used for no other purpose than as
2953 specified herein; provided, however, that the division may allow county, city or town officers to
2954 use materials from such land for the above specified purposes upon such terms as may be agreed
2955 upon. For this purpose the division may expend not more than \$5,000 in any year. Any person
2956 sustaining injury or damage by any taking of land or rights in land under this section may
2957 recover compensation therefor from the authority under chapter 79.

2958 Section 29. The division, with the concurrence of the county commissioners, may
2959 discontinue as a state highway any way or section of way laid out and constructed under section
2960 5 by filing in the office of the county commissioners for the county and in the office of the clerk
2961 of the town in which such way is situated a certified copy of a plan showing the way so
2962 discontinued and a certificate that it has discontinued such way and thereafter the way or section
2963 of way so discontinued shall be a town way. The division may also abandon any land or rights in
2964 land which may have been taken or acquired by it by filing in the office of the county
2965 commissioners for the county and in the office of the clerk of the town in which such land is
2966 situated a certified copy of a plan showing the land so abandoned and a certificate that it has
2967 abandoned such land, and by filing for record in the registry of deeds for the county or district in
2968 which the land lies a description and plan of the land so abandoned. Such abandonment shall
2969 revest the title to the land or rights abandoned in the persons in whom it was vested at the time of
2970 the taking, or their heirs and assigns.

2971 Section 30. State highways shall be maintained and kept in good repair and condition by
2972 the division at the expense of the authority. The division shall keep all state highways reasonably
2973 clear of brush and shall cause suitable shade trees to be planted thereon if practicable. As used in
2974 this chapter, the term “state highways” shall include such public roads in state forests, parks and
2975 reservations outside of the metropolitan parks district, and such public roads within the limits of
2976 any property under the control of any department, board or commission of the commonwealth, as
2977 may, from time to time, be designated by the division as roads for general public use and
2978 approved for such use by the executive head of the department, board or commission controlling
2979 such property. The division shall, subject to appropriation, construct, improve and maintain all
2980 roads on such property.

2981 Section 31. The division may accept, on behalf of the authority, from owners of lands
2982 included in a strip 100 feet deep bordering on a state highway voluntary gifts by deed or will of
2983 easements in such lands, giving the authority the right to enter thereon at any time and in any
2984 manner for the purpose of landscaping such land by removing therefrom or rearranging thereon
2985 vegetable growths and surface minerals, by setting out and planting thereon vegetable growths,
2986 by depositing thereon minerals, by rearranging the contour of the land when deemed advisable,
2987 or by any or all of the foregoing methods. The division may improve lands in which such
2988 easements are granted, so as to carry out a comprehensive plan of highway beautification, artistic
2989 landscaping and scenic development, to the extent that appropriations are available therefor.

2990 Such easements shall be accepted only on the condition that such lands shall remain fully
2991 subject to local taxation to the owners of the fee.

2992 Section 32. The division may acquire by eminent domain under chapter 79 by purchase
2993 or otherwise, land and rights in land within or adjacent to federal-aid highways of the
2994 commonwealth for the purpose of restoring, preserving and enhancing scenic beauty or, with the
2995 approval of the Massachusetts historical commission and subject to the availability of federal
2996 reimbursement, historic or archeological sites, and of providing publicly owned and controlled
2997 rest and recreation areas and sanitary and other facilities to accommodate the traveling public.
2998 The division may improve such lands, and may expend for the purposes of this section such
2999 sums as may be appropriated therefor.

3000 Section 33. The division, if it obtains the consent of the owner, shall remove the trees,
3001 limbs of trees, shrubbery or any structure or other obstacle from lands bordering upon state
3002 highways, which in its opinion obstruct the view of persons traveling upon the highway or make

3003 traveling thereon dangerous. If the owner does not desire the material which has been so
3004 removed, the division may sell or otherwise dispose of it. The division shall cause all debris
3005 resulting from any cutting or trimming done along the state highway, under authority of this or of
3006 any other chapter, to be disposed of in such manner that it will not constitute a fire menace to
3007 adjoining property.

3008 Section 34. The division may contract with the town in which a state highway lies or
3009 with a private person or may make other provision for the maintenance and repair thereof in
3010 accordance with the regulations of the division and subject to its supervision and approval. Such
3011 contracts may be made without previous advertisement.

3012 Section 35. The authority shall be liable for injuries sustained by persons while traveling
3013 on state highways, if the same are caused by defects within the limits of the constructed traveled
3014 roadway, in the manner and subject to the limitations, conditions and restrictions specified in
3015 sections 15, 18 and 19 of chapter 84, except that the authority shall not be liable for injury
3016 sustained because of the want of a railing in or upon any state highway, or for injury sustained
3017 upon the sidewalk of a state highway or during the construction, reconstruction or repair of such
3018 highway. The amount which may be recovered for any such injury shall not exceed one-fifth of 1
3019 per cent of the valuation of the town in which the injury was received, nor shall it exceed \$4,000.
3020 Notice of the injury as required by law shall be given to a member of the division.

3021 Section 36. A town shall have police jurisdiction over all state highways within its
3022 limits. It shall forthwith give written notice to the division or its employees of any defect or want
3023 of repair in such highways; but it may make necessary temporary repairs of a state highway
3024 without the approval of the division.

3025 The division shall, at the expense of the authority, keep such state highways or parts
3026 thereof as it may select sufficiently clear of snow and ice to be reasonably safe for travel. The
3027 town in which any such state highway or part thereof lies shall forthwith give written notice to
3028 the division or its employees of any failure to keep such highway or part thereof clear of ice and
3029 snow as aforesaid.

3030 Section 37. The division shall, from time to time, construct sidewalks along such parts of
3031 the state highways as it determines public convenience and necessity require. Sidewalks may
3032 also be constructed along state highways and maintained in accordance with sections 25 and 26
3033 of chapter 83.

3034 Section 38. The division may illuminate, or cause to be illuminated, by means of
3035 highway lighting, traffic circles, traffic underpasses, traffic overpasses, traffic islands and other
3036 locations in the state highways wherever, in its opinion, such illumination is necessary for the
3037 safety of the travelling public.

3038 Section 39. No state highway shall be dug up, nor opening made therein for any purpose,
3039 nor access granted thereto for any purpose, nor shall any material be dumped or placed thereon
3040 or removed therefrom, and no tree shall be planted or removed or obstruction or structure placed
3041 thereon or removed therefrom or changed without the written permit of the division, and then
3042 only in accordance with its regulations. Such work shall be done under the supervision of the
3043 division and to its satisfaction, and the entire expense of replacing and resurfacing the highway at
3044 the same level and in as good condition as before, with materials equal in specifications to those
3045 removed, shall be paid by the persons to whom the permit was given or by whom the work was
3046 done. A town, or a utility, as defined in chapter 164 or chapter 166 may dig up a state highway

3047 without the approval of the division in case of immediate necessity. In such cases the state
3048 highway shall forthwith be replaced in as good condition as before at the expense of the town
3049 and the town shall notify the division by registered mail, return receipt requested, within 7 days
3050 of the excavation. In the case of a driveway opening on a state highway, the division shall not
3051 grant a permit for a driveway location or alteration if the board or division in a city or town
3052 having authority over public ways and highways has notified the division by registered mail,
3053 return receipt requested, of its objection to the driveway; provided, however, that such objection
3054 shall be based on highway safety and accepted by the division. The division may require a bond
3055 to guarantee the faithful and satisfactory performance of the work and payment for any damage
3056 to state highways and facilities caused by or resulting from the operations authorized by such
3057 permit. The amount of the bond shall be determined by the division not to exceed the estimated
3058 cost of the work and possible damage; provided, however, that the bond shall be not less than
3059 \$300,000 unless a lesser amount is approved in writing by a representative of the division.
3060 Except in case of an emergency, no permit for digging up or opening any state highway shall be
3061 approved or issued by the division until copies of the notices to public utility companies required
3062 by section 40 of chapter 82 have been filed with the division by the applicant for such permit.

3063 Any person who builds or expands a business, residential, or other facility intending to
3064 utilize an existing access or a new access to a state highway so as to generate a substantial
3065 increase in or impact on traffic shall be required to obtain a permit under this section prior to
3066 constructing or using such access. Such person may be required by the division to install and pay
3067 for, pursuant to a permit under this section, standard traffic control devices, pavement markings,
3068 channelization, or other highway improvements to facilitate safe and efficient traffic flow, or

3069 such highway improvements may be installed by the division and up to 100 per cent of the cost
3070 of such improvements may be assessed upon such person.

3071 The division may issue written orders to enforce this section or the provisions of any
3072 permit, regulation, order or approval issued under this section. Any person who violates this
3073 section or any permit, regulation, order or approval issued thereunder shall be: (a) punished by a
3074 fine of not more than \$100,000 per day for each such violation or (b) shall be subject to a civil
3075 penalty not to exceed \$1,000 per day for each such violation; provided, however, that each day
3076 such violation occurs or continues shall be a separate offense. The superior court shall have
3077 jurisdiction, upon petition of the administrator of the division, to enforce this section or any
3078 permit, regulation, order or approval issued thereunder.

3079 The administrator of the division shall adopt regulations to effectuate the purposes of
3080 this section.

3081 Section 40. No length of possession, or occupancy of land within the limits of a state
3082 highway by an owner or occupant of adjoining land shall give him any title thereto. Any fence,
3083 building or other object encroaching upon a state highway shall, upon written notice by the
3084 division, be removed within 14 days by the owner or occupant of adjoining land and, if not so
3085 removed, the division may either remove the same to such adjoining land or such encroaching
3086 object, other than a building used for residential purposes, may be removed by the division
3087 forces and shall be placed in the nearest maintenance area of the division. Notice by certified
3088 mail, return receipt requested shall be given to the owner stating where such encroaching object
3089 is located and further stating that if not claimed within 3 weeks said object may be destroyed.

3090 Section 41. The division may expend construction funds of the authority in constructing
3091 or improving the whole or such part of said way as it deems best, either upon the location of the
3092 existing way or upon any new location that may be established by the county commissioners or
3093 the selectmen, and no part of the way so improved shall thereby become a state highway or be
3094 maintained as such. The division may, however, lay out the whole or any part of any such way as
3095 a state highway

3096 Section 42. When any public way has been constructed or improved in whole, or in part,
3097 with money furnished by the authority, and the way is not laid out as a state highway, the town in
3098 which the way lies shall thereafter keep and maintain in good repair and condition that part of the
3099 way which has been so constructed or improved; provided, however, that the expense thereof
3100 shall be borne by the town or county, or both, as may be agreed upon at the time such
3101 construction or improvement is undertaken, except as otherwise provided in section 43 and in
3102 paragraph 2(a) of section 34 of chapter 90. If the division shall determine at any time that such
3103 way is not being maintained in proper condition, it shall so notify the mayor or selectmen having
3104 charge of the repairs of said way and the county commissioners, and shall specify in such notice
3105 what repairs and improvements are necessary and the officials in charge of the way shall
3106 forthwith proceed to make the specified repairs and improvements. If such officials do not make
3107 such repairs or improvements within 15 days from the receipt of such notice, or within such
3108 further time as the division may allow, the division may proceed to have the repairs or
3109 improvements made, and may pay for the same from any money which may be available for the
3110 repair and maintenance of state highways. The division shall annually, in January, certify to the
3111 state treasurer the amount of such expenditures during the preceding year. So much of the
3112 expenditures as by agreement are to be paid by the towns shall be made a part of the state tax for

3113 such towns; and so much of the expenditures as by agreement are to be paid by the counties shall
3114 be paid by the county treasurers to the state treasurer. The division may embody the provisions
3115 of this section in all contracts and agreements for work to be done in the construction or
3116 improvement of public ways, other than state highways, constructed or improved in whole, or in
3117 part, with money furnished by the authority.

3118 Section 43. There may be expended for the repair and improvement of public ways,
3119 other than state highways, in towns having valuations of less than \$5,000,000, as established by
3120 the valuations made for the purpose of apportioning the state tax as appearing in chapter 559 of
3121 the acts of 1945 and in which the proportionate amount paid by such towns of every \$1,000,000
3122 of such tax as established and apportioned in said chapter 559, divided by the number of miles of
3123 such public ways, hereinafter known as the road mileage ratio, is less than \$12, such sums not
3124 exceeding \$250 per mile as the general court may appropriate therefor; provided, however, that
3125 such towns shall contribute or make available for use in connection therewith the following
3126 amounts for each mile of public ways within their respective limits, according to the following
3127 schedule based on their road mileage ratio:—

- 3128 1. Less than \$1.40, \$15.
- 3129 2. \$1.40 and less than \$2, \$25.
- 3130 3. \$2 and less than \$2.80, \$40.
- 3131 4. \$2.80 and less than \$3.50, \$50.
- 3132 5. \$3.50 and less than \$5.50, \$75.
- 3133 6. \$5.50 and less than \$7, \$100.

3134 7. \$7 and less than \$9, \$125.

3135 8. \$9 and less than \$12, \$150.

3136 The amounts appropriated pursuant to said schedule and contributed by the towns shall
3137 be expended under the direction of the division on such ways as said division and the selectmen
3138 of the towns may agree upon.

3139 The division shall withhold or withdraw the unexpended balance of any funds assigned
3140 by it under this section or section 25 if the town fails to comply with the official standards for
3141 traffic control established by the division or with any provision of a traffic control agreement
3142 negotiated between the division and the town, as required by the United States Secretary of
3143 Commerce under section 109 of Title 23 of the United States Code.

3144 The cost of snow removal upon such ways in any such town, including amounts paid as
3145 rental for trucks and other equipment charges for the use of trucks and other equipment owned
3146 by such town, at hourly rates approved by the division, and the cost of sanding such ways in any
3147 such town may be paid from the amounts so appropriated and contributed, at the rate of not more
3148 than \$75 per mile.

3149 Section 44. The county commissioners of the county wherein any public way is to be
3150 repaired or improved under the preceding section may contribute and expend county funds
3151 therefor in accordance with such agreements as the commissioners may make with the division
3152 and the selectmen of the town. Said county funds may be paid to the department or to the town
3153 from time to time as the work progresses, to the extent that the commissioners are satisfied that
3154 the work for which agreements have been made is being done in accordance therewith. Such
3155 contributions or expenditures by a county shall not render it liable for defects in any way or for

3156 damages to persons traveling thereon, and when the work of repair or maintenance for which
3157 such contribution or expenditure is made is completed, there shall be no further obligation on the
3158 part of the county as to the repair and maintenance thereof until a further contribution is made by
3159 the county commissioners for such purpose.

3160 Section 45. Expenditure of state funds under section 26 shall be made only upon the
3161 written petition of the selectmen, containing such information as the division may require.

3162 Section 46. Towns may contract with the division for the performance of the work
3163 authorized by section 43 or, if the selectmen so request, the division may have the work done by
3164 such persons and in such manner as it may determine, in which event the towns shall pay their
3165 proportionate part of the expense when and as ordered by the division. The cost of any materials,
3166 machinery or tools purchased by the division for or on account of the work in any town shall be
3167 considered as a part of the expenditures in such town under section 28; and such machinery or
3168 tools shall belong to the authority.

3169 Section 47. The division shall determine, as nearly as possible, the number of miles of
3170 such public ways in towns entitled to the benefits under section 43, and shall inform the
3171 selectmen of such towns of the contributions required from them under said section 43.

3172 Section 48. The division may lay out or alter ways other than state highways in any
3173 county, city or town if the county commissioner of the county, or the mayor of the city or the
3174 board of selectmen of the town consents thereto. Land or rights in land may be acquired for this
3175 purpose by eminent domain under chapter 79 by the division on behalf of the county, city or
3176 town in which the land lies. Any person whose property has been taken or injured by any action
3177 of the division under authority of this section may recover from the authority under chapter 79

3178 such damages therefor as he may be entitled to. For this purpose the division may use any funds
3179 which may be available for highway purposes, including federal aid, and may also use any
3180 money appropriated for a county, or for a city or town, toward the damages sustained, if the
3181 county commissioners, selectmen or mayor have agreed in writing to pay the money thus
3182 appropriated upon the order of the division.

3183 Section 49. The division may make all contracts and agreements and do all other things
3184 necessary to cooperate with the United States in the construction and maintenance of highways,
3185 under an act of congress approved on July 1, 1916, entitled "An Act to provide that the United
3186 States shall aid the states in the construction of rural post roads, and for other purposes", as
3187 amended and supplemented, and submit such plans, estimates and programs for the improvement
3188 of highways as will meet the requirements of the secretary of commerce under said act, and it
3189 may use therefor any funds which may be available for the construction and maintenance of state
3190 highways, and may make any agreements or contracts that may be required to secure federal aid
3191 in the construction of highways under said act of congress, and of all other acts in amendment
3192 thereof, or in addition thereto, and may, in such agreements or contracts, provide, among other
3193 things, for such labor preferences to honorably discharged soldiers, sailors and marines as are
3194 made necessary by federal legislation, and may provide that no other preference or
3195 discrimination among citizens of the United States shall be made in connection with the
3196 expenditure of any money received from the federal government by virtue of said legislation and
3197 any money received from the United States on account of the construction of highways. The
3198 division may also, for the purpose of securing federal aid, use any money appropriated by a
3199 county, city or town for the construction of a way or any part thereof for which federal aid may
3200 be secured, and make contracts or agreements involving the expenditure of such money, if the

3201 county commissioners or the selectmen or duly authorized officials of the city or town have
3202 agreed in writing to pay the money thus appropriated upon the order of the division. The division
3203 may also maintain the roads constructed under this section or said act of congress, from any
3204 money appropriated by the general court for the maintenance of state highways or for the repair
3205 or maintenance of other public ways.

3206 Section 50. The portion of the Surface Transportation Trust Fund, established by section
3207 35LL of chapter 10 allocated for reimbursements to cities and towns for costs actually incurred
3208 in constructing, maintaining and policing city or town streets or roads shall annually be
3209 apportioned among the several cities and towns as follows:

3210 (a) The amount apportioned to each city and town in any calendar year shall be the
3211 amount of the “equalizing municipal highway grant” for such city or town multiplied by the
3212 number of miles of streets and roads in such city or town. The “equalizing municipal highway
3213 grant” for such city or town shall be the total of a basic mileage allowance of \$400 plus an
3214 additional road-use allowance of \$7 per motor vehicle per road mile less an equalizing deduction
3215 of \$.10 per \$1,000 of equalized valuation per mile.

3216 [There is no clause (b).]

3217 For the purposes of this section, the following words shall have the following
3218 meanings:—

3219 “Streets and roads in such city or town”, the total mileage, to the nearest one hundredth
3220 of a mile, of public ways, other than state highway, in such city or town, as determined by the
3221 most recent mileage survey conducted by the administrator of the division; provided, however,
3222 that said administrator shall conduct such survey annually.

3223 “Motor vehicles per road-mile”, the total number of motor vehicles registered and
3224 garaged in such city or town, exclusive of re-issues, as determined annually by the registrar of
3225 motor vehicles, divided by the total mileage, to the nearest one hundredth of a mile, of public
3226 ways, other than state highway, in such city or town, as determined by the most recent mileage
3227 survey conducted by the administrator of the division.

3228 “Equalized valuation per mile”, the equalized valuation of the aggregate property in such
3229 city or town subject to local taxation, as most recently reported by the commissioner of revenue
3230 to the general court under the provisions of section 10C of chapter 58, divided by the total
3231 mileage, to the nearest one hundredth of a mile, or public ways, other than state highway, in such
3232 city or town.

3233 The administrator of the division shall annually notify the commissioner of revenue of
3234 the amounts apportioned to each city or town under this section; provided, however, that the sum
3235 payable to each city or town shall be used solely to reimburse such city or town for the costs
3236 actually incurred during the fiscal year of such city or town in constructing, maintaining and
3237 policing city or town streets or roads and shall not exceed the amount so incurred by such city or
3238 town.

3239 The mayor of each city and the selectmen of each town shall notify the administrator of
3240 the division in writing of the amount that will be incurred during the fiscal year of such city or
3241 town for constructing, maintaining and policing city or town streets or roads. The administrator
3242 of the division shall annually, on or before December 1, certify to the commissioner of revenue
3243 the amounts approved for payment to each city or town under this section in each fiscal year.

3244 Section 51. For the purposes of reimbursing cities and towns for the costs actually
3245 incurred in constructing, maintaining and policing city or town streets or roads as provided in
3246 section 50 the following words shall have the following meanings:—

3247 “Constructing”, all operations on the travelled way on new location or where
3248 considerable reconstruction is to be undertaken, including resurfacing and other work incidental
3249 thereto, such as shoulders, side road approaches, roadsides, drainage, structures, sidewalks,
3250 traffic control and service facilities, intersection construction, and unusual or disaster operations
3251 and professional services, or for such other purposes that the commissioner of highways may
3252 specifically authorize.

3253 “Maintaining”, all operations on the travelled way including scarifying, reshaping,
3254 applying dust palliatives and restoring material losses; patching, mudjacking, joint filling and
3255 surface treating, and replacement in kind; other work such as restoration of erosion controls;
3256 reshaping drainage channels and side slopes; mowing; tree trimming; replacing topsoil, sod,
3257 shrubs, curbing, gutters, riprap, underdrains and culverts; cleaning and repairing culverts;
3258 cleaning; painting and repairing of structures; replacement of rail, floors, stringers and beams of
3259 structures; replacement of walls and the repairing of drawbridges; removal of snow and ice and
3260 related operations such as sanding and chemical applications; the erection of snow fences and the
3261 opening of inlets clogged with snow and ice; removal of litter from the roadsides and drainage;
3262 operation of drawbridges charged to highway traffic; painting, repairing and replacement in kind
3263 of signs, guardrail, signals and lighting standards; maintenance and replacement in kind of rest
3264 areas; servicing of and furnishing power and light bulbs for highway lighting and traffic control
3265 devices; roadside cleaning operations; operation of roadside areas, towing service, information

3266 booths; or for such other purposes that the administrator of the division may specifically
3267 authorize.

3268 “Policing”, all operations on the travelled way by city or town law enforcement officials
3269 having to do with the direction or control of traffic thereon and such other purposes as the
3270 administrator of the division may specifically authorize.

3271 Section 52. The division may take by eminent domain in accordance chapter 79 or any
3272 alternative method now or hereafter provided by general law, any public land and any fee simple
3273 absolute or lesser interest in private property, or part thereof or rights therein, as it deems
3274 necessary for carrying out this chapter.

3275 Whenever a parcel of private property so taken is used in whole or in part for residential
3276 purposes, the owner of such parcel may, within 30 days of the date of the authority’s notice to
3277 vacate such parcel, appeal to the authority for a postponement of the date set for such vacating,
3278 whereupon the authority shall grant to the owner a postponement of 3 months from the date of
3279 such appeal; provided, however, that the appeal for such postponement shall be in the form of a
3280 written request to the authority sent by registered mail, return receipt requested; and provided,
3281 further, that section 40 of said chapter 79 shall govern the rights of the authority and of any
3282 person whose property shall be so taken.

3283 The division shall have power, in the process of constructing, reconstructing, repairing,
3284 rehabilitating, improving, policing or using or administering all or any part of the state highway
3285 system to take by eminent domain pursuant to chapter 79, such land abutting the state highway
3286 system as it may deem necessary or desirable for the purposes of removing or relocating all or
3287 any part of the facilities of any public utility, including rail lines, and may thereafter lease the

3288 same or convey an easement or any other interest therein to such utility company upon such
3289 terms as it, in its sole discretion, may determine. Notwithstanding any general or special law to
3290 the contrary, the relocation of the facilities of any public utility, including rail lines, in
3291 accordance with this section shall be valid upon the filing of the plans thereof with the
3292 department of public utilities, if applicable.

3293 Except as otherwise provided by law, any sale of real property shall be awarded, after
3294 advertisement for bids, to the bidder who is the highest responsible bidder. The division shall
3295 have the right to reject all bids and to readvertise for bids. Before any real property shall be so
3296 sold or conveyed, notice that such real property is for sale shall be publicly advertised in 2 daily
3297 newspapers of general circulation published in the city of Boston or if such real property is
3298 located in any other city or town, in a newspaper of general circulation published in such other
3299 city or town, once a week for 3 successive weeks. Such advertisements shall state the time and
3300 place where all pertinent information relative to the real property to be sold or conveyed may be
3301 obtained, the time and place of opening the bids in answer to such advertisements and that the
3302 division reserves the right to reject any or all such bids. All bids in response to advertisements
3303 shall be sealed and shall be publicly opened by the division. The division may require, as
3304 evidence of good faith, that a deposit of a reasonable sum, to be fixed by the division,
3305 accompany the proposals. This paragraph shall not be applicable to any sale of real property by
3306 the division to the commonwealth or any city, town or public instrumentality nor to a sale of real
3307 property which is determined by the division to have a fair market value of \$5,000 or less.

3308 The division may sell the buildings or other structures upon any lands taken by it or may
3309 remove the same and shall sell, if a sale is practicable or, if not, shall lease, if a lease is
3310 practicable, any lands or rights or interest in lands or other property taken or purchased for the

3311 purposes of this chapter, whenever the same shall, in the opinion of the division, cease to be
3312 needed for such purpose.

3313 Notwithstanding any general or special law to the contrary, all counties, cities, towns and
3314 other political subdivisions and all public agencies, authorities and commissions of the
3315 commonwealth may lease, lend, grant or convey to the division, at its request, upon such terms
3316 and conditions as the proper authorities of such counties, cities, towns, political subdivisions,
3317 agencies, authorities and commissions may deem reasonable and fair and without the necessity
3318 for any advertisement, order of court or other action or formality, other than the regular and
3319 formal action of the authorities concerned, any real property, improvements or personal property
3320 which may be necessary or convenient to the effectuation of the authorized purposes of the
3321 division, including public roads, bridges and other real property, improvements or personal
3322 property already devoted to public use.

3323

3324 Section 53 ½. (a) The division may establish a small town rural assistance program to
3325 assist towns with populations of 7,000 or less in undertaking projects to design, construct,
3326 reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges or for the
3327 construction of chemical storage facilities. The program shall provide grant funds to towns for
3328 projects authorized by this section. The amount of each grant shall not exceed \$750,000.

3329 (b) The division shall establish rules and regulations to govern the application and
3330 distribution of grants under this section. The rules and regulations shall include provisions for
3331 joint applications by 2 or more eligible towns for a single project serving those towns. Funds so
3332 distributed may be apportioned to reflect the percentage of the project located in each town.

3333 Receipt of a grant which is part of a joint application shall not preclude a town from receiving
3334 additional funds under a separate application; provided, however, that the total amount
3335 distributed to any 1 town shall not exceed the maximum amount allowed under this section.

3336 (c) A town with a population of 7,000 or less may, by vote at an annual town meeting or
3337 at a special town meeting called for that purpose or, in a municipality having a town council
3338 form of government, by the town council, make application to the secretary for financial
3339 assistance in undertaking a project described in this section. The application shall include the
3340 proposed cost of the project, the proposed location of the project and any other information
3341 specified by the rules or regulations.

3342 (d) In evaluating the project and the level of funding, the administrator of the division
3343 shall consider, without limitation, the following: (1) the extent to which the project will have a
3344 beneficial impact upon the economy and public safety of an applicant town; (2) the availability
3345 of funds for the project under other state or federal programs; (3) the likelihood of funding under
3346 other state or federal programs; (4) the financial ability of the town to fund the project from its
3347 own sources; (5) the ability of the town to enter the capital markets to obtain borrowed funds for
3348 the project; and (6) the amount of state and federal highway funds expended or to be expended in
3349 the town.

3350 Section 53 ³/₄ . (a) The division may establish a program to assist municipalities with
3351 non-federally reimbursable intermodal transit center economic development projects to design,
3352 construct, repair and improve roads, roadways, rail lines, and other transit oriented or related
3353 facilities, as deemed necessary for economic development by the secretary of transportation, in
3354 consultation with the secretary of economic development upon the petition of an appropriate

3355 local governmental body in accordance with this section and any rules or regulations
3356 promulgated by the secretary of transportation in accordance with this section. The rules and
3357 regulations shall govern the criteria by which the funds shall be distributed and the method by
3358 which a municipality may apply for such funds.

3359 (b) The administrator may commit the funds pursuant to this section by executing a grant
3360 or other contractual agreement with a municipality and, upon execution, the funds so committed
3361 shall be made available as a grant directly to the municipality which has entered into an
3362 agreement without further review or approval of the department. Each agreement shall contain
3363 assurances satisfactory to the secretary that the municipality shall award a construction contract
3364 for the project which is the subject of the agreement not later than 180 days after the date of
3365 execution of the agreement.

3366 (c) In the event that a contract is not awarded by the municipality within the period
3367 provided in subsection (b), the administrator may require, by written notification to the
3368 municipality, that the funds paid to it by the authority pursuant to the agreement shall be returned
3369 forthwith to the authority.

3370 (d) The administrator may, through execution of a grant or other contractual agreement as
3371 provided in subsection (b), commit an amount of funds up to but not exceeding the aggregate
3372 amount of funds returned by municipalities under subsection (3) to any other municipality which
3373 has otherwise complied with the applicable requirements for such projects, including the terms
3374 and conditions provided in this section.

3375 Section 54. The division may establish a program to provide for the construction and
3376 reconstruction of town and county ways as described in paragraph (a) of clause (2) of section 34
3377 of chapter 90 of the General laws.

3378 Section 54 1/2. No motor vehicle, trailer, semi-trailer or semi-trailer unit, hereinafter in
3379 this section called a motor vehicle, shall be operated on the turnpike or the metropolitan highway
3380 system nor shall the owner or bailee thereof require or permit such operation when the gross
3381 weight of such motor vehicle exceeds either the weight provided in the rules and regulations
3382 adopted by the authority or that specified in a special hauling permit issued by the division for
3383 such motor vehicle pursuant to such rules and regulations, whichever is greater, nor shall any
3384 person load or cause to be loaded such motor vehicle in excess of such weights; provided,
3385 however, that the division shall not adopt or enforce any rule or regulation which prohibits a
3386 motor vehicle from traveling on the turnpike or the metropolitan highway system without a
3387 permit if such motor vehicle may travel on a public way of the commonwealth without a permit
3388 under section 19A of chapter 90 or which prohibits the issuance of a permit by the division for
3389 travel on the turnpike or the metropolitan highway system by a motor vehicle if such motor
3390 vehicle may travel on a public way of the commonwealth with a permit under section 30A of
3391 chapter 85.

3392 Enforcement of this section shall be by members of the department of state police who
3393 have been appointed as weighers and measurers of motor vehicles and of the loads of such motor
3394 vehicles pursuant to section 87A of chapter 41. In any prosecution for a violation of this section,
3395 a signed certificate on oath of a member of the department of state police assigned and appointed
3396 as a weigher and measurer of motor vehicles in accordance with this paragraph shall be
3397 admissible in evidence without further proof and shall constitute prima facie evidence of the

3398 weight of the motor vehicle described in such certificate. Such certificate shall be in such form as
3399 the registrar of motor vehicles shall prescribe pursuant to section 19A of chapter 90 and shall be
3400 signed and sworn to by a member of the department of state police assigned and appointed as a
3401 weigher and measurer of motor vehicles in accordance with this paragraph and present at the
3402 weighing of such motor vehicle and the court shall take judicial notice of the signature of such
3403 person and that he is so assigned and appointed.

3404 In any claim for bodily injuries including death or damage to property arising out of such
3405 weighing, a member of the department of state police, assigned and appointed as a weigher and
3406 measurer of motor vehicles in accordance with the preceding paragraph, to enforce this section
3407 may file a written request with the authority that it defend him against such claim and the
3408 authority shall indemnify such member of the department of state police from personal expenses
3409 or damages incurred and arising out of such claim; provided, however, that the defense or
3410 settlement of such claim shall have been made by the general counsel of the authority, by an
3411 attorney retained for such purpose by the authority or by an attorney provided by an insurer
3412 obligated under the terms of a policy of insurance to defend against such claims.

3413 A person convicted of a violation of this section shall be punished by a fine of not less
3414 than \$30 for each 1,000 of weight or fraction thereof by which the gross weight of the motor
3415 vehicle as operated exceeds the weight provided in the rules and regulations adopted by the
3416 authority pursuant to paragraph (k) of section 4 or that specified in a special hauling permit
3417 issued by the authority for such motor vehicle pursuant to said rules and regulations, whichever
3418 is greater; provided, however, that if the total of such excess weight is greater than 10,000
3419 pounds, the fine shall be not less than \$60 for each 1,000 or fraction thereof over such 10,000.

3420 Any person convicted of a violation of the first sentence of section 17 of chapter 90 while
3421 operating a vehicle which is also in violation of the first paragraph of this section shall be
3422 punished by a fine of not more than \$50 for a first offense nor less than \$50 nor more than \$75
3423 for a second offense committed in any 12 month period and not less than \$75 nor more than \$150
3424 for subsequent offenses committed in any 12 month period . Complaints for such violations shall
3425 not be placed on file by the court.

3426 Section 55. The state highway system shall each be deemed a way within the meaning
3427 and purport of chapters 89 and 90 and its use shall be governed by sections 2, 4, 4A, 4B and 5 of
3428 said chapter 89 and sections 1B, 3, 3A, 3B, 3C, 5A, 6, 7, 7B, 7D, 7D 1/2, 7P, 7Q, 7AA, 8B, 8C,
3429 9, 9D, 10, 11, 12, 13, 13A, 14, 14A, 14B, 16, the first sentence of section 17, section 20, the first
3430 sentence of section 21 and sections 22A, 22B, 22E, 23, 24, 24G, 24I, 24L, 25, 26, 29 and 34J of
3431 chapter 90 and such other laws as the authority may determine by regulation necessary for the
3432 safe and efficient operation of the state highway system.

3433 An operator of a vehicle using the turnpike, the metropolitan highway system or the state
3434 highway system who refuses to pay the toll prescribed by the authority or who evades or
3435 attempts to evade payment of the toll prescribed by the authority may be arrested without a
3436 warrant. Whoever, for the purpose of soliciting a ride on the turnpike, the metropolitan highway
3437 system or the state highway system, displays a sign, signals a moving vehicle, causes the
3438 stopping of a vehicle or stands on property of the authority in view of a ramp or roadway of the
3439 turnpike may be arrested without a warrant and shall be punished by a fine of not more than \$50.
3440 A person damaged in his property by the exercise of any of the powers granted by this chapter
3441 may recover his damages from the authority under chapter 79.

3442 Notwithstanding chapters 134 and 147, if money, goods or other property which has been
3443 abandoned, mislaid or lost on the premises of the division comes into the possession of the
3444 division and remains unclaimed for a period of 120 days, the division may sell the same,
3445 excepting money so unclaimed, at public auction after notice of such sale has been published for
3446 3 successive weeks in a newspaper published in the city or town wherein such sale shall occur.
3447 The net proceeds of such sale, after deducting the cost of storage and the expenses of the sale,
3448 and all money so unclaimed, shall be paid into and become the property of the division and may
3449 be applied by the division to any of its corporate purposes. If such property is in the possession
3450 of the division and remains unclaimed for a period of 120 days and is of the value of \$3 or less,
3451 the authority may donate the same to a charitable organization.

3452 Section 56. The turnpike shall thereafter be operated and maintained free of tolls when:
3453 (i) all notes and bonds issued by the authority relating to the turnpike and payable from turnpike
3454 revenues have been paid or a sufficient amount for the payment of all such notes or bonds and
3455 the interest thereon, to the maturity thereof, shall have been set aside in trust for the benefit of the
3456 holders of such notes or bonds; and (ii) the turnpike is deemed to be in good condition and repair
3457 to the satisfaction of the division.

3458 Section 57. The division shall submit to the road and bridge advisory board, pursuant to
3459 section 58, all contracts, plans, agreements and memoranda of understanding relative to land use
3460 plans, air rights, zoning restrictions and environmental impacts associated with the development
3461 on any land owned by the division within the state highway system. The road and bridge
3462 advisory board shall, within 30 days from receipt of all contracts, plans, agreements and
3463 memoranda of understanding submitted by the division for review, provide comments and
3464 recommendations to the division. The division shall prepare a written response to the reports of

3465 the road and bridge advisory board and shall state the basis for any substantial divergence
3466 between the actions of the division and the recommendations contained in such reports of the
3467 road and bridge advisory board.

3468 Section 58. (a) There shall be a road and bridge advisory board to the division to consist
3469 of 13 members, 5 of whom shall be appointed by the governor, 1 of which shall be a resident of a
3470 municipality within the turnpike corridor from the New York state border east to the junction of
3471 interchange 8, 1 of which shall be a resident of a municipality within the turnpike corridor from
3472 the junction of interchange 8 east to the junction of interchange 14, 1 of which shall be a resident
3473 of Essex or Middlesex county provided that the member does not reside in a municipality that is
3474 a member of the metropolitan area planning council, 1 of which shall be a resident of Norfolk,
3475 Plymouth or Bristol county provided that the member does not reside in a municipality that is a
3476 member of the metropolitan area planning council, 2 of whom shall be appointed by the mayor
3477 of the city of Boston, 1 of whom shall be appointed by the commissioner of the division of
3478 capital asset management and maintenance, 2 of whom shall be appointed by the metropolitan
3479 area planning council, 1 of which shall be a resident of Framingham, Natick or Ashland,, 2 of
3480 whom shall be appointed by the Massachusetts Association of Planning Directors who shall be a
3481 resident of a municipality within the turnpike corridor and 1 of whom shall be appointed by an
3482 environmental organization. Each member of the road and bridge advisory board shall have 1
3483 vote. A majority of members shall constitute a quorum and the road and bridge advisory board
3484 may act by such majority vote represented in the quorum.

3485 (b) For the conduct of its business, the road and bridge advisory board shall adopt and
3486 may revise and amend by-laws. The road and bridge advisory board shall convene its first
3487 meeting within 60 days after the transfer of the state highway system, to the division and shall

3488 thereafter convene regular meetings in accordance with its by-laws. The road and bridge
3489 advisory board shall annually elect a chairperson and vice chairperson and any other officers that
3490 the road and bridge advisory board shall determine. Each member of the road and bridge
3491 advisory board shall serve for a term of 1 year and shall be eligible for reappointment. In the
3492 event of a vacancy, a successor shall be named by the person or organization who originally
3493 appointed the vacated member and such successor shall serve for the remainder of the unexpired
3494 term. Each member of the road and bridge advisory board shall serve without compensation but
3495 may be reimbursed, as an expense of said road and bridge advisory board, for all reasonable
3496 expenses incurred in the performance of its duties as approved by the road and bridge advisory
3497 board.

3498 (c) The purposes of the road and bridge advisory board shall be:

3499 (i) to review and prepare comments on all documents submitted to it pursuant to section
3500 57 and to make recommendations to the division within 30 days of receipt of such documents;

3501 (ii) to coordinate and share information and best practices in matters of the operation and
3502 maintenance of roads and bridges and the development of adjacent land and air rights;

3503 (iii) to make recommendation to the division on its roads and bridges charges;

3504 (iv) to hold hearings, which may be held jointly with the division at the discretion of the
3505 road and bridge advisory board and the division, on matters relating to the division;

3506 (v) to review the annual report of the authority and to prepare comments thereon to the
3507 authority and the governor, and to make such examinations of the reports on the division's
3508 records and affairs as the road and bridge advisory board deems appropriate; and

3509 (vi) to make recommendations to the governor and the general court respecting the
3510 authority and its road and bridge programs. The road and bridge advisory board shall have all
3511 powers necessary or convenient to carry out and effectuate the forgoing purposes.

3512 (d) The road and bridge advisory board may incur expenses, not to exceed \$50,000
3513 annually for expenditures authorized under subsection (b) and for personnel and office expenses.
3514 Such expenses shall be paid by the division in the current fiscal year from its operating budget
3515 and, for each year thereafter, shall be provided for in the current expense budget of the division.

3516 (e) The road and bridge advisory board shall be deemed to be a governmental body for
3517 purposes of, and shall be subject to, section 11A ½ of chapter 30A and shall also be subject to
3518 section 10 of chapter 66.

3519 Section 59. The division shall submit to the parkway advisory board, pursuant to section
3520 60, all contracts, plans, agreements and memoranda of understanding relative to the land use
3521 plans, air rights, zoning restrictions and environmental impacts associated with the operation and
3522 maintenance of parkways owned by the division within the geographic area defined in section 33
3523 of chapter 92 using standards set forth in the Historic Parkway Preservation Treatment
3524 Guidelines. The parkway advisory board shall, within 30 days from receipt of all contracts,
3525 plans, agreements and memoranda of understanding submitted by the division for review,
3526 provide comments and recommendations to the division. The division shall prepare a written
3527 response to the reports of the parkway advisory board and shall state the basis for any substantial
3528 divergence between the actions of the division and the recommendations contain in such reports
3529 of the parkway advisory board.

3530 Section 60. (a) There shall be a parkway advisory board within the division of roads and
3531 bridges to consist of 11 members, 3 of whom shall be appointed by the governor, of which 2
3532 shall be residents of a municipality outside the geographic area defined in section 33 of chapter
3533 92, 2 of whom shall be appointed by the mayor of the city of Boston, 1 of whom shall be a
3534 representative of the Massachusetts historical commission, 1 of whom shall be appointed by the
3535 commissioner of conservation and recreation, 1 of whom shall be appointed by the
3536 Massachusetts Audubon Society who shall be a resident of a municipality within the geographic
3537 area defined in said section 33 of said chapter 92, 1 of whom shall be appointed by the
3538 Massachusetts Sierra Club who shall be a resident of a municipality outside the geographic area
3539 defined in said section 33 of said chapter 92, 1 of whom shall be appointed by the Environmental
3540 League of Massachusetts who shall be a resident of a municipality within the geographic area
3541 defined in said section 33 of said chapter 92 and 1 of whom shall be appointed by Environment
3542 Massachusetts who shall be a resident of a municipality outside the geographic area defined in
3543 said section 33 of said chapter 92. Each member of the parkway advisory board shall have 1
3544 vote. A majority of members shall constitute a quorum and the parkway advisory board may act
3545 by such majority vote represented in the quorum.

3546 (b) For the conduct of its business, the parkway advisory board shall adopt and may
3547 revise and amend by-laws. The parkway advisory board shall convene regular meetings in
3548 accordance with its by-laws. The parkway advisory board shall annually elect a chairperson and
3549 vice chairperson and any other officers that the parkway advisory board deems appropriate. Each
3550 member of the parkway advisory board shall serve for a term of 2 years and shall be eligible for
3551 reappointment. In the event of a vacancy, a successor shall be named by the person or
3552 organization who originally appointed the vacated member and any such successor shall serve

3553 for the remainder of the unexpired term. Each member of the parkway advisory board shall serve
3554 without compensation but may be reimbursed, as an expense of the parkway advisory board, for
3555 all reasonable expenses incurred in the performance of his duties as approved by the parkway
3556 advisory board.

3557 (c) The purposes of the parkway advisory board shall include:

3558 (i) to review and prepare comments on all documents submitted to it pursuant to section
3559 59 and to make recommendations to the division within 30 days of receipt of such documents;

3560 (ii) to coordinate and share information and best practices in matters of the operation and
3561 maintenance of historic parkways;

3562 (iii) to make recommendation to the division on its parkway charges;

3563 (iv) to hold hearings, which may be held jointly with the division, at the discretion of the
3564 parkway advisory board and said division, on matters relating to the division;

3565 (v) to review the annual report of the authority and to prepare comments thereon to the
3566 authority and the governor, and to make such examinations of the reports on the division's
3567 records and affairs as the parkway advisory board deems appropriate; and

3568 (vi) to make recommendations to the governor and the general court respecting the
3569 authority and its parkway programs. The parkway advisory board shall have all powers
3570 necessary or convenient to carry out and effectuate the forgoing purposes.

3571 (d) The parkway advisory board may incur expenses, not to exceed \$50,000 annually for
3572 expenditures authorized under subsection (b) and for personnel and office expenses. Such
3573 expenses shall be paid by the division in the current fiscal year from its operating budget and, for

3574 each year thereafter, shall be provided for in the current expense budgets of the authority's
3575 division of roads and bridges.

3576 (e) The parkway advisory board shall be deemed to be a governmental body for purposes
3577 of, and shall be subject to, section 11A 1/2 of chapter 30A and shall also be subject to section 10
3578 of chapter 66.

3579 Section 61. No rule or regulation of the division shall prohibit the use of passenger or
3580 station wagon type motor vehicles whose gross weight is less than 5000 pounds and which are
3581 registered for commercial use, on ways, parkways or boulevards where non-commercial
3582 passenger-type motor vehicles are permitted to operate. This section shall apply only to ways,
3583 parkways or boulevards previously under the jurisdiction of the department of conservation and
3584 recreation

3585 Section 62. The division may replace or rebuild any bridge over the Charles river within
3586 the metropolitan parks district whenever funds for the purpose shall become available by
3587 pursuant to this section; provided, however, that no such bridge shall be replaced or rebuilt
3588 without the consent of the city council and the selectmen of any town in which any part of the
3589 bridge is situated. Any such bridge may be replaced or rebuilt without a draw for the passage of
3590 vessels, and may be of no greater height above the water than, in the judgment of the division,
3591 the architectural appearance of the bridge would require, except that every such bridge over the
3592 Charles river basin shall be so constructed as to leave a clear height of at least 12 feet above the
3593 ordinary level of the water in the basin over the main ship channel, and the piers and other
3594 obstructions to the flow of the river shall be constructed in such form and in such places as the
3595 secretary of defense of the United States shall approve. When the work of replacing or rebuilding

3596 any such bridge is completed, the bridge shall be maintained and policed under and in
3597 accordance with the laws governing such maintenance and policing at the time when the work
3598 was begun. The state treasurer may receive, hold, manage and invest any funds given or
3599 bequeathed to him in trust by any person, upon such terms, conditions and limitations as the
3600 donor may impose, for the purpose of enabling the division to carry out this section, and the
3601 division, whenever it shall deem that the public interests so require, may expend, under authority
3602 of this section any such funds in accordance with the terms, conditions or limitations aforesaid.
3603 Any owner or lessee of property abutting on the Charles river above any drawless bridge built
3604 under the authority of this section and under authority of the act of congress entitled "An Act to
3605 authorize the construction of drawless bridges across a certain portion of the Charles river in the
3606 State of Massachusetts", approved February 27, 1911, shall be entitled to adequate compensation
3607 for damages, if any, caused to such property or leasehold interests therein, by reason of the
3608 interference with access by water to said property due to the construction of any such drawless
3609 bridge, in accordance with provisos contained in said act of congress. Upon petition of any such
3610 owner or lessee entitled to such damages, filed in the supreme judicial court within 1 year after
3611 any such bridge without a draw is opened for public travel, said court shall appoint 3
3612 commissioners to hear the parties in interest, and to assess the damages to the property and the
3613 decision of the commissioners as to the amount of the damages and as to questions of fact
3614 involved shall be final.

3615 Section 63. The division may transfer, for care and control, including police protection,
3616 any lands or rights or easements or interest in land held by it to any city, town, county, or local
3617 board of a city or town within the urban parks district, with the consent of such city, town,
3618 county or board, and upon such terms and for such period as may mutually be agreed upon, and

3619 enter into an agreement with any such city, town, county or board for the joint care and control
3620 or police protection of such lands or rights therein. Any city, town, or county, or any local board
3621 within the urban parks district, may transfer, for care and control, including police protection,
3622 any land, rights, easements or interest in land in its control, although the same is already a part of
3623 a public way owned or controlled by it, to the division for such period and upon such terms as
3624 may mutually be agreed upon, and may enter into an agreement with the division for the joint
3625 care and control, including police protection, of such land or public way.

3626 Section 64. (a) The division may provide functional replacement of real property in
3627 public ownership whenever the division has acquired such property in whole or in part under this
3628 chapter or when such property is significantly and adversely affected as a result of the
3629 acquisition of property for a highway or highway-related project and whenever the division
3630 determines that functional replacement is necessary and in the public interest. For the purposes
3631 of this section, "functional replacement" shall mean the replacement, pursuant to chapter 7,
3632 requiring authorization of the general court prior to disposition of real property, including either
3633 land or facilities thereon, or both, which will provide equivalent utility. "Real property in public
3634 ownership" shall mean any present or future interest in land, including rights of use, now existing
3635 or hereafter arising, held by an agency, authority, board, bureau, commission, department,
3636 division or other unit, body, instrumentality or political subdivision of the commonwealth. This
3637 section shall not constitute authorization by the general court as required by said chapter 7.

3638 (b) Whenever the division determines that it is necessary that a utility or utility facility,
3639 as defined under federal law, be relocated because of construction of a project which is to be
3640 reimbursed federally in whole or in part, such facility shall be relocated by the division or by the
3641 owner thereof in accordance with an order from the division; provided, however, that the

3642 authority shall reimburse the owner of such utility or utility facility for the cost of relocation
3643 subject to the limitations in subsections (e) and (f) and in accordance with the following formula:
3644 (1) for any utility facility that is to be reimbursed federally in whole or in part, the division shall
3645 reimburse the owner to the extent that the cost of relocating the utility facility is reimbursed by
3646 the federal government; and (2) for the relocation of any utility facility over \$50,000 that does
3647 not qualify for federal reimbursement, the division may reimburse the owner in accordance with
3648 the owner's ability to meet the following schedule: if the utility performs the relocation in a
3649 manner consistent with the division's policies and not later than the target date established by the
3650 division for the project, the division shall reimburse the utility at least 50 per cent but not more
3651 than 80 per cent of the costs of relocating the utility facility. Failure to comply with an order
3652 from the division shall be subject to enforcement under chapter 81.

3653 (c) Any relocation of facilities carried out under this section which is not performed by
3654 employees of the owner shall be subject to section 27 of chapter 149.

3655 (d) Notwithstanding any general or special law to the contrary, any utility facility that is
3656 required to be relocated because of the construction of a project federally funded under the
3657 Federal-Aid Highway Act of 1982 and the Federal-Aid Highway Act of 1987 may be relocated
3658 temporarily above ground during the construction of the project.

3659 (e) The total cost to the authority for reimbursements for utility relocations under this
3660 section that are not reimbursed federally in whole or in part shall not exceed \$25 ,000,000,
3661 annually, and shall not be credited toward the costs of the annual statewide road and bridge
3662 program.

3663 (f) A utility relocation shall be eligible for reimbursement under this section only if it is
3664 completed to the satisfaction of the division within target dates established by the division and in
3665 accordance with design criteria set forth by the department for the relocation in a manner that
3666 facilitates the timely completion of the affected project.

3667 Section 64A. (a) There shall be within the division a real estate appraisal review board.
3668 The board shall consist of not less than 3 but not more than 5 members to be appointed by the
3669 governor, 2 of whom shall be certified general real estate appraisers licensed by the board of real
3670 estate appraisers pursuant to section 92 of chapter 13. Members of the board shall be appointed
3671 for terms of 3 years or until a successor is appointed. Members shall be eligible to be reappointed
3672 and may be compensated at a rate to be determined by the secretary. Members of the board shall
3673 be state employees under chapter 268A. A chairman of the board shall be elected annually from
3674 the membership. The division shall provide administrative support to the board as requested. In
3675 the event of a vacancy on the board, the governor shall appoint a new member consistent with
3676 this section to fulfill the remainder of the unexpired term.

3677 (b) The division shall not purchase or acquire by eminent domain any real property or
3678 any interest in real property with a value in excess of \$300,000 without the written approval of
3679 the board.

3680 (c) The board shall meet periodically, but not less than twice each year. The board shall
3681 keep a public record of all meetings, votes and other business.

3682 (d) The board shall submit an annual report of its activities during the preceding fiscal
3683 year not later than September 1 to the governor, the secretary of the transportation, the
3684 administrator of the division of road and bridges, the chairs of the joint committee on

3685 transportation, the chairs of the house and senate committees on ways and means and the
3686 secretary of administration and finance.

3687 Section 65. Notwithstanding section 64 or any other general or special law to the
3688 contrary, the division may reimburse the owner of an underground utility or utility facility
3689 whenever such underground utility or utility facility has been relocated because of construction
3690 of a project which is to be reimbursed federally in whole or in part. The reimbursement
3691 authorized herein shall be to the extent that the cost of relocating the facility is reimbursed by the
3692 federal government.

3693 Section 65. Not later than July 31 in a calendar year, the inspector general, in
3694 consultation with the division of insurance and the executive office of transportation and public
3695 works, shall determine for each privately-owned, publicly-used railway or roadway tunnel, the
3696 types and amounts of insurance coverage necessary to fully protect the traveling public and the
3697 commonwealth in the event of an incident in or on such tunnel or roadway that causes harm or
3698 injury to a person or property.

3699 Not later than August 31 in a calendar year, the executive office of transportation and
3700 public works shall publish a roster of all privately-owned, publicly-used tunnels. The roster shall
3701 include at least the following information for each tunnel: the identity and location; the owner's
3702 identity; the minimum requirements set by the inspector general; the types and amounts of
3703 coverage in force, and exclusions, underwriter's identity, broker's identity, premium period,
3704 premium amount and current expiration date. The roster shall be designed to facilitate usage by
3705 the general public and shall not use industry-specific terminology unless those terms are defined
3706 for the benefit of the general public.

3707 Not later than September 30 in a calendar year, the owner of each privately-owned,
3708 publicly-used tunnel shall purchase at least the minimum coverage required, as determined by
3709 the inspector general in accordance with this section, for the following calendar year and shall
3710 provide proof of such coverage in the form and manner prescribed by the inspector general to the
3711 executive office of transportation and public works. The executive office shall publish such
3712 information at no charge to the public and update the published roster accordingly. If an owner
3713 of a privately-owned, publicly-used railway or roadway tunnel fails to provide proof of the
3714 minimum required coverage, as determined by the inspector general by September 30, the
3715 executive office shall purchase such coverage and shall subsequently collect from the tunnel
3716 owner full reimbursement for all premiums paid by the commonwealth, together with the any
3717 costs of enforcement and collection under this section.

3718 SECTION 21. Chapter 81B is hereby amended by striking out section 1, inserted by
3719 section 20, and inserting in place thereof the following section:-

3720 Section 1. There is hereby created a body politic and corporate to be known as the
3721 Massachusetts Surface Transportation Authority which, while within the executive office of
3722 transportation and construction, shall not be subject to the supervision and regulation of said
3723 executive office or any other department, commission, board, bureau, or agency, except as
3724 specifically provided in any general or special law to the contrary. The authority is hereby
3725 authorized and empowered, subject to the provisions of this chapter, to own, construct, maintain,
3726 repair, reconstruct, improve, rehabilitate, finance, refinance, use, police, administer, control and
3727 operate (a) the state highway system as defined in this chapter; (b) the turnpike as defined in the
3728 chapter; and (c) the metropolitan highway system as defined in this chapter.

3729 The authority is hereby constituted a public instrumentality. The exercise by the
3730 authority of the powers conferred by this chapter shall be deemed and held to be the performance
3731 of an essential governmental function.

3732 SECTION 22. Said chapter 81B is hereby further amended by striking out section 1,
3733 inserted by section 21, and inserting in place thereof the following section:-

3734 Section 1. There is hereby created a body politic and corporate to be known as the
3735 Massachusetts Surface Transportation Authority which, shall be within the executive office of
3736 transportation and construction, but not under the supervision and regulation of said executive
3737 office or any other department, commission, board, bureau or agency, except as specifically
3738 provided in any general or special law to the contrary. The authority may, subject to this chapter,
3739 own, construct, maintain, repair, reconstruct, improve, rehabilitate, finance, refinance, use,
3740 police, administer, control and operate the state highway system, the turnpike, the metropolitan
3741 highway system and the state public transit system.

3742 The authority is hereby constituted a public instrumentality. The exercise by the
3743 authority of the powers conferred by this chapter shall be deemed and held to be the performance
3744 of an essential governmental function.

3745 SECTION 23. Section 3 of said chapter 81B, inserted by section 20, is hereby further
3746 amended by striking out the definition of “state highway system” and inserting in place thereof
3747 the following definition:-

3748 “State highway system”, all roadways, bridges, tunnels, overpasses, interchanges, parking
3749 facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
3750 information centers and administration, storage, maintenance and other buildings that the

3751 authority owns, constructs or operates and maintains pursuant to this chapter and any additional
3752 highway, tunnel and bridge components as the general court may from time to time determine.
3753 The term “state highway system” shall include the turnpike and the metropolitan highway
3754 system.

3755 SECTION 24. Section 4 of said chapter 81B is hereby amended by striking out clauses
3756 (e) and (f), as appearing in section 20, and inserting in place thereof the following 2 clauses:

3757 (e) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,
3758 administer, control and operate the state highway system or any part thereof and the state public
3759 transit system or any part thereof, consistent with agreements entered into with the authority to
3760 the extent applicable, as it may determine; provided, however, that chapter 91 shall not apply to
3761 the authority, except for any parts or areas thereof subject to said chapter 91 on March 1, 1997;

3762 (f) acquire sites abutting the state highway system and the state public transit system and
3763 construct or contract for the construction of buildings and appurtenances for gasoline stations,
3764 restaurants, parking facilities, tourist information centers and other services and lease such
3765 facilities in such manner and under such terms as it may determine;

3766 SECTION 25. Said section 4 of said chapter 81B is hereby further amended by striking
3767 out clause (k), as appearing in section 20, and inserting in place thereof the following clause:-

3768 (k) to fix, revise, charge and collect tolls for transit over the metropolitan highway
3769 system; provided, however, that it shall furnish upon request to a user of the metropolitan
3770 highway system a toll receipt showing the amount of toll paid, the classification of the vehicle
3771 and the date of payment; provided further, that the authority shall convene at least 2 public
3772 hearings to be held within the metropolitan Boston area at least 30 days prior to the effective date

3773 of any proposed change in toll structure within the metropolitan highway system and shall allow
3774 for a 1 week comment period after each such hearing during which the authority shall accept
3775 written testimony and comments; provided further, that the authority shall not increase tolls
3776 without first providing, at a public hearing, a written evaluation of the funding shortfall facing
3777 the authority and all feasible statewide revenue options at its disposal; and provided further, that
3778 the authority shall not authorize a toll increase that amounts, in the aggregate, to more than 15
3779 per cent of the identified funding shortfall unless such restriction shall violate a binding covenant
3780 of an existing trust agreement

3781 SECTION 26. Said section 4 of said chapter 81B is hereby further amended by striking
3782 out subsection (l), as so appearing, and inserting in place thereof the following subsection:-

3783 (l) adopt such rules and regulations pursuant to chapter 30A and not repugnant to the
3784 General Laws made applicable to the authority, as the authority determines necessary or
3785 appropriate to provide for or govern the construction or reconstruction, including contractor
3786 qualification, operation, maintenance, repair, rehabilitation, improvement, use, policing, control
3787 or administration of the state highway system or state public transit system or the authority's
3788 business or property; provided, however that such regulations may include the authority to grant
3789 easements, permits or other forms of authorization for the installation, construction,
3790 maintenance, repair, renewal, relocation and removal of tracks, pipes, pipelines, mains, conduits,
3791 cables, wires, towers, poles and other equipment and appliances of any public utility, private
3792 entity or corporation or person owning or operating such facilities in, on, along, over or under the
3793 state highway system or state public transit system; provided further, that such regulations may
3794 impose penalties for violations thereof which, in the case of civil penalties, may be recovered
3795 only after notice and hearing conducted by the authority or its designee and subject to judicial

3796 review and enforcement pursuant to chapter 30A or such other civil proceedings under the laws
3797 of the commonwealth or the United States as the law may provide and, in the case of criminal
3798 penalties, may be recovered in a proceeding in a trial court of the commonwealth by indictment
3799 or complaint. ; provided further, that the amount of any such civil or criminal penalty, with the
3800 exception of penalties imposed under section 19, shall not exceed \$500 for each offense, unless
3801 the law otherwise provides; provided further, that the full amount of a civil penalty shall be paid
3802 to the authority and 80 per cent of a penalty recovered in a criminal proceeding shall be
3803 accounted for and paid to the authority; and provided further, that the authority may further
3804 provide in such regulations for adjudicatory proceedings that it or its designee conducts which
3805 are subject to judicial review and enforcement according to the provisions of said chapter 30A;

3806 SECTION 27. Section 10 of said chapter 81B, as so appearing, is hereby amended by
3807 adding the following subsection:-

3808 (b) The authority may charge, collect, and, from time to time, fix and revise tolls for
3809 transit over or through the metropolitan highway system or any part thereof subject to such
3810 classifications of vehicles and manners of collection as the authority determines desirable and
3811 subject to clause (k) of section 4. Those tolls shall be so fixed and adjusted as to provide, at a
3812 minimum, a fund sufficient with other revenues, if any, to pay: (a) costs incurred in furtherance
3813 of this chapter related to the metropolitan highway system including, but not limited to, the cost
3814 of owning, constructing, maintaining, repairing, reconstructing, improving, rehabilitating,
3815 policing, using, administering, controlling and operating the metropolitan highway system; and
3816 (b) the principal of, redemption premium, if any, and the interest on notes or bonds relating to the
3817 metropolitan highway system as the notes or bonds shall become due and payable and to create
3818 and maintain reserves established for any of the authority's corporate purposes; provided,

3819 however, that the authority shall not charge or collect a toll for transit through the Callahan
3820 tunnel, the Sumner tunnel or the Ted Williams tunnel by official vehicles of the commonwealth
3821 or any municipality, political subdivision or instrumentality thereof, including police, fire and
3822 ambulance vehicles, while such vehicles are on official business. The authority shall maintain the
3823 confidentiality of all information including, but not limited to, photographs or other recorded
3824 images and credit and account data, relative to account holders who participate in its electronic
3825 toll collection system. That information shall not be a public record under clause Twenty sixth of
3826 section 7 of chapter 4 or section 10 of chapter 66 and shall be used for enforcement purposes
3827 only with respect to toll collection regulations. An account holder may, upon written request to
3828 the authority, have access to all information pertaining solely to the account holder. For each
3829 violation of applicable authority regulations related to electronic toll collection, a violation notice
3830 shall be sent to the registered owner of the vehicle in violation. The notice shall include the
3831 registration number of the vehicle, the state of issuance of such registration and the date, time
3832 and place of the violation. The notice may be based in whole or in part upon inspection of any
3833 photographic or other recorded image of a vehicle and the written certification by a state police
3834 officer or other person employed by or under contract with the authority or its electronic toll
3835 collection system contractor that it is so based shall be prima facie evidence of the facts
3836 contained therein and shall be admissible in any administrative or judicial proceeding to
3837 adjudicate the liability for such violation.

3838 SECTION 28. Said chapter 81B is hereby further amended by adding the following 3
3839 sections:-

3840 Section 42. (a) No proposal for a systemwide change in fares under the division of public
3841 transit or decrease in systemwide service of 10 per cent or more shall be effective until the

3842 proposal has been the subject of 1 or more public hearings and has been reviewed by the mass
3843 transit advisory board and, for a systemwide increase in fares of 10 per cent or more, the
3844 Massachusetts Surface Transportation Authority board of directors has made findings on the
3845 environmental impact of such increase in fares and, for a systemwide decrease in service of 10
3846 per cent or more, the decrease shall be the subject of an environmental notification form
3847 initiating review pursuant to sections 61 to 62H, inclusive, of chapter 30. Any systemwide
3848 increase in fares of 10 per cent or more shall conform to the fare policy established under
3849 subsection (c). The authority shall increase fares only to provide needed revenue and shall not
3850 increase fares solely for the purpose of funding the stabilization fund established pursuant to
3851 section 19.

3852 (b) The Massachusetts Surface Transportation Authority board of directors shall not
3853 establish a fare in excess of one-half the regular adult cash fare for pupils of public day or
3854 evening schools, pupils of private day schools or private evening schools or industrial day or
3855 evening schools giving substantially the same character and grade of instruction as the schools
3856 conducted at public expense and of a not higher grade than a high school for transportation
3857 between those schools and their homes, or for children between the ages of 5 and 11 years,
3858 inclusive, or for persons 65 and older who reside within the commonwealth, or for persons with
3859 disabilities who reside within the commonwealth. Any such fare so established shall provide for
3860 free transfer privileges.

3861 (c) The authority, in consultation with the division of public transit, shall adopt, and
3862 revise as appropriate, a fare policy which addresses fare levels, including discounts, fare equity
3863 and a fare structure including, but limited to, fare media and passes. The fare policy shall include
3864 a system for free or substantially price-reduced transfer privileges.

3865 Section 43. The authority shall establish and implement policies that provide for the
3866 maximization of nontransportation revenues from all sources. The authority shall report to the
3867 general court 30 days prior to the board’s approval of its preliminary annual budget on efforts of
3868 the authority to maximize nontransportation revenues. The authority, in consultation with the
3869 division of public transit, shall establish and implement policies that maximize and increase total
3870 fare revenue and ridership by improving service quality, expanding transit service where
3871 appropriate, establishing fare policies that promote ridership growth, marketing its transit
3872 services and fare media and providing desirable services and benefits to transit riders.

3873 The authority shall establish and implement policies that increase the proportion of the
3874 division’s expenses covered by system revenues; provided, however, that the division shall take
3875 all necessary steps to increase system revenues and improve operating efficiency before
3876 considering any reductions in service levels; provided further that the division take all necessary
3877 steps to maximize nontransportation revenues, increase ridership and improve fare collection
3878 practices before implementing fare increases. Nothing in this chapter shall preclude the authority
3879 from increasing fares, if necessary, to meet debt service obligations.

3880 The authority shall determine, among other accountability measures, the net operating
3881 investment per passenger mile ratio for the purposes of measuring the efficiency of the division
3882 of public transit operations and evaluating the proportion of division’s expenses covered by
3883 system revenues.. To calculate such ratio, the authority shall use for the values of the variables in
3884 the ratio the data reported each fiscal year to the federal transit agency, for the purposes of the
3885 national transit database.

3886 In conjunction with the preparation of the preliminary operating budget for the
3887 subsequent fiscal year, the authority shall establish a target net operating investment per
3888 passenger mile ratio that is expected to be achieved in the subsequent fiscal year. The authority
3889 shall forward a report to the secretary of transportation, the general court, and the mass transit
3890 advisory board not later than April 1 of each year detailing the actual net operating investment
3891 per passenger mile ratio achieved in the prior 2 fiscal years, the ratio projected to be achieved in
3892 the current fiscal year and the ratio expected to be achieved in the subsequent 2 fiscal years. The
3893 report shall be accompanied by an explanation of the reasons for year-to-year change in the ratio.

3894 Beginning in fiscal year 2012, the authority shall seek to achieve and maintain a target
3895 ratio of not more than 20 cents for any fiscal year; provided, that the inability to achieve the ratio
3896 of 20 cents shall not, by itself, require the authority to reduce service levels, increase fares or
3897 take any other specific action; provided further, that if the authority is unable to achieve or
3898 maintain the target ratio of 20 cents, or less, it shall, for fiscal year 2012 and subsequent fiscal
3899 years, include in the report the reasons therefor and the plans of the authority for seeking to
3900 achieve the target ratio of 20 cents.

3901 Section 44. (a) If the authority shall operate or contract for the operation of a mass
3902 transportation service or route which is not substantially similar to a service or route previously
3903 operated by the authority or the division of public transit and which is in competition with an
3904 existing mass transportation service or route provided by a private company, and if such
3905 competition causes substantial economic damage to such company, the company may file a
3906 claim for relief with the authority within 6 months of the commencement of such new operation.
3907 The claim for relief shall state all of the facts relevant to the claimed competition and to the
3908 alleged damage suffered therefrom. Thereupon the authority shall make a prompt and full

3909 investigation of the claim. During its investigation and any subsequent arbitration the authority
3910 shall have access to the books and records of the company including, but not limited to, copies of
3911 all federal and state tax returns of the company for prior years. Within 120 calendar days after
3912 the filing of the claim for relief the authority shall issue a report setting forth its findings with
3913 respect to the claim, together with a detailed statement of the facts as to the respective patronage,
3914 revenues and costs on the allegedly competing routes and, if deemed appropriate, an offer of
3915 relief. That offer may include a proposal that the authority purchase all or a portion of the assets
3916 of the company, or that the authority grant to the company a contract under section 4 of chapter
3917 81D, or the authority may propose another plan or alternative plans of relief as it shall deem
3918 reasonable and in the public interest. Within 90 calendar days of receipt of such report the
3919 company shall accept or reject any offer or offers of the authority or it shall make 1 or more
3920 counteroffers. The authority shall accept or reject any counteroffers within 30 calendar days of
3921 receipt. The authority may modify or revoke any such offer and the company may modify or
3922 revoke any such counter-offer at any time before acceptance or rejection.

3923 (b) If the authority declines to make any offer to the company, or if all offers or
3924 counteroffers are rejected, or if the authority or the company fails to act with respect to such
3925 offers or counteroffers within the time prescribed herein, the matter shall be referred to a board
3926 of arbitration for final and binding adjudication. Unless the parties shall agree in writing to some
3927 other method of constituting the board of arbitration, of selecting its members and of providing
3928 for the rules of procedure by which it shall be: governed, the board shall be appointed and its
3929 proceedings regulated by the applicable sections of chapter 251. The function of the board of
3930 arbitration shall be to determine whether the operations of the authority in competition with those
3931 of the company during the period complained of have constituted a proximate cause of

3932 substantial damage to the company; to identify and designate the portion of the company's
3933 operations so damaged, that designation to include a complete list of the physical assets of the
3934 company, real and personal fairly allocable to that portion; and to fix the fair value of the portion
3935 of the company's operations as of the time that the competition commenced. In determining the
3936 fair value the board of arbitration shall follow generally accepted accounting principles and shall
3937 place particular emphasis on capitalization of the average net income of the company for prior
3938 years, excluding, however, from such average net income any amounts received by the company
3939 under section 25B of chapter 58, and upon an appraisal of the listed physical assets of the
3940 company valued at their cost basis less depreciation in a manner consistent with the valuation
3941 and depreciation methods employed by the company in filing federal and state income tax
3942 returns for the preceding years. Under no method of valuation shall any value be placed upon
3943 franchises or good will. Within 30 calendar days after the award of the board of arbitration the
3944 company shall sell, and the authority shall purchase, the physical assets listed by the board, and
3945 the authority shall pay to the company the fair value of the portion of the company's operations
3946 as found by the board. The cost to the authority of any acquisition under this section shall be paid
3947 from the proceeds of bonds or bond anticipation notes issued as hereinafter provided. An award
3948 under this section shall be subject to the availability of those bond or note proceeds and any sale
3949 hereunder may be postponed by the agreement of the parties pending the availability of those
3950 funds.

3951 (c) The procedure set forth in this section shall constitute the exclusive remedy of a
3952 private mass transportation company against the authority for relief from the effects of the
3953 division's operations or activities, and no action or suit shall be brought against the authority on
3954 account of alleged damage suffered except to enforce compliance with the provisions of this

3955 section. Nothing herein shall prohibit the authority and the company from entering into an
3956 agreement in settlement of the claim for relief at any time, notwithstanding the rejection of an
3957 offer or counteroffer, the pendency of arbitration proceedings or the existence of an award. All
3958 time requirements in this section may be extended by written agreement between the authority
3959 and the company. It is the intent of this section to encourage cooperation between the authority
3960 and private companies so as to provide fair and reasonable relief as speedily as possible in case
3961 of damaging competition.

3962 SECTION 29. The General Laws are hereby amended by inserting after chapter 81C the
3963 following chapter:-

3964 Chapter 81D

3965 THE DIVISION OF PUBLIC TRANSIT

3966 Section 1. (a) Without limiting the generality of the powers granted to the authority
3967 under chapter 81B or this chapter, the following provisions are made for the operation,
3968 improvement and construction of the state public transit system.

3969 (b) There is hereby established a division of public transit within the authority.

3970 Section 2. The division shall be directed by an administrator of public transit, who shall
3971 be appointed by and serve at the pleasure of the chief executive officer of the Massachusetts
3972 Surface Transportation Authority. The administrator shall be responsible for administering and
3973 enforcing this chapter relative to the administration of the division under the administrator's
3974 control and supervision unless otherwise provided herein, subject to the supervision of the chief
3975 executive officer of the authority.

3976 The administrator shall be exempt from chapter 31. The position of administrator shall be
3977 classified in accordance with section 45 of chapter 30 and the salary shall be determined in
3978 accordance with section 46C of said chapter 30. The chief executive officer shall consider a
3979 prospective administrator's fitness, including experience in matters relating to transportation
3980 infrastructure, including roads and bridges, such as their construction, operations, financing or
3981 other relevant experience relative to the efficient exercise of the administrator's powers and
3982 duties. The commissioner shall administer this section and the General Laws, rules and
3983 regulations that grant powers to or impose duties upon the division , subject to the supervision of
3984 the chief executive officer.

3985 (a) The administrator shall establish a procedure for recommending to the chief executive
3986 officer approval or disapproval of all contracts, including specifications, made by the division,
3987 and any changes, alterations, amendments, or modifications thereof and for contract appeals of
3988 all claims made under any contract with the division with the exception of claims subject to
3989 section 39Q of chapter 30. Any person aggrieved by a decision of the chief executive officer
3990 acting in regard to contract appeals may bring suit against the authority for recovery of damages
3991 based on such claim under the provisions of chapter 258.

3992 To assist the chief executive officer and administrator in performing this function, the
3993 chief executive officer may appoint and remove a person of legal training and experience, who
3994 shall be a member of the bar of the commonwealth, to the position of hearing examiner. The
3995 hearing examiner shall devote full-time during business hours to the duties of his position. The
3996 position shall be classified in accordance with section 45 of chapter 30 and the salary shall be
3997 determined in accordance with section 46C of said chapter 30. The chief executive officer may
3998 refer any dispute concerning contracts, contract specifications or the execution of contracts not

3999 subject to section 39Q of said chapter 30 to the hearing examiner for a report on the matter
4000 including a recommendation as to the disposition of the dispute.

4001 The hearing examiner shall hear all claims by contractors from determinations of the
4002 department with the exception of claims subject to section 39Q of chapter 30 and shall, after
4003 hearing, render to the chief executive officer a report of the matter including a recommendation
4004 as to the disposition of the claim. The examiner shall, at the request of the contractor or of the
4005 division or on his own motion, summon witnesses and require the production of books and
4006 records and take testimony under oath. These reports shall be maintained as public records in a
4007 place and form fully accessible to the public.

4008 (b) The administrator shall appoint and may remove all employees in the division, subject
4009 to the approval of the chief executive officer of the authority. Except as provided in this chapter
4010 or as otherwise provided by law, all such appointments and removals shall be made in
4011 accordance with chapter 31. The administrator may, subject to appropriation and regulation,
4012 employ such consultants as he may consider necessary, provided that consultants shall be
4013 engaged to perform only those services for the division which regular employees of the division
4014 are unable to perform owing to lack of special expertise or other inability to perform such
4015 services on the schedule or in the manner required by the division.

4016 (c) The administrator shall establish such bureaus, sections, and district and other offices
4017 as shall be necessary for the efficient and economical administration of the division and, if
4018 necessary for such purpose may, with the approval of the chief executive officer, consolidate or
4019 abolish the same. The administrator shall prepare and keep current a general statement of the
4020 organization of the division, of the assignment of functions to its various administrative units,

4021 officials and employees, and of the established places at which and the methods whereby the
4022 public may secure information or make requests, such statement to be known as the division’s
4023 “description of organization”. The administrator shall file with the state secretary an attested
4024 copy of such description and of each amendment thereto.

4025 (d) The administrator may adopt rules and regulations to effectuate the purposes of this
4026 chapter.

4027 Section 3. As used in this chapter, the following words shall, unless the context
4028 otherwise requires, have the following meanings:—

4029 “Area constituting the authority”, the service area of the division consisting of the 14
4030 cities and towns, the 51 cities and towns, and other served communities.

4031 “Authority”, the Massachusetts Surface Transportation Authority established in chapter
4032 81B.

4033 “Board”, the board of directors of the authority.

4034 “Capital investment program”, the program of capital spending as promulgated by the
4035 executive office of transportation each fiscal year based on a 5 year capital spending projection
4036 that advances the program for mass transportation of the authority.

4037 “Dedicated revenue source”, monies provided to the authority in accordance with section
4038 35T of chapter 10.

4039 “Division”, the division of public transit established in section 5 of chapter 81D.

4040 “Equipment”, all rolling stock and other conveyances, vehicles, rails, signal and control
4041 systems, lighting and power distribution systems, fences, station equipment, fare collection
4042 equipment, incidental apparatus and other tangible personal property, whether or not affixed to
4043 realty, required or convenient for the mass movement of persons.

4044 “Express service”, all mass transportation service provided by or under the control of the
4045 division, whether by ownership, lease, contract or otherwise, over rights of way with fully
4046 controlled access and restricted to the use of such service exclusively or on a shared basis with
4047 other mass transportation service, including, but not limited to, rapid transit service, the highland
4048 branch and Mattapan high-speed services and express bus, monorail and other similar services,
4049 and such term shall also mean all commuter railroad passenger service provided by or under the
4050 control of the division.

4051 “Fare revenue”, the amount of money directly paid by passengers on all modes of service,
4052 provided that said revenue shall include both the fares accounted for by the division as revenues
4053 and as credits to expenditures.

4054 “51 cities and towns”, the cities and towns of Bedford, Beverly, Braintree, Burlington,
4055 Canton, Cohasset, Concord, Danvers, Dedham, Dover, Framingham, Hamilton, Hingham,
4056 Holbrook, Hull, Lexington, Lincoln, Lynn, Lynnfield, Manchester-by-the-Sea, Marblehead,
4057 Medfield, Melrose, Middleton, Nahant, Natick, Needham, Norfolk, Norwood, Peabody, Quincy,
4058 Randolph, Reading, Salem, Saugus, Sharon, Stoneham, Swampscott, Topsfield, Wakefield,
4059 Walpole, Waltham, Wellesley, Wenham, Weston, Westwood, Weymouth, Wilmington,
4060 Winchester, Winthrop and Woburn.

4061 “14 cities and towns”, the cities and towns of Arlington, Belmont, Boston, Brookline,
4062 Cambridge, Chelsea, Everett, Malden, Medford, Milton, Newton, Revere, Somerville and
4063 Watertown.

4064 “Local service”, all mass transportation service provided by or under the control of the
4065 division, other than express service.

4066 “Massachusetts Bay Transportation Authority State and Local Contribution Fund”, the
4067 fund established pursuant to section 35T of chapter 10.

4068 “Mass transportation facilities”, all real property, including land, improvements,
4069 terminals, stations, garages, yards, shops and structures appurtenant thereto, and all easements,
4070 air rights, licenses, permits and franchises, used in connection with the mass movement of
4071 persons.

4072 “Maximize”, increase to the highest level possible consistent with the principles of sound
4073 financial planning and accepted transportation practices.

4074 “Net operating investment per passenger mile ratio”, the ratio whereby operating
4075 expenses minus the sum of nontransportation revenues and fare revenues are divided by
4076 passenger miles and expressed as a monetary amount per mile.

4077 “Nontransportation revenues”, any and all division revenue sources resulting from
4078 sources other than state or local taxes, state or authority bonds, federal mass transportation
4079 assistance and fares.

4080 “Operating expense”, salaries, wages, benefits, materials and supplies, and purchased
4081 transportation, excluding debt service and capital expenses, for all modes of service.

4082 “Other served communities”, the cities and towns of Abington, Acton, Amesbury,
4083 Andover, Ashburnham, Ashby, Ashland, Attleboro, Auburn, Ayer, Bellingham, Berkley,
4084 Billerica, Boxborough, Boxford, Bridgewater, Brockton, Carlisle, Carver, Chelmsford, Dracut,
4085 Duxbury, East Bridgewater, Easton, Essex, Fitchburg, Foxborough, Franklin, Freetown,
4086 Georgetown, Gloucester, Grafton, Groton, Groveland, Halifax, Hanover, Hanson, Haverhill,
4087 Harvard, Holden, Holliston, Hopkinton, Ipswich, Kingston, Lakeville, Lancaster, Lawrence,
4088 Leicester, Leominster, Littleton, Lowell, Lunenburg, Mansfield, Marlborough, Marshfield,
4089 Maynard, Medway, Merrimac, Methuen, Middleborough. Millbury, Millis, Newbury,
4090 Newburyport, North Andover, North Attleborough, Northborough, Northbridge, Norton, North
4091 Reading, Norwell, Paxton, Pembroke, Plymouth, Plympton, Princeton, Raynham, Rehoboth,
4092 Rochester, Rockland. Rockport, Rowley, Salisbury, Scituate, Seekonk, Sherborn, Shirley,
4093 Shrewsbury, Southborough, Sterling, Stoughton, Stow, Sudbury, Sutton, Taunton, Tewksbury,
4094 Townsend, Tyngsborough, Upton, Wareham, Way land, West Boylston, West Bridgewater,
4095 Westborough, West Newbury, Westford, Westminster, Whitman, Worcester, Wrentham, and
4096 such other municipalities as may be added in accordance with section 6 or in accordance with
4097 any special act to the area constituting the authority.

4098 “Passenger miles”, the sum of the distances ridden by each passenger for all modes of
4099 service.

4100 “Program for mass transportation”, a comprehensive, coordinated program of
4101 construction, reconstruction, and development of mass transportation facilities and equipment
4102 throughout the area constituting the division, promulgated by the executive office of
4103 transportation, for the benefit of the inhabitants thereof and the commonwealth that establishes a

4104 planning horizon of not more than 20 years and incorporates an ongoing capital investment
4105 program.

4106 “Rider”, a person whose residence is in 1 of the 14 cities or towns, 1 of the 51 cities or
4107 towns, or 1 of the other served communities and uses local service or express service of the
4108 division.

4109 “Secretary”, the secretary of the executive office of transportation.

4110 “Serious bodily injury” bodily injury which results in a permanent disfigurement, loss or
4111 impairment of a bodily function, limb or organ.

4112 “Service quality standards”, objectives established by the division for the effectiveness
4113 and quality of each mode of service, rapid transit, light rail, bus, and commuter rail, based on
4114 measurements of: (a) comfort; (b) communication; (c) convenience; (d) rider satisfaction; (e)
4115 reliability; (f) security; and (g) environmental benefit.

4116 “System revenues”, revenues generated by the division, excluding the dedicated revenue
4117 source and municipal assessments.

4118 Section 4. The division may:

4119 (1) establish within the area constituting the division a principal office and such other
4120 offices as necessary;

4121 (2) hold, operate and manage the mass transportation facilities and equipment acquired
4122 by the division;

4123 (3) appoint and employ officers, agents, and employees to serve at the pleasure of the
4124 administrator, except as may otherwise be provided in collective bargaining agreements, and to
4125 fix their compensation and conditions of employment;

4126 (4) make, revise and repeal, by-laws, rules, regulations and resolutions;

4127 (5) establish transit facilities and related infrastructure, including terminals, stations,
4128 access roads, and parking, pedestrian access facilities and bicycle parking and access facilities as
4129 deemed necessary and desirable. The division may charge reasonable fees for the use of such
4130 facilities as it may deem desirable, or it may allow the use of such facilities free of charge;

4131 (6) accept gifts, grants and loans from agencies of local, state and federal governments, or
4132 from private agencies or persons, and to accede to such conditions and obligations as may be
4133 imposed as a prerequisite to any such gift, grant or loan;

4134 (7) provide mass transportation service, whether directly, jointly or under contract, on an
4135 exclusive basis, in the area constituting the division and without being subject to the jurisdiction
4136 and control of the department of public utilities in any manner except as to safety of equipment
4137 and operations and, with respect only to operations of the division with equipment owned and
4138 operated by the division, without, except as otherwise provided in this chapter, being subject to
4139 the jurisdiction and control of any city or town or other licensing authority; provided, that
4140 schedules and routes shall not be considered matters of safety subject to the jurisdiction and
4141 control of said department. Except as otherwise provided in this chapter, the board shall
4142 determine the character and extent of the services and facilities to be furnished, and in these
4143 respects its authority shall be exclusive and shall not be subject to the approval, control or
4144 direction of any state, municipal or other department, board or commission except the advisory

4145 board as provided in this chapter. Nothing contained in this paragraph shall be construed as
4146 exempting any privately owned or controlled carrier, whether operating independently, jointly or
4147 under contract with the division, from obtaining any license required under section 1 of chapter
4148 159A;

4149 (8) operate mass transportation facilities and equipment, directly or under contract in
4150 areas outside the area constituting the authority; but only pursuant to: (i) an agreement with or
4151 purchase of a private mass transportation company, part of whose operations were, at the time
4152 the authority was established, within the area constituting the authority; or (ii) an agreement with
4153 a transportation area or a municipality for service between the area constituting the authority and
4154 that of the transportation area or municipality, where no private company is otherwise providing
4155 that service;

4156 (9) provide for construction, extension, modification or improvement of the mass
4157 transportation facilities in the area constituting the authority;

4158 (10) sell, lease or otherwise contract for advertising in or on the facilities of the division;
4159 and

4160 (11) ensure that land devoted to any public use other than mass transportation may be
4161 taken by the division only: (i) if any substantial interference with such public use is temporary or
4162 any permanent interference therewith is not substantial, or both; or (ii) in the case of takings not
4163 authorized by clause (i), upon providing equivalent land for such public use. Interference with
4164 the public use of a street or public utility line shall not be considered to be substantial unless it
4165 presents a substantial interference with the traffic or utility system of which it is a part.

4166 Section 5. (a) There shall be a mass transit advisory board within the division of public
4167 transit consisting of a representative of each city or town paying an assessment to the authority.
4168 Each such representative shall be, in the case of a city having a Plan D or Plan E form of charter,
4169 the city manager, in the case of every other city, the mayor, or the chairman of the board of
4170 selectmen of every town. Each city manager, mayor, or chairman may appoint a designee to act
4171 for him on the mass transit advisory board by filing the name of said designee with the authority.

4172 The total voting strength of cities and towns on the mass transit advisory board shall be
4173 not less one than 1 vote for each city or town together with additional votes calculated by
4174 multiplying 1 and one-half times the total number of cities and towns paying assessments to the
4175 Surface Transportation Trust Fund, established under section 35LL of chapter 10, by a fraction
4176 of which the numerator shall be the total amount of all assessments made by the state treasurer to
4177 such city or town under this chapter and the denominator shall be the total amount of all
4178 assessments made by the state treasurer to all such cities and towns. The determination of votes
4179 shall be based upon the most recent annual assessment. The total vote of each city and town shall
4180 be determined by the authority and delivered in writing to the mass transit advisory board 30
4181 days after the state treasurer has sent the warrants for payments to the cities and towns.

4182 Whenever the approval of the mass transit advisory board, or of the 14 cities and towns,
4183 or of the 51 cities and towns or of the other served communities, is required for any action by the
4184 authority, such approval shall be deemed to have been granted within 30 days of the authority's
4185 submission for approval thereof, so long as the mass transit advisory board, 14 cities and towns
4186 or the 51 cities and towns or the other served communities has or have not communicated its or
4187 their disapproval to the authority, in writing.

4188 Any notice or submission hereunder to the mass transit advisory board or to the 14 cities
4189 and towns or to the 51 cities and towns or to the other served communities shall be given in such
4190 manner as the authority deems reasonable.

4191 Except as otherwise provided by vote of the mass transit advisory board or of the 14
4192 cities and towns or of the 51 cities and towns or of the other served communities, respectively, a
4193 meeting may be called by the representative or representatives of cities and towns having 5 per
4194 cent or more of the votes of the mass transit advisory board or of 14 cities and towns or of 51
4195 cities and towns or of the other served communities, as the case may be. The first meeting of the
4196 14 cities and towns and of the 51 cities and towns and of the other served communities, which
4197 shall be immediately followed by the first meetings of the 14 cities and towns and of the 51 cities
4198 and towns and of the served communities shall be held as soon as practicable upon the call of the
4199 authority. The mass transit advisory board shall act by a majority vote, except that it may
4200 delegate its power of approval to an executive committee formed and elected pursuant to duly
4201 adopted by-laws of the board and constituting among its members as least one-half of the total
4202 vote of the board, and may at any time, revoke such delegation provided that no such executive
4203 committee shall be empowered to approve the governor's appointments to the board.

4204 The mass transit advisory board may incur expenses, as authorized by majority vote of
4205 such board, for staff, stenographic, clerical and other purposes. Such expenses as do not annually
4206 exceed 0.25 per cent of the assessment upon member communities shall be paid by the authority.

4207 (b) The mass transit advisory board shall be considered a governmental body for
4208 purposes of, and shall be subject to, section 11A½ of chapter 30A of the General Laws and shall
4209 also be subject to section 10 of chapter 66 of the General Laws.

4210 (c) Additional purposes of the mass transit advisory board shall include:
4211 to consider matters committed to the approval of the advisory board under paragraphs (d)
4212 and (p) of section 5 of chapter 161A of the General Laws;
4213 to make recommendation to the division on its mass transit charges;
4214 to hold hearings, which may be held jointly with the division at the discretion of the mass
4215 transit advisory board and the division, on matters relating to the division;
4216 to review and prepare comments on the annual report of the authority for the authority
4217 and the secretary, and to make such examinations of the reports on the division's records and
4218 affairs as the advisory board deems appropriate; and
4219 to make recommendations to the governor and the general court respecting the authority
4220 and its mass transit programs. The mass transit advisory board shall have all powers necessary
4221 or convenient to carry out and effectuate the forgoing purposes.

4222 Section 6. Unless otherwise required under section 6A of chapter 31 or any other general
4223 or special law to the contrary, the administrator shall design and implement a program for
4224 performance evaluation of employees. The sole purpose of said program shall be the
4225 improvement of the performance of individual employees and the division. Notwithstanding any
4226 general or special law to the contrary, all information compiled by said program shall be
4227 confidential and exempt from clause twenty-sixth of section 7 of chapter 4 or section 10 of
4228 chapter 66. The division may consult with individuals and organizations and may contract for
4229 technical assistance for the purpose of the evaluation program to the extent it deems necessary.

4230 Section 7. Notwithstanding any general or special law to the contrary, whenever there
4231 exists a continued interruption, stoppage or slowdown of transportation of passengers on any
4232 vehicle or line of the division or a strike causing the same, and which is in violation of an
4233 injunction, a temporary injunction, a restraining order, or other order of a court of competent
4234 jurisdiction, and which threatens the availability of essential services of transportation to such an
4235 extent as to endanger the health, safety or welfare of the community, the governor may declare
4236 that an emergency exists. During such emergency the governor may take possession of, and
4237 operate in whole or in part, the lines and facilities of the division in order to safeguard the public
4238 health, safety and welfare. Such power and division may be exercised through any department or
4239 agency of the commonwealth or through any person or persons and with the assistance of such
4240 public or private instrumentalities as may be designated by the governor. The lines and facilities
4241 shall be operated for the account of the division. The powers hereby granted to the governor shall
4242 expire 45 days after his declaration that a state of emergency exists.

4243 Section 8. (a) In addition to the powers granted to the authority under chapter 81B and
4244 section 4 and all other powers granted by law, the authority shall have the power to establish on a
4245 self-liquidating basis 1 or more separate units of mass transportation facilities and equipment to
4246 furnish, in each instance, express service or local service between specified terminal points and
4247 over a fixed route or routes. In establishing such separate units, the authority may enter into 1 or
4248 more unit lease arrangements with such persons, firms and corporations as the authority shall
4249 select and franchise. Each such unit lease arrangement shall provide for the following:

4250 (i) acquisition by the authority of real property, including easements and rights of way,
4251 necessary or desirable for the operation of such units of mass transportation facilities and

4252 equipment, parking and other related auxiliary services and facilities, by purchase or exercise of
4253 the authority's power of eminent domain under subsection (o) of section 4 of chapter 81B;

4254 (ii) design, construction and acquisition of mass transportation facilities and equipment;

4255 (iii) operation of the mass transportation facilities and equipment so designed,
4256 constructed and acquired by a lessee of the facilities and equipment: (1) for a period not in
4257 excess of 40 years; (2) at a rental or lease charge at least sufficient to discharge the authority's
4258 financial obligations incurred in connection with the unit of facilities and equipment under the
4259 authority's powers as hereinafter set forth in subsection (b); and (3) upon such provisions and
4260 conditions as to fares and other matters relating to the conduct and operation of the mass
4261 transportation facilities and equipment as the authority and lessee shall agree; and

4262 (iv) power in the authority to cancel or terminate the unit lease arrangement at stated
4263 times which shall be not less frequent than once in each calendar year.

4264 (b) To meet the expenditures necessary in carrying out the provisions of this section, the
4265 authority may issue bonds under chapter 81B, and those bonds shall provide, in addition to other
4266 provisions allowed under that chapter, that all payments of principal and interest shall be made
4267 solely from: (1) the rental or lease charges received by the authority under its lease with the
4268 lessee of mass transportation facilities and equipment as aforesaid; provided, however, that the
4269 lease may be assigned by the authority to secure the obligations of those bonds; or (2) in the
4270 event the authority terminates the lease from the income derived from operation of said mass
4271 transportation facilities and equipment; provided, however, that bonds issued for the purposes of
4272 this section shall not be included in the computation of the bonds to which the limitations on
4273 amount contained in section 22 of chapter 81B shall apply.

4274 Section 9. The authority shall have the duty to develop and finance, and the division shall
4275 have the duty to operate, the mass transportation facilities and equipment in the public interest,
4276 consistent with the purposes this chapter. The division shall provide a high standard of service to
4277 its riders, and achieve maximum effectiveness in complementing other forms of transportation in
4278 order to promote the general economic and social well-being of the area constituting the division
4279 and of the commonwealth.

4280 Section 10. The division may sell at public or private sale any land, or rights in land, the
4281 title to which the division has acquired, upon determination by the board that such land or rights
4282 in land are no longer necessary for the division's purposes. In the event of such public or private
4283 sale the division shall execute a deed thereof, with or without covenants of title and warranty, in
4284 the name and behalf of the authority, to the purchaser, his heirs and assigns, and deposit said
4285 deed with the state treasurer, together with a certificate of the terms of the sale and the price paid
4286 or agreed to be paid at said sale. Upon receipt of the agreed upon payment, and upon the terms
4287 agreed to in said deed, the treasurer shall deliver the deed to the purchaser. The state treasurer
4288 may, through the attorney general, file suit for and collect the payment and otherwise enforce the
4289 terms of any such sale.

4290 The division may, with the approval of the authority, transfer to another division, or to a
4291 city, town, or public authority or agency, any land to which it has acquired the title and which the
4292 board determines is no longer necessary for the division's purposes.

4293 The division may also, with the approval of the authority, lease or rent any land, or rights
4294 in land, to which it has acquired the title, and which land, or rights therein, the board determines
4295 are not presently needed for the division's purposes.

4296 The foregoing provisions of law with reference to the sale, leasing or renting of land
4297 acquired by the division, shall also apply to land, or rights in land, acquired by the division for
4298 maintenance sites.

4299 In addition to the foregoing, the division may also transfer to another state agency, land
4300 acquired from that state agency, which is no longer needed for the purposes for which it was
4301 acquired. The use of that land shall be subject to such restrictions as may be imposed by the
4302 division.

4303 Section 11. If the division seeks to contract for local and express bus services theretofore
4304 performed by division employees, it shall conduct a public hearing in each of the affected areas.
4305 The division shall cooperate with the chief executive officers of each of the cities and towns in
4306 the affected areas to determine the appropriate, geographically convenient locations at which
4307 such hearings shall be held. Those hearings shall be held within 30 days after the division's
4308 requests for proposals and before the awarding of a contract for those services. The division shall
4309 provide written notice 10 days before the hearing to elected officials from affected areas. The
4310 division shall be represented at the meeting by the administrator or his designee who is familiar
4311 with the proposed contract. The public hearing shall be conducted in the evening hours in a
4312 location in the area to be affected by the proposed contract. The division shall present reasons for
4313 the proposed contract. Persons in attendance at the public hearing shall have a reasonable
4314 opportunity to ask questions and present reasons why such proposed contract should not be
4315 executed. Within 30 days after the hearing and before the execution of any contract, the division
4316 shall give written notice of its decision and the supporting reasons to persons who received
4317 written notice of the hearing. The division shall continue to conduct public hearings pursuant to

4318 this section each year the contract is in effect. Nothing in this section shall be construed as
4319 affecting the applicability of sections 52 to 55, inclusive, of chapter 7 to any such contract.

4320 Section 12. The division shall on or before April 1 of each year, render to the board, the
4321 secretary, mass transit advisory board, and the general court, a report of its operations for the
4322 preceding calendar year, including therein a description of the organization of the division, its
4323 service quality standards, trends in revenue and ridership, service improvements and
4324 recommendations for legislation, if any, and the program for mass transportation as most
4325 recently revised.

4326 Section 13. Any agreement entered into by the division with a municipality outside of
4327 the territory of the division for service to such municipality directly by the division, or through
4328 agreement with a private company, shall provide for reimbursement by the municipality to the
4329 division only for the net additional expense of such service as determined by the division. Such
4330 agreements may be for such terms, not exceeding 5 years, as the parties may determine, except
4331 as provided in paragraph (x) of section 4 of chapter 81B. The agreements shall not be subject to
4332 the provisions of section 4 of chapter 40 or section 31 of chapter 44. Municipalities may
4333 appropriate from taxes or from any available funds to meet their obligations under any such
4334 contracts.

4335 Section 14. Any private company lawfully providing mass transportation service in the
4336 area constituting the division when the division is established may continue to operate the same
4337 route or routes and levels of service, and may conduct such further operations as the division
4338 may permit in the future with or without a contract; provided, however, that the division shall in
4339 all respects have the same powers and duties in respect to such private carriers as are provided by

4340 law for the department of public utilities except as to safety of equipment and operations;
4341 provided further, that schedules and routes shall not be considered safety of equipment and
4342 operations for the purposes of this paragraph; provided further, that whenever the division
4343 desires to add new routes for service in any area, it shall give preference in the operation of those
4344 routes to the private carrier then serving the area unless the division concludes that the private
4345 carrier has not demonstrated an ability to provide that service according to the standards of the
4346 division, that such service can be operated directly by the division at substantially lesser expense
4347 to the division and the public than if operated by that private carrier, or that for substantial and
4348 compelling reasons in the public interest operation by such private carrier is not feasible.

4349 Section 15. The division, during construction projects, may require the relocation or
4350 removal of public utility facilities; provided, that if such project is in whole or in part funded by
4351 a federal grant, the division may reimburse the utility company for the costs of relocation and
4352 removal as may be agreed upon by the utility and the division.

4353 Section 16. The division shall provide gate attendants daily from 7:00 a.m. until 2:00
4354 a.m. on the following day, on High street in the city of Medford at the railroad crossing.

4355 Section 17. No alcoholic beverages shall be sold on any of the properties under the
4356 supervision and control of the division, its tenants or lessees; provided, however, that this
4357 subsection shall not apply to properties used by or for railroads, as defined in chapter 160, or
4358 properties used for railroad-related purposes including, but not limited to, railroad stations and
4359 terminals.

4360 Section 17A. The division shall be a public employer as defined in section 1 of chapter
4361 258 and shall be subject to the indemnification limits of section 2 of chapter 258; provided,

4362 however, that if the division is liable for a serious bodily injury or death, the limitation of section
4363 2 of chapter 258 shall not apply.

4364 Section 18. No person shall have in his possession on a facility or conveyance under the
4365 supervision or control of the authority, an alcoholic beverage, with the intent to consume such
4366 beverage on the facility or conveyance, unless such possession is exempt under section 17. A
4367 violation of this section shall be punishable as provided in section 40A of chapter 272 and the
4368 alcoholic beverages shall be forfeited to the division.

4369 Section 19. The division shall create, after public hearing and in consultation with the
4370 mass transit advisory board, mechanisms for ensuring reliable, high-quality and cost-effective
4371 operations by establishing and implementing service quality standards.

4372 Section 20. The division shall promote, in consultation with the mass transit advisory
4373 board, maximization of fare revenue and no transportation revenue, through reasonable and
4374 equitable fares, ridership growth and transit-oriented development of land and air rights
4375 controlled by the division.

4376 Section 21. Any city or town seeking to receive transportation service from the division,
4377 may place upon the official ballot at any biennial or regular or special city election or annual or
4378 special town election the following question:

4379 “Shall this (city, town) be added to the Division of Public Transit of the Massachusetts
4380 Surface Transportation Authority”

4381 Yes _____ No _____

4382 The city or town solicitor shall prepare a fair, concise summary of each question not later
4383 than 35 days prior to such election. That question shall not be placed upon the official ballot
4384 unless the city council or town meeting shall have voted to have that question so placed or unless
4385 a petition signed by not less than 5 per cent of the registered voters of the city or town, certified
4386 as such by the registrars of voters thereof, shall have been filed with the city or town clerk, at
4387 least 90 days before the date of any election. Forms for such petitions shall be made available
4388 without cost by the city or town clerk and each form shall bear the following heading:

4389 “The undersigned registered voters of (city, town) hereby petition for the placement upon
4390 the official ballot of the question whether this (city, town) shall be added to the area constituting
4391 the Division of Public Transit of the Massachusetts Surface Transportation Authority”.

4392 The votes upon such question shall be counted and returned to the city or town clerk in
4393 the same manner as votes for candidates in municipal elections. Said clerk shall immediately
4394 notify the division of the results of the vote. If a majority of the votes cast upon the question shall
4395 be in the affirmative, the city or town shall be considered added to the division effective on the
4396 first day of January next following the notification by the clerk. If the city council or town
4397 meeting of more than 1 city or town shall vote to have that question placed on the official ballot,
4398 or if a petition signed as provided in this section shall be filed with more than 1 city or town
4399 clerk, and if that combination of cities or towns, if regarded as a single municipality, would be
4400 contiguous to the area constituting the division, the question shall be placed upon the official
4401 ballot in each such city or town. The votes upon the question shall be counted and returned to
4402 each city or town clerk in the same manner as votes for candidates in municipal elections. The
4403 city or town clerks for each city or town shall immediately notify the division of the result of its
4404 vote. If a majority of the votes cast upon the vote in such city or town shall be in the affirmative,

4405 each said city or town shall be considered within the division effective on the first day of January
4406 next following the notifications by the clerks. The division may not provide service to a city or
4407 town that fails to join the transportation area, unless the city or town was receiving service as of
4408 July 1, 2000.

4409 Section 22. Notwithstanding any general or special law to the contrary, all cities and
4410 towns of the authority shall contribute to the Massachusetts Bay Transportation Authority State
4411 and Local Contribution Fund, an amount in the aggregate not less than \$136,026,868, which,
4412 after fiscal year 2006, shall be adjusted each July 1 by the growth rate of the inflation index over
4413 the preceding 12 months; provided, however, that after such fiscal year, in no case shall the
4414 assessment exceed 102.5 per cent of the previous year's assessment. Each municipality's share of
4415 the assessment shall equal its weighted percentage of the total population of the authority. For
4416 the purposes of this calculation, the weights shall be as follows: Boston, 18; Brookline and
4417 Cambridge, 12; the 14 cities and towns excluding Boston, Brookline and Cambridge, 9; the 51
4418 cities and towns, 3; other served communities, 1. For the purpose of this section, "Population"
4419 shall mean population as most recently estimated and published by the United States Census
4420 Bureau. On or before March 1 of each year, the authority shall certify to the state treasurer the
4421 amount to be assessed to each city and town on account of the ensuing fiscal year, and the state
4422 treasurer shall, on behalf of commonwealth, assess each such city and town on account of such
4423 year in accordance with section 20 of chapter 59. Beginning on July 1, 2001, a city or town that
4424 is also a member of a regional transit authority or that at any time joins a regional transit
4425 authority shall have 100 per cent of the amount assessed for the operation of the regional transit
4426 authority credited against its share of the assessment made under this section; provided, however,
4427 that the amount credited shall not exceed the total amount of the assessment; and provided

4428 further, that the amount credited shall be the most recently audited regional transit authority
4429 assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal
4430 year's estimated cherry sheet assessments. The total amount of regional transit authority credits
4431 authorized herein shall be re-assessed to the 14 cities and towns and the 51 cities and towns
4432 based on the weighted percentage of said cities and towns' share of the population of the 14 cities
4433 and towns and 51 cities and towns. For the purposes of this section, the words "inflation index"
4434 shall mean the per cent change in inflation as measured by the per cent change in the consumer
4435 price index for all urban consumers for the Boston metropolitan area as determined by the bureau
4436 of labor statistics of the United States Department of Labor.

4437 A city or town assessed by the authority that is not receiving par transit services for the
4438 disabled from the authority shall have 50 per cent of the amount it expended in the previous
4439 fiscal year for the operation of or membership in a local or regional par transit service credited
4440 against its share of the assessment made under this section. The amount credited shall not exceed
4441 the total amount of the assessment. The credit shall apply only to services provided to individuals
4442 eligible for par transit services. As used in this paragraph, "par transit services" shall mean
4443 services provided to individuals with disabilities who, as the result of a physical or mental
4444 impairment, including a vision impairment, are unable to board, ride or disembark from a vehicle
4445 in the authority's regular transportation system without the assistance of another individual,
4446 except the operator of a wheelchair lift or other boarding assistance device.

4447 Section 23. The administrator shall have authority to bargain collectively with labor
4448 organizations representing employees of the division and to enter into agreements, with those
4449 organizations relative to wages, salaries, hours, working conditions, the assignment of work
4450 schedules and work locations on the basis of seniority, including:

4451 (a) hours of work each day and days worked each week; provided however, that a change
4452 in such assignment shall not provide for a change in classification; and

4453 (b) the filling of vacancies by promotion or transfer of qualified applicants on the basis of
4454 seniority, health benefits, pensions and retirement allowances of such employees; provided,
4455 however, that the administrator shall have no authority to bargain collectively and shall have no
4456 authority to enter into collective bargaining agreements with respect to matters of inherent
4457 management right which shall include the right:

4458 (I) to direct, appoint, and employ officers, agents and employees and to determine the
4459 standards therefore;

4460 (ii) to discharge or terminate employees subject to the provisions of clauses (a) and (b).

4461 (a) No such action to discharge or terminate shall be sustained if, in a proceeding invoked
4462 in accordance with the provisions of clause (b), the employee shall establish by a preponderance
4463 of the evidence that it was based upon race, sex, color, religion, creed, sexual orientation, age,
4464 national origin, handicapping condition, marital status, or political affiliation, or activities or
4465 union activities or union organizing of the employees; a reprisal against the employee for
4466 disclosure of information by an employee which the employee reasonably believes evidences a
4467 violation of any law, rule or regulation or mismanagement, a gross waste of funds, or abuse of
4468 authority; a reprisal against any employee for the refusal of any person to engage in political
4469 activity.

4470 (b) The parties may include in any written agreement a grievance procedure culminating
4471 in final and binding arbitration which may be invoked in the event any employee of the authority
4472 is aggrieved by any action taken to so discharge or terminate employees;

4473 (iii) to plan and determine the levels of service provided by the division;

4474 (iv) to direct, supervise, control, and evaluate the departments, units, and programs of the
4475 division; to classify the various positions of the division and ascribe duties and standards of
4476 productivity therefore;

4477 (v) to develop and determine levels of staffing and training; provided however, that to the
4478 extent that levels of staffing and training have an impact on the safety of division employees the
4479 determination, development and implementation of such levels of staffing and training shall not
4480 constitute a matter of inherent management right and the administrator shall have the authority to
4481 bargain collectively on such subjects with labor organizations representing employees of the
4482 division; and provided further, that the administrator and labor organizations may include in any
4483 written agreement a grievance procedure culminating in final and binding arbitration before a
4484 neutral arbitrator which may be invoked in the event that an employee of the division to whom
4485 such agreement applies is aggrieved by actions taken by the administrator or division
4486 management with respect to the development, determination or implementation of levels of
4487 staffing and training which have an impact on the safety of division employees;

4488 (vi) to determine whether goods or services should be made, leased, contracted for, or
4489 purchased on either a temporary or permanent basis;

4490 (vii) to assign and apportion overtime; and

4491 (viii) to hire part-time employees.

4492 The division is hereby prohibited from bargaining collectively or entering into any
4493 agreement to make pension benefit payments to its employees that are determined in a manner
4494 that includes the amount of overtime earnings of those employees.

4495 The division is hereby prohibited from bargaining collectively or entering into a contract
4496 which provides for automatic cost-of-living salary adjustments which are based on changes in
4497 the consumer price index or other similar adjustments unless specifically authorized by law.
4498 Except as otherwise provided in sections 15 to 19, inclusive, of chapter 81B, the employees of
4499 the division shall submit all grievances and disputes pursuant to arbitration provisions in
4500 agreement existing at the time of the creation of the division or subsequently entered into with
4501 the division or, in the absence of such provisions, to the state board of conciliation and
4502 arbitration, or other board or body having similar powers and duties. Any general or special law
4503 relative to rates of wages, hours of employment and working conditions of public employees,
4504 shall not apply to the division nor to the employees thereof, but the division and its employees
4505 shall be governed with respect to hours of employment, rates of wages, salaries, hours, working
4506 conditions, health benefits, pensions and retirement allowances of its employees by the laws
4507 relating to street railway companies.

4508 Section 24. In the event of any conflict between the regulatory powers and duties of the
4509 department of public utilities and the regulatory powers and duties of the division within its area,
4510 the department of public utilities shall resolve such dispute and exercise such powers as it
4511 requires in the particular instance.

4512 Section 25. The division shall have the power to procure electric utility services,
4513 including the purchase, generation, transmission, transformation and distribution of the supplies

4514 of electricity necessary to operate its mass transportation facilities and equipment, at the lowest
4515 reasonable cost consistent with the provision of public transportation services in an efficient,
4516 reliable and economic manner. In procuring such electric utility services, the division may solicit
4517 offers and proposals to provide such electric utility services from owners or operators, of
4518 facilities that generate, transmit, transform, or distribute electric power and energy including the
4519 New England power pool as defined in chapter 164A., and shall take into consideration factors
4520 relating to the public interest including, but not limited to the following:

4521 (a) the lowest prices that may be offered by responsible bidders, including electric
4522 companies, municipal lighting plants, political subdivisions and alternate energy producers as
4523 defined in section 1 of chapter 164;

4524 (b) the demonstrated ability of any prospective supplier of electric utility services to
4525 provide reliable and continuous service and stability of price; and

4526 (c) consistency with the environmental and conservation goals of the commonwealth
4527 while concurrently fulfilling all obligations of contracts and agreements lawfully entered into and
4528 currently in force.

4529 Section 26. The division shall have the power to engage in electric utility business which
4530 shall include the generation, transformation, transmission and distribution of electricity for
4531 public consumption of electricity used in connection with the mass movement of persons. The
4532 division shall be classified as a domestic electric utility under chapter 164A solely for the
4533 purpose of purchasing electricity and becoming a member of the New England power pool as
4534 defined in chapter 164A. The division may exercise any of its rights and powers necessary or
4535 convenient to carry out and effectuate the purpose of providing light, heat and power in

4536 connection with the mass movement of persons. In addition, the division shall have the following
4537 powers:

4538 (a) to purchase electric power and energy including, without limiting the generality of the
4539 foregoing, all or a portion of the capacity and output of 1 or more specific electric power
4540 facilities and steam, whether or not produced by an electric power facility;

4541 (b) to purchase electric power and energy and other products of electric power facilities
4542 from other utilities, public and private, within and without the commonwealth, political
4543 subdivisions; provided, however, that nothing in this section shall be construed to authorize
4544 resale of electric power and energy so purchased except as otherwise authorized by law;

4545 (c) to contract for the use of transmission and distribution facilities owned by others for
4546 the delivery to the division and any such owner may enter into such contracts with the division;

4547 (d) to contract, with respect to the purchase, sale, delivery, exchange, interchange,
4548 wheeling, pooling, transmission or use of electric power and energy and to otherwise participate
4549 in the New England power pool, as defined by section 1 of chapter 164A; and

4550 (e) to do all things necessary, convenient or desirable to provide electricity in connection
4551 with the mass movement of persons or powers expressly granted or necessarily implied in this
4552 chapter.

4553 Section 27. An officer of the division may immediately give to a person who violates
4554 section 43A of chapter 272 a written notice to appear before the clerk of the district court having
4555 jurisdiction at any time during office hours, not later than 21 days after the date of the violation.
4556 The notice shall be signed by the officer and shall be signed by the offender in acknowledgment

4557 that the offender has received the notice. The officer shall deliver to the offender at the time and
4558 place of the violation a copy of the notice. Whenever it is not possible to deliver a copy of the
4559 notice to the offender at the time and place of the violation, or to such after division employee
4560 authorized by the division, such copy shall be mailed or delivered by the officer or by his
4561 commanding officer to the offender's last known address, within 5 days of the offense, exclusive
4562 of Sundays and legal holidays. The notice mailed by the officer, his commanding officer, or such
4563 person so authorized to the last address of the offender, shall be deemed sufficient notice, and a
4564 certificate of the officer or person so mailing the notice that it has been mailed in accordance
4565 with this section shall be considered prima facie evidence thereof and shall be admissible in any
4566 court of the commonwealth as to the facts contained therein. At or before the completion of each
4567 tour of duty, the officer shall give his commanding officer those copies of each notice of such
4568 violations he has taken cognizance of during such tour which have not already been delivered or
4569 mailed by him as aforesaid. The commanding officer shall retain and safely preserve 1 of those
4570 copies and shall, at a time not later than the next court day after said delivery or mailing, deliver
4571 1 of those copies to the clerk of the court before whom the offender has been notified to appear.
4572 The clerk of each district court shall maintain a separate docket of all such notices to appear.

4573 Any person so notified to appear before the clerk of a district court may appear before the
4574 clerk and confess the offense charged, either personally or through an agent duly authorized in
4575 writing, or by mail to such clerk, with the notice, and the sum of \$25, such payment to be made
4576 only by postal note, money order, or check. Payment of that sum shall operate as a final
4577 disposition of the case. Proceedings under this paragraph shall not be criminal and no person
4578 notified to appear before the clerk of a district court as provided herein shall be required to report
4579 to any probation officer, and no record of the case shall be entered in the probation records.

4580 If any person notified to appear before the clerk of the district court fails to appear and
4581 pay the fine provided hereunder or, having appeared desires not to avail himself of the procedure
4582 hereinbefore provided for the non-criminal disposition of the case, the clerk shall notify the
4583 officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear
4584 in accordance with the summons issued upon such complaint, the clerk shall send the person, by
4585 certified mail, return receipt requested, a notice that the complaint is pending and that if the
4586 person fails to appear within 21 days from the sending of such notice, the court shall issue a
4587 warrant for his arrest. If a person fails to appear within 21 days from the sending of such notice,
4588 the court shall issue a warrant for his arrest.

4589 If, after an officer delivers a notice to an offender, the offender continues to violate
4590 section 43A of chapter 272, an officer of the division may arrest such offender without a warrant.
4591 Any offender arrested under this section shall be subject to the fines and penalties provided
4592 under section 43A of chapter 272.

4593 Section 28. Agreements between the division and a railroad for the provision of
4594 commuter rail service shall provide that the division shall secure and maintain a liability
4595 insurance policy covering the liability of the division and the railroad for property damage,
4596 personal injury, bodily injury and death arising out of such commuter rail service. Such policy
4597 shall name the division as named insured, and the railroad as an additional insured, shall have
4598 policy limits of not less than \$75,000,000 per occurrence annually and \$75,000,000 in the
4599 aggregate annually, and shall be subject to self-insured retention in an amount not less than
4600 \$7,500,000. In no event shall the division or the railroad be liable in excess of the coverage limits
4601 of such insurance policy for any and all claims for damage, whether compensatory or punitive,

4602 for property damage, personal injury, bodily injury and death arising out of such commuter rail
4603 service.

4604 For the purposes of this section, the term “railroad” shall include any person, railroad
4605 corporation or other legal entity in the business of providing rail transportation which contracts
4606 with the division of public transit for the provision of commuter rail services and the term
4607 “commuter rail service”, shall include all services performed by a railroad pursuant to a contract
4608 with the division of public transit in connection with the transportation of rail passengers
4609 including, but not limited to, the operation of trains, track age and equipment, or the
4610 construction, reconstruction or maintenance of railroad equipment, tracks and any appurtenant
4611 facilities or the provision of track age rights over lines owned by any such railroad.

4612 Section 29. Whenever the division deems it necessary to make surveys, soundings, test
4613 pits, borings, drillings or examinations to obtain information for or to expedite the construction
4614 of public transportation facilities or other projects under its jurisdiction, the division, or its
4615 authorized agents or employees may, after 30 days notice by registered or certified mail and
4616 without the necessity of any judicial orders or other legal proceedings, enter upon any lands,
4617 waters and premises, not including buildings, in the commonwealth, including lands both
4618 publicly and privately owned, including land owned by railroad corporations, for the purpose of
4619 making such surveys, soundings, test pits, borings, drillings or examinations as it may deem
4620 necessary or convenient for the purposes of this section, and the entry shall not be a trespass. The
4621 division shall make reimbursement for any injury or damage to lands resulting from entry caused
4622 by any act of its authorized agents or employees and shall, so far as possible, restore such lands
4623 to the same condition as prior to the making of such surveys, soundings, test pits, borings,
4624 drillings or examinations.

4625 Section. 30. Any bank, as defined in section 1 of chapter 167, or any credit union, as
4626 defined in section 1 of chapter 171, may subject to agreement entered into with the division or
4627 any regional transit authority established pursuant to chapter 161B, sell prepaid monthly passes,
4628 authorized by the division for use on the facilities of the division or such regional transit
4629 authorities.

4630 Section 31. The division may promulgate rules and regulations pertaining to the parking
4631 of motor vehicles in any terminals, stations, garages, yards, shops, parking lots, or parking
4632 garages owned or operated by the division, but specifically excluding any streets, ways,
4633 highways, roads and parkways. The division may, by a vote of the board, adopt the provisions of
4634 section 20A of chapter 90; provided however, that the board establishes rules and regulations
4635 creating regional districts throughout the division consisting of contiguous cities or towns within
4636 which the parking clerk shall regularly conduct hearings.

4637 Section 32. Any of the 51 cities and towns and other served communities may for the
4638 purpose of providing local bus service enter into agreements with any person lawfully authorized
4639 to operate any motor bus on any public way therein for the carrying of passengers for hire. That
4640 city, town or community shall have the same powers and duties in respect to such private bus
4641 carriers as are provided by law for the department of public utilities, except as to safety of
4642 equipment and operations; provided, however, that schedules and routes shall not be considered
4643 safety of equipment and operations for purposes of this paragraph; provided further, that the
4644 division shall be notified of the establishment of any such contract to provide local service, but
4645 shall not have control or jurisdiction over that service.

4646 SECTION 29A. Section 7A of chapter 90 of the General Laws is hereby amended by
4647 striking out in line 94, as appearing in the 2006 Official Edition the words “Highway Fund” and
4648 inserting in place thereof the following words:- Surface Transportation Trust Fund, established
4649 under section 35LL of chapter 10.

4650 SECTION 30. chapter 90 of the General Laws, , is hereby further amended by striking
4651 out the entire section 34 as most recently amended by section 19 of chapter 303 of the Acts of
4652 2008, and inserting in place thereof the following section:-

4653 Section 34. The fees received under the preceding sections, together with all other fees
4654 received by the registrar or any other person under the laws of the commonwealth relating to the
4655 use and operation of motor vehicles and trailers shall be paid by the registrar or by the person
4656 collecting the same into the treasury of the commonwealth and disposed of as provided in section
4657 35LL of chapter 10.

4658 SECTION 31. Section 34 ½ of chapter 90 is hereby repealed.

4659 SECTION 32. Chapter 92 is hereby amended by striking out section 35, as appearing in
4660 the 2006 Official Edition, and inserting in place thereof the following section:-

4661 Section 35. The commission may connect any way, park or other public open space with
4662 any part of the towns of the urban parks district by suitable roadways or boulevards, in this
4663 chapter called boulevards, and for this purpose exercise any of the rights and powers granted the
4664 commission in respect to reservations. The commission shall submit its plans for any such
4665 connection to the secretary of transportation and the administrator of roads and bridges so that it
4666 may be included in their capital plans.

4667 SECTION 33. Sections 36, 49 to 52, inclusive, 69, 80, and 86 of said chapter 92 are
4668 hereby repealed.

4669 SECTION 34. Said chapter 92 is hereby further amended by striking out section 37 as
4670 appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

4671 Section 37. Except as provided in section 38, the commissioner, in consultation with the
4672 director, may make rules and regulations for the government and use of the reservations under
4673 the division's care and to govern the public use of the Charles river, the Neponset river and the
4674 Mystic river, within the urban park district, and of the ponds and other waters along which it
4675 holds abutting lands for reservations in that district; provided, however, that no rule or regulation
4676 shall affect the water rights of any person, whether a mill owner or otherwise.

4677 A police officer employed by a city or town in whose boundaries, reservations, roads,
4678 driveways, parkways, boulevards or bridges are located shall have all the same powers to enforce
4679 the laws of the commonwealth and the rules and regulations of the department on any bikeway,
4680 pathway, park, reservation or other land under the care of the division as he has as a police
4681 officer of such city or town

4682 The division shall cause such rules and regulations to be posted in the reservation,
4683 bikeway, pathway, park or other land to which they apply, and shall also cause the rules and
4684 regulations to be published at least once in a newspaper published in the county where the
4685 reservation, bikeway, pathway, park or other land is in whole or in part situated, and such posting
4686 and publication shall be sufficient notice to all persons. The sworn certificate of the director of
4687 such posting and publishing shall be prima facie evidence thereof.

4688 Whoever violates any rule or regulation made under this section shall be punished by a
4689 fine not exceeding \$200.

4690 SECTION 35. Section 41 of said chapter 92, as so appearing, is hereby amended by
4691 striking out, in line 2, the words “and boulevards”.

4692 SECTION 36. Section 42 of said chapter 92, as so appearing, is hereby amended by
4693 inserting after the word “commission” the following words:- , in consultation with division of
4694 roads and bridges,

4695 SECTION 37. Said Chapter 92 is hereby further amended by striking out section 53, as
4696 so appearing, and inserting in place thereof the following section:-

4697 Section 53. The commission may provide band concerts in such parks or other places
4698 under its control for boulevard or reservation purposes and at such times as it may select. If the
4699 site of the band concert will also take place on a parkway formerly under its control, the
4700 commission shall, in a timely manner, inform the administrator of roads and bridges.. The
4701 commission shall include, in its annual estimate of the expense of maintenance of the urban
4702 parks system for each year, such sum as it may recommend should be appropriated for the
4703 purposes of this section.

4704 SECTION 38. Section 84 of said chapter 92, as so appearing, is hereby amended by
4705 striking out, in line 6, the words “or boulevard”.

4706 SECTION 39. Said chapter 92 is hereby further amended by striking out section 87, as
4707 so appearing, and inserting in place thereof the following section:-

4708 Section 87. The department may transfer, for care and control, including police
4709 protection, any lands or rights, easements or interest in land held by it under sections 33 and 35
4710 to any city, town, county or local board of a city or town within the urban parks district, with the
4711 consent of such city, town, county or board and upon such terms and for such period as may
4712 mutually be agreed upon and enter into an agreement with any such city, town, county or board
4713 for the joint care and control or police protection of such lands or rights therein. Any city, town
4714 or county or any local board within the urban parks district, may transfer, for care and control,
4715 including police protection, any land, rights, easements or interest in land in its control to the
4716 department for such period and upon such terms as may mutually be agreed upon and may enter
4717 into an agreement with the department for the joint care and control, including police protection,
4718 of such land.

4719 SECTION 40. Said chapter 92 is hereby further amended by striking out section 88, as
4720 so appearing, and inserting in place thereof the following section:-

4721 Section 88. The division may join with any city, town or county in the laying out,
4722 improvement, relocation, widening, repairing, maintaining and caring for any property or stream
4723 which lies along or connects any reservation owned or controlled by the division and in the
4724 expense of such work, and for such purposes or any of them, may make contribution to such city,
4725 town or county by a grant of land or rights in land or by payment of money for its portion of such
4726 expense.

4727 SECTION 40A. Subsection (b) of section 44D¾ of chapter 149 of the General Laws, as
4728 so appearing, is hereby amended by inserting after the word “Authority”, in line 17, the
4729 following words:- the Massachusetts Surface Transportation Authority.

4730 SECTION 40B. Section 20 of chapter 149A of the General Laws, as so appearing, is
4731 hereby amended by adding the following subsection:-

4732 (d). Except for section §39M of chapter 30, all other provisions of the public bidding
4733 laws, including sections 26, 27, 27A, 27B, 27C, 27D, 29, 29C and 34A of chapter 149 and
4734 sections 39F, 39G, 39J, 39N, 39O 39P and 39R of said chapter 30, shall apply to all design build
4735 projects procured pursuant to this chapter in the same manner as they apply to public works
4736 projects generally procured pursuant to section 39M said of said chapter 30. SECTION 41.
4737 Chapter 161 of the General Laws is hereby repealed.

4738 SECTION 42. Chapter 161A of the General Laws is hereby repealed.

4739 SECTION 42A. Clause (4) of subsection (a) of section 13 of chapter 161A of the General
4740 Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the last
4741 paragraph.

4742 SECTION 4B. Section 20 of said chapter 161A, as so appearing, is hereby amended by
4743 striking out, in line 2, the figure “1” and inserting in place thereof the following figure:- 15.

4744 SECTION 42C. Said section 20 of said chapter 161A, as so appearing, is hereby further
4745 amended by striking out, in line 4, the word “March” and inserting in place thereof the following
4746 word:- April.

4747 SECTION 43. The General Laws are hereby amended by striking out chapter 161B and
4748 inserting in place thereof the following chapter:

4749 CHAPTER 161B.

4750 TRANSPORTATION FACILITIES, HIGHWAY SYSTEMS AND URBAN
4751 DEVELOPMENT PLANS

4752 Section 1. As used in this chapter, the following words shall have the following
4753 meanings, unless the context otherwise requires:-

4754 “Authority”, an authority established by section 3 or section 14.

4755 “Area constituting the division of public transit for mass transit”, the service area of the
4756 division of public transit of the Massachusetts Surface Transportation Authority consisting of the
4757 14 cities and towns, the 51 cities and towns and other served communities.

4758 “Equipment”, all rolling stock and other conveyances, vehicles, rails, signal and control
4759 systems, lighting and power distribution systems, fences, station equipment, fare collection
4760 equipment, incidental apparatus and other tangible personal property, whether or not affixed to
4761 realty, required or convenient for the mass movement of persons.

4762 “Fiscal year”, the year beginning with July 1 and ending with the following June 30.

4763 “Mass transportation facilities”, all real property, including land, improvements,
4764 terminals, stations, garages, yards, shops and structures appurtenant thereto, and all easements,
4765 air rights, licenses, permits and franchises, used in connection with the mass movement of
4766 persons.

4767 “Net cost of service”, the difference between: (a) all income received by the authority
4768 including, but not limited to, revenues and receipts from operations, advertising, parking, sale of
4769 capital assets in the ordinary course of business and gifts and grants for current purposes; and (b)
4770 all current expenses incurred by the authority including, but not limited to, expenses for

4771 operations, wages, contracts for service by others, maintenance, debt service, including any
4772 debts, liabilities and obligations assumed by law and including any applicable sinking fund
4773 requirements, taxes, rentals and payments into a reserve account established by subsection (q) of
4774 section 6, and all other expenses which the authority determines not to capitalize, when such
4775 expenses exceed such income. Expenditures from the proceeds of bonds or bond anticipation
4776 notes shall not be included in current expenses.

4777 "Net saving", any excess of the income items included in the net cost of service over the
4778 expense items included in that computation.

4779 Section 2. The territory within and the inhabitants of each of the following groups of
4780 cities and towns may, upon compliance with section 14, become a body politic and corporate and
4781 a political subdivision of the commonwealth under the name preceding each group.

4782 Berkshire Regional Transit Authority. The cities of North Adams and Pittsfield and the
4783 towns of Adams, Alford, Becket, Cheshire, Clarksburg, Dalton, Edgemont, Florida, Great
4784 Barrington, Hinsdale, Lanes borough, Lee, Lenox, Monterey, Mount Washington, Otis,
4785 Richmond, Sheffield, Stockbridge, Washington and Williamstown;

4786 Brockton Area Regional Transit Authority. The city of Brockton and the towns of
4787 Abington, Avon, Bridgewater, East Bridgewater, Easton, Hanson, Stoughton, West Bridgewater
4788 and Whitman;

4789 Cape Ann Transportation Authority. The city of Gloucester and the towns of Rockport,
4790 Essex and Ipswich;

4791 Cape Cod Regional Transit Authority. The towns of Barnstable, Bourne, Brewster,
4792 Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich,
4793 Truro, Wellfleet and Yarmouth;

4794 Franklin Regional Transit Authority. The city of Greenfield and the towns of Ash field,
4795 Athol, Bernard ton, Bland ford, Buckland, Claremont, Chester, Chesterfield, Colerain, Conway,
4796 Cumming ton, Deerfield, Erving, Gill, Goshen, Hawley, Heath, Huntington, Leyden,
4797 Middlefield, Montague, Montgomery, New Salem, Northfield, Orange, Peters ham, Phillips ton,
4798 Plainfield, Rowe, Russell, Shelburne, Shaftesbury, Southampton, Southwick, Warwick, Wendell,
4799 Westhampton, Whitely, Worthington;

4800 Greater Attleboro Taunton Regional Transit Authority. The cities of Attleboro and
4801 Taunton and the towns of Bellingham, Berkley, Carver, Dighton, Duxbury, Fox borough,
4802 Franklin, Kingston, Lakeville, Mansfield, Marshfield, Medway, Middleborough, Norfolk, North
4803 Attleboro, Pembroke, Plainville, Plymouth, Raynham, Rehoboth, Seekonk, Wareham and
4804 Wrentham;

4805 Lowell Regional Transit Authority. The city of Lowell and the towns of Acton, Billerica,
4806 Chelmsford, Dracut, Duns table, Groton, Maynard, Pepperell, Tewksbury, Townsend, Tyngsboro
4807 and Westford;

4808 Martha's Vineyard Transit Authority. Towns of Aquinnah, Chilmark, Edgartown, Oak
4809 Bluffs, Tisbury and West Tisbury;

4810 Merrimack Valley Regional Transit Authority. The cities of Lawrence, Haverhill,
4811 Methuen, Newbury, North Andover; Rowley, Salisbury, West Newbury and Newburyport and
4812 the towns of Amesbury, Andover, Boxford, Georgetown, Groveland, Merrimac,

4813 MetroWest Regional Transit Authority. The city of Marlborough and the towns of
4814 Ashland, Framingham, Holliston, Hopkinton, Natick, Sherborn, Sudbury, Southborough,
4815 Wayland and Weston;

4816 Montachusets Area Transit Authority. The cities of Fitchburg, Leominster, Gardner and
4817 the towns of Ashburnham, Shirley, Ayer, Lancaster, Sterling, Hubbardston, Royalston, Littleton,
4818 Winchendon, Ashby, Templeton, Westminster, Hardwick, Lunenburg, Harvard, Bolton,
4819 Boxborough and Stow

4820 Nantucket Regional Transit Authority. Nantucket;

4821 The Pioneer Valley Transit Authority". The cities of Chicopee, Holyoke, Northampton,
4822 Springfield and Westfield and the towns of Agawam, East Longmeadow, Easthampton, Hadley,
4823 Longmeadow, Ludlow, South Hadley, West Springfield, Wilbraham, Amherst, Belchertown,
4824 Granby, Hampden, Leverette, Palmer, Pelham, Sunderland, Ware and Williamsburg;

4825 Southeastern Regional Transit Authority. The cities of New Bedford and Fall River and
4826 the towns of Westport, Acushnet, Dartmouth, Fairhaven, Freetown, Somerset and Swansea; and

4827 Worcester Regional Transit Authority. The city of Worcester and the towns of Auburn,
4828 Boylston, Grafton, Holden, Leicester, Millbury, Paxton, Shrewsbury and West Boylston;

4829 An authority established under section 3 or section 14 shall have the power to hold
4830 property, to sue and be sued in law and equity and to prosecute and defend in all actions relating
4831 to its property and affairs. Each authority shall be liable for its debts and obligations, but the
4832 property of an authority shall not be subject to attachment or levied upon by execution or

4833 otherwise. Process may be served upon the administrator of an authority or his designee. Section
4834 3 of chapter 12 shall not apply to the authorities established under this chapter.

4835 Section 3. Any city or town or group or combination of cities or towns, other than a city
4836 or town included in the area constituting the division of public transit for mass transit in which
4837 the authority operates a fixed bus service may, upon compliance with this section and with the
4838 approval of a city manager in the case of a city operating under a Plan E form of government, the
4839 mayor and city council in the case of all other cities or the board of selectmen in the case of a
4840 town, be made into a body politic and corporate and a political subdivision of the commonwealth
4841 under the name of the municipality within the new authority having the greatest population or
4842 under any other appropriate regional name agreed to by a majority of the member municipalities
4843 and followed by the words “Transit Authority”.

4844 Any such authority shall be deemed to be established upon written notification to the
4845 chief executive officer of the Massachusetts Surface Transportation Authority that the member
4846 municipalities have voted to establish a regional transit authority. Having so notified the chief
4847 executive officer of the Massachusetts Surface Transportation Authority, the advisory board
4848 established in section 5 shall proceed to appoint an administrator in accordance with section 4.
4849 Once established, each such authority shall have the same powers, limitations, duties and
4850 organization as an authority established in section 14 and shall, in all respects, be subject to this
4851 chapter, except section 14, as if it were an authority so established.

4852 Any city or town, or group or combination of cities or towns, other than a city or town
4853 included in the area constituting the division of public transit for mass transit in which the
4854 Massachusetts Surface Transportation Authority operates fixed route bus service or is in an

4855 authority established in section 14 may, with the approval of a city manager in the case of a city
4856 operating under a Plan E form of government, the mayor and city council in the case of all other
4857 cities or the board of selectmen in the case of a town, and subject to the approval of the advisory
4858 board to a regional transit authority, join an authority which is not separated from the city or
4859 town or group or combination of cities and towns by more than 1 other municipality.

4860 Section 4. The affairs of an authority shall be managed by an administrator who shall be
4861 appointed by, and serve at the pleasure of, the advisory board of the authority established in
4862 section 5; provided, however, that the administrator shall not be appointed until after the board
4863 has provided the notification required by clause (c) of section 14; and provided, further, that the
4864 administrator shall not hold any elective office, except that of town meeting member, in any city
4865 or town within the jurisdiction of such authority. The administrator shall be the chief executive
4866 officer of the authority and shall receive such annual salary as shall be determined by said
4867 advisory board. Upon his appointment, the administrator shall give the chief executive officer of
4868 the Massachusetts Surface Transportation Authority a bond for the faithful performance of his
4869 official duties in such penal sum and with such sureties as may be approved by said advisory
4870 board.

4871 Section 5. There shall be an advisory board to each authority consisting of the city
4872 manager, in the case of a city operating under a Plan D or Plan E form of government, or the
4873 mayor of each other city in the authority, and the chairman of the board of selectmen of each
4874 town having such board, or the town manager or town administrator of each other town in the
4875 authority. Each mayor or city manager and each chairman, town manager or town administrator,
4876 may, by writing filed with the authority, from time to time, appoint a designee to act for him on
4877 the advisory board. Each city and town shall have 1 vote on the advisory board plus additional

4878 votes and fractions thereof as determined by multiplying 1 and one-half times the total number of
4879 cities and towns in the authority by a fraction of which the numerator shall be the total amount of
4880 all assessments made by the state treasurer to such city or town under this chapter and the
4881 denominator shall be the total amount of all such assessments made by the state treasurer to such
4882 cities and towns. The total vote of each city and town shall each year be determined by the
4883 authority and delivered in writing to the advisory board 30 days after the state treasurer has sent
4884 his warrants for payments to the cities and towns. The determination of votes shall be based upon
4885 the most recent annual assessment. Until the first such assessment, the fraction specified above
4886 shall be replaced by a fraction of which the numerator shall be the population of each such city
4887 or town and the denominator shall be the total population of all cities and towns in the authority.
4888 Population data shall be determined in accordance with the latest decennial census made by the
4889 United States Department of Commerce.

4890 One representative of the disabled commuter population shall serve on the advisory board
4891 as a non-voting member for a 1-year term. Every city or town in the region, on a rotating basis as
4892 determined by the board, shall successively appoint a representative. The mayor or city manager
4893 or the chairman, town manager or town administrator shall appoint a resident of the city or town
4894 for this purpose. This representative shall be mobility impaired or have a family member who is
4895 mobility impaired, be a caretaker of a person who is mobility impaired, or work for an
4896 organization that serves the needs of the physically disabled. The representative of a city or town
4897 may be reappointed after representatives from the other cities and towns within the region have
4898 served their 1 year terms.

4899 The advisory board shall act by majority vote, except that it may delegate its power of
4900 approval to an executive committee formed and elected pursuant to duly adopted by-laws of the

4901 board and constituting among its members at least a majority of the total vote of the board and
4902 may, at any time, revoke such delegation. Until the board has adopted by-laws and elected
4903 officers, the mayor or city manager of the city having the largest population or, in the case of an
4904 authority composed entirely of towns, the chairmen, town manager or town administrator of the
4905 town having the largest population within the area constituting the authority may call meetings of
4906 the advisory board by sending notice to each other mayor or city manager or chairman, town
4907 manager or town administrator and shall preside at such meetings.

4908 The advisory board may incur expenses, not to exceed \$10,000 annually, for stenographic
4909 and clerical work, and such expenses shall be paid by the authority.

4910 Section 6. In addition to all power otherwise granted to an authority by law, the authority
4911 shall have the following powers, in each case to be exercised by the administrator of the
4912 authority unless otherwise specifically provided:

4913 (a) to adopt and use a corporate seal and designate the custodian thereof;

4914 (b) to establish within its area a principal office and such other offices as may be deemed
4915 necessary;

4916 (c) to hold and manage the mass transportation facilities and equipment acquired by the
4917 authority;

4918 (d) to appoint and employ officers, agents and employees to serve at the pleasure of the
4919 administrator except as may otherwise be provided in collective bargaining agreements and to fix
4920 their compensation and conditions of employment; provided, however, no person employed as
4921 administrative or staff personnel shall hold any elective office, except that of town meeting

4922 member, in any city or town within the jurisdiction of such authority; provided, further, that for
4923 policies of group life insurance and accidental death and dismemberment insurance and group
4924 health insurance purchased by such authority, all active employees and their dependents of such
4925 authority shall contribute to the total monthly premium or rate applicable to said coverages at not
4926 less than the current employee share of monthly premium or rate established in section 8 of
4927 chapter 32 A;

4928 (e) to make and, from time to time, revise and repeal, by-laws, rules, regulations, and
4929 resolutions and establish penalties for violation thereof, not to exceed \$50;

4930 (f) to enter into agreements, subject to approval of the regional transit advisory board,
4931 with other parties including, without limiting the generality of the foregoing, government
4932 agencies, municipalities, authorities, private transportation companies, railroads, corporations
4933 and other concerns, providing: (i) for construction, operation and use by such other party of any
4934 mass transportation facility and equipment; or (ii) for the acquisition of any mass transportation
4935 facility and equipment of another party where the whole or any part of the operations of such
4936 other party takes place within the area constituting the authority. Any such other party is hereby
4937 given power and authority to enter into any such agreements, subject to such laws as may be
4938 applicable. Any agreement with a private company under this chapter which provides for the
4939 rendering of transportation service by such company and for financial assistance to such
4940 company by subsidy, lease or otherwise, shall include such standards for such service as the
4941 authority may deem appropriate and shall not bind the authority for a period of longer than 1
4942 year from its effective date; provided, however that agreements for longer than 1 year shall not
4943 be prohibited if the authority's obligations thereunder are subject to annual renewal or annual
4944 cancellation by the authority for just cause or lack of sufficient appropriation. Such agreements

4945 may provide for cash payments for services rendered, but not more than that which permits any
4946 private company a reasonable return;

4947 (g) to establish at or near its terminals and stations such off-street parking facilities and
4948 access roads as may be deemed necessary and desirable. The authority may charge such fees for
4949 the use of off-street facilities as it may deem desirable or it may allow the use of such facilities
4950 free;

4951 (h) to accept gifts, grants and loans from agencies of local, state and federal governments
4952 or from private agencies or persons, subject to approval of the regional transit advisory board,
4953 and to accede to such conditions and obligations as may be imposed as a prerequisite to any such
4954 gift, grant or loan;

4955 (i) to provide mass transportation service on an exclusive basis, except as provided in
4956 paragraph (j) of section 8 in the area constituting the authority and without being subject to the
4957 jurisdiction and control of the department of telecommunications and energy in any manner
4958 except as to safety of equipment and operations; provided, however, that schedules and routes
4959 shall not be considered matters of safety subject to the jurisdiction and control of said
4960 department. Nothing contained in this paragraph shall be construed as exempting any privately-
4961 owned or controlled carrier, whether operating independently or under contract with the
4962 authority, from obtaining any license required under section 1 of chapter 159A;

4963 (j) to provide mass transportation service under a contract in areas outside the area
4964 constituting the authority but only pursuant to an agreement with another transportation authority
4965 or transportation area or a municipality for service between the area of the authority and that of

4966 such other authority, area or municipality if no private company is otherwise providing such
4967 service, subject to approval by the regional transit advisory board;

4968 (k) to provide for construction, extension, modification or improvement of the mass
4969 transportation facilities and equipment in the area constituting the authority; provided, however,
4970 that any such construction, extension, modification or improvement shall be subject to the
4971 approval of the regional transit advisory board, unless specifically authorized by legislation;

4972 (l) to conduct research, surveys, experimentation, evaluation, design and development, in
4973 cooperation with other government agencies and private organizations if appropriate, with regard
4974 to the mass transportation needs of the area and to the facilities, equipment and services
4975 necessary to meet such needs;

4976 (m) to grant such easements over any real property held by the authority shall not, in the
4977 judgment of the authority, unduly interfere with the operation of any of its mass transportation
4978 facilities;

4979 (n) to sell, lease or otherwise contract for advertising in, or on the facilities of, the
4980 authority;

4981 (o) to issue bonds, notes and other evidences of indebtedness as hereinafter provided;

4982 (p) consistent with the constitution and laws of the commonwealth, the authority shall
4983 have such other powers, including the power to buy, sell, lease, pledge and otherwise deal with
4984 its real and personal property, as may be necessary for, or incident to, carrying out the foregoing
4985 powers and the accomplishment of the purposes of this chapter; and

4986 (q) to establish a reserve account for the purpose of meeting the cost of extraordinary
4987 expenses of the authority. The account shall consist of annual payments made by the authority
4988 into said account in an amount not to exceed 3 per cent of the prior year's local assessment. Any
4989 balance remaining in the account at the end of each fiscal year of the authority shall be carried
4990 forward into the next fiscal year; provided, however, the aggregate amount of the account shall
4991 not exceed 20 per cent of the prior year's local assessment at any time during any fiscal year of
4992 the authority. Any expenditure made by an authority pursuant to this paragraph for extraordinary
4993 expenses shall be subject to the approval of the division of public transit of the Massachusetts
4994 Surface Transportation Authority. The division of public transit of the Massachusetts Surface
4995 Transportation Authority shall issue guidelines to each authority establishing the type of
4996 extraordinary expenses the account may be used for and detailing the procedures for the approval
4997 process for the expenditures.

4998 Section 7. In addition to the powers granted to the authority under section 6 and all other
4999 powers granted by law, the authority shall have the power to establish on a self-liquidating basis
5000 1 or more separate units of mass transportation facilities and equipment. In establishing such
5001 separate units, the authority may enter into 1 or more unit lease arrangements with such persons,
5002 firms and corporations as the authority shall select and franchise. Each such unit lease
5003 arrangement shall provide for the following:

5004 (i) acquisition by the authority of real property, including easements and rights of way,
5005 necessary or desirable for the operation of such units of mass transportation facilities and
5006 equipment, parking and other related auxiliary services and facilities;

5007 (ii) design, construction and acquisition of mass transportation facilities and equipment;

5008 (iii) operation of the mass transportation facilities and equipment so designed,
5009 constructed and acquired by a lessee of such facilities and equipment: (1) for a period not in
5010 excess of 40 years; (2) at a rental or lease charge at least sufficient to discharge the authority's
5011 financial obligations incurred in connection with the unit of facilities and equipment under the
5012 authority's powers; and (3) upon such provisions and conditions as to fares and other matters
5013 relating to the conduct and operation of the mass transportation facilities and equipment as the
5014 authority and lessee shall agree; and

5015 (iv) power in the authority to cancel or terminate the unit lease arrangement at stated
5016 times which shall not be less frequent than once in each fiscal year.

5017 To meet the expenditures necessary in carrying out the provisions of this section, the
5018 authority may issue bonds in accordance with the provisions of the first paragraph of clause (2)
5019 of section 17 and such bonds shall provide, in addition to other provisions allowed under this
5020 chapter, that all payments of principal and interest shall be made solely from: (i) the rental or
5021 lease charges received by the authority under its lease with the lessee of mass transportation
5022 facilities and equipment, which lease may be assigned by the authority to secure the obligations
5023 of the bonds; or (ii) in the event the authority terminates such lease, from the income derived
5024 from operation of the mass transportation facilities and equipment.

5025 Section 8. An authority shall be subject to the following limitations, conditions,
5026 obligations and duties:

5027 (a) The authority shall have the duty to develop, finance and contract for the operation of
5028 mass transportation facilities and equipment in the public interest consistent with this chapter and

5029 to achieve maximum effectiveness in complementing other forms of transportation in order to
5030 promote the general economic and social well-being of the area and of the commonwealth;

5031 (b) No real estate shall be sold unless notice thereof shall have been given to the advisory
5032 board not less than 30 days prior to the date of sale and such real property shall be sold to the
5033 highest bidder unless the sale shall have been advertised once a week for 3 successive weeks
5034 prior to the date of sale in a newspaper of general circulation in the city or town in which the real
5035 property to be sold is located;

5036 (c) Any concession in or lease of property for a term of more than 1 year shall be
5037 awarded to the highest bidder unless the authority shall find, subject to the approval of the
5038 advisory board, that sound reasons in the public interest require otherwise;

5039 (d) No change in fares shall be effective unless submitted and approved by the advisory
5040 board;

5041 (e) No substantial change in mass transportation service in the region constituting the
5042 authority shall be made unless notice thereof shall have been given to the advisory board at least
5043 30 days prior to the change and approved by the board;

5044 (f) The authority shall, in consultation with the regional transit advisory board and the
5045 division of public transit of the Massachusetts Surface Transportation Authority, prepare and
5046 annually revise its program for public mass transportation which shall include a long-range
5047 program for the construction, reconstruction or alteration of facilities for mass transportation of
5048 persons within the area constituting the authority together with a schedule for the implementation
5049 of such program and comprehensive financial estimates of costs and revenues.

5050 Such program, whether prepared by the authority directly, jointly or under contract with
5051 the areawide planning agency, shall be performed in accordance with any agreements that may
5052 exist between the regional transit advisory board, the division of public transit of the
5053 Massachusetts Surface Transportation Authority, the authority and the areawide planning agency
5054 officially established or designated to carry out areawide, comprehensive planning on a
5055 continuing and cooperative basis for the region in which the authority is principally located.
5056 Such mass transportation program shall be consistent with the plans for urban transportation and
5057 comprehensive development for the regional area and, so far as practicable, shall meet the
5058 criteria established by any federal law authorizing federal assistance to preserve, maintain, assist,
5059 improve, extend or build local, metropolitan or regional mass transportation facilities or systems.

5060 In addition to the contracts and agreements authorized in paragraph (f) of section 6, the
5061 authority may enter into contracts or agreements with any areawide planning agency or, if the
5062 authority determines that an agreement with such agency is not practicable, with any other public
5063 or private party for the provision of planning services. Such services may include, but shall not
5064 be limited to, feasibility and need studies, transportation planning, family and business relocation
5065 planning and such other planning services that the authority may require;

5066 (g) The authority shall not later than October 1 of each year render to the chief executive
5067 officer of the Massachusetts Surface Transportation Authority, the regional transit advisory
5068 board, the clerk of the senate and the clerk of the house of representatives and the house and
5069 senate chairmen of the joint committee on transportation a report of its operations for the
5070 preceding fiscal year, including therein a description of organization of the authority, its
5071 recommendations for legislation and its comprehensive program for mass transportation as most
5072 recently revised;

5073 (h) All current expenses of the authority shall be in accordance with an annual budget
5074 prepared by the administrator and submitted to the advisory board no later than April 1 of each
5075 year for the ensuing fiscal year. Not later than June 1 of each year the advisory board shall
5076 approve said budget as submitted or subject it to such itemized reductions therein as the advisory
5077 board shall deem appropriate.

5078 (i) Any agreement entered into by an authority with a contiguous municipality outside of
5079 the area of such authority for service to such municipality through an agreement with a private
5080 company, shall provide for reimbursement by such municipality to an authority only for the
5081 additional expense of such service as determined by the authority. Such agreements may be for
5082 such terms, not exceeding 5 years, as the parties may determine, except as provided in paragraph
5083 (f) of section 6. They shall not be subject to section 4 of chapter 40 or section 31 of chapter 44.
5084 Municipalities may appropriate from taxes or from any available funds to meet their obligations
5085 under any such contracts.

5086 (j) Any private company lawfully providing mass transportation service in the area
5087 constituting the authority at the commencement of operations by the authority may continue to
5088 operate the same route and level of service as theretofore and may conduct such further
5089 operations, without a contract, as the authority, subject to the approval of the department of
5090 public utilities, may permit.

5091 (k) As a condition of any assistance to a private carrier operating under lease, contract or
5092 other arrangement with the authority, the rights, benefits and other employee protective
5093 conditions and remedies of the Urban Mass Transportation Act of 1964, as amended (P.L. 88-
5094 365) as determined by the Secretary of Labor, shall apply for the protection of the employees

5095 affected by such assistance. Pursuant to the Urban Mass Transportation Act of 1964, as
5096 amended, the terms and conditions of a fair and equitable employee protective arrangement
5097 pursuant to this paragraph shall be a proper subject of collective bargaining and arbitration with
5098 the labor organizations that represent such employees. Such protective arrangement shall
5099 include, without limitation, provisions for the continuing employment or reemployment of those
5100 employees who are, or may be, displaced or otherwise affected by such assistance, paid training
5101 and re-training programs, preservation of all employment and retirement rights and interest and
5102 any other protections which are necessary or appropriate to minimize the injury to such persons;
5103 provided, however, that any such protection shall not be detrimental to the employment or
5104 retirement rights and interests of any other persons affected by such assistance. The contract,
5105 lease or other arrangement for the granting of any such assistance to a private carrier shall
5106 specify the terms and conditions of the protective arrangements.

5107 Section 9. If, in any year the Massachusetts surface transportation authority shall be
5108 called upon to pay any amount on account of the net cost of service of any regional transit
5109 authority except the Cape Cod Regional Transit Authority, unless said authority elects not to
5110 assess costs as provided in section 9A, the total amount of such net cost of service shall be
5111 assessed upon the cities and towns which are members of such authority in the proportion which
5112 the loss attributable to each route in each such city or town bears to the loss attributable to all
5113 such routes in all such cities and towns. The loss attributable to each such route in each such city
5114 or town shall be determined on the basis of the difference between the revenues collected from
5115 the route in the city or town and the cost of providing the route therein.

5116 Such determination shall be made by the authority in accordance with sound accounting
5117 practice and guidelines developed in consultation with the regional transit advisory board and the

5118 division of public transit of the Massachusetts Surface Transportation Authority. Amounts
5119 assessed under this section shall be the most recently audited regional transit authority
5120 assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal
5121 year's estimated cherry sheet assessments.

5122 Section 9A. If in any year the Massachusetts Surface Transportation Authority shall be
5123 called upon to pay any amount on account of the net cost of service of the Cape Cod Regional
5124 Transit Authority, the total amount of such net cost of service may be assessed in whole, or in
5125 part, upon the cities and towns which are members of the Authority on the basis of the total
5126 passenger miles and the number of trips attributable to the residents of cities and towns within
5127 the Authority. Any such assessment formula shall be subject to the approval of the regional
5128 transit advisory board, the division of public transit of the Massachusetts Surface Transportation
5129 authority and the advisory board of the Authority.

5130 Such determination shall be made by the Authority in accordance with sound accounting
5131 practice and guidelines developed in consultation with the regional transit advisory board and the
5132 division of public transit of the Massachusetts Surface Transportation Authority. Amounts
5133 assessed under this section shall be the most recently audited regional transit authority
5134 assessment available on January 1 of each year and shall be used to calculate the upcoming fiscal
5135 year's estimated cherry sheet assessments.

5136 Section 10. If, as of the last day of June in any year there was any net cost of service, an
5137 authority shall notify the state treasurer, the regional transit advisory board and the division of
5138 public transit of the Massachusetts Surface Transportation Authority of the amount of such net
5139 cost of service and all other facts required by the state treasurer in order to proceed in accordance

5140 with this chapter to assess such net cost. Upon notification of the amount of such net cost, the
5141 commonwealth shall pay to the authority such amount.

5142 The Massachusetts Surface Transportation Authority may borrow, from time to time, on
5143 the credit of the commonwealth such amounts as may be necessary to make payments required
5144 of the Massachusetts Surface Transportation Authority under this section or under section 11 and
5145 to pay any interest or other charges incurred in borrowing such money and may issue notes of the
5146 commonwealth therefor, bearing interest payable at such times and at such rates as shall be fixed
5147 by the state treasurer. Such interest and other charges shall be included in the assessments under
5148 this chapter in proportion to the respective assessments on the cities and towns constituting the
5149 authority for the net cost of service of the period to which any such payment relates. No note
5150 issued under this paragraph shall mature more than 2 years from its date, but notes payable
5151 earlier may be refunded 1 or more time;, provided, however, that no refunding note shall mature
5152 more than 2 years from the date of the original loan being refunded. Such notes shall be issued
5153 for such maximum term of years, not exceeding 2 years, as the governor may recommend to the
5154 general court in accordance with section 3 of article LXII of the amendments to the constitution
5155 of the commonwealth.

5156 Pending any payment from the state treasurer to the authority and at any other time that
5157 the authority in the opinion of the administrator, has insufficient cash to make the payments
5158 required in the course of its duties as such payments become due, the authority may temporarily
5159 borrow money and issue notes of the authority therefor.

5160 If, at any time any principal or interest is due or about to come due on any note issued by
5161 the authority pursuant to this section and funds to pay the same are not available, the

5162 administrator shall certify to the chief executive officer of the Massachusetts Surface
5163 Transportation Authority the amount required to meet the obligation and the Massachusetts
5164 Surface Transportation Authority shall thereupon pay over to the authority that amount. If the
5165 Massachusetts Surface Transportation Authority shall not make the payment within a reasonable
5166 time, the authority or any holder of an unpaid note issued by the authority pursuant to this
5167 section, acting in the name and on behalf of the authority, shall have the right to require the
5168 Massachusetts Surface Transportation Authority to pay the authority the amount remaining
5169 unpaid, which right shall be enforceable as a claim against the Massachusetts Surface
5170 Transportation Authority. The authority or any holder of an unpaid note issued pursuant to this
5171 section may file a petition in the superior court to enforce a claim or intervene in any proceeding
5172 already commenced to enforce such a claim. Chapter 258 shall apply to the petition insofar as it
5173 relates to the enforcement of a claim against the Massachusetts Surface Transportation
5174 Authority. Any holder of an unpaid note who shall have filed such a petition may apply for an
5175 order of the court requiring the authority to apply funds received by the authority on its claim
5176 against the Massachusetts Surface Transportation Authority to the payment of the holder's
5177 unpaid note, and, if the court finds such amount to be due to the holder, shall issue the order.

5178 All assessments made under this chapter shall be made as provided in section 20 of
5179 chapter 59.

5180 If, in any year the income received by the authority including, but not limited to, revenues
5181 from leasing, advertising, parking, sale of capital assets, gifts and grants, exceeds the expenses
5182 incurred by the authority including, but not limited to, expenses for wages, contracts for service
5183 by others, maintenance, debt service, taxes, rentals, payments to any governmental body and all
5184 other costs, the authority shall determine the amount of such excess. Such excess shall be placed

5185 in a reserve fund up to such amount as shall be determined by the authority with the approval of
5186 the advisory board. Any amount of excess not placed in such reserve fund shall be applied to
5187 reimbursing the Massachusetts Surface Transportation Authority for any amounts which it may
5188 have paid under this section, and the Massachusetts Surface Transportation Authority shall
5189 thereupon distribute the amounts so received among the cities and towns constituting the
5190 authority up to the amounts which they were respectively assessed in the previous fiscal year. All
5191 remaining amounts in excess shall be so distributed up to the amounts assessed in each fiscal
5192 year immediately preceding, commencing with the most recent such year.

5193 Section 12. The state auditor, in conjunction with the internal special audit unit of
5194 Massachusetts Surface Transportation Authority, established in section 40 of chapter 81B, shall
5195 biennially make an audit of the accounts of each authority and make a report thereon to the chief
5196 executive officer of the Massachusetts Surface Transportation Authority, the regional transit
5197 advisory board and the governor. In making such audits, the state auditor, in conjunction with
5198 said internal special audit unit may call upon any of the departments, commissions, officers and
5199 agencies of the commonwealth for such information as may be needed. The state auditor, in
5200 conjunction with said internal special audit unit, may employ such auditors, accountants and
5201 other assistants as he deems necessary for carrying out his duties under this section and chapter
5202 31 and the rules made thereunder shall not apply to such employees. The Massachusetts Surface
5203 Transportation Authority shall be reimbursed by the authority for the cost of the audit.

5204 A copy of each biennial audit shall be provided to the chairs of the senate and house
5205 committees on transportation, the chairs of the senate and house committee on ways and means.

5206 Section 13. An authority and all its real and personal property shall be exempt from
5207 taxation and from betterments and special assessments, and an authority shall not be required to
5208 pay any tax, excise or assessment to or for the commonwealth or any of its political subdivisions,
5209 nor shall an authority be required to pay any fee or charge for any permit or license issued to it
5210 by the commonwealth, by any department, board or officer thereof, or by any political
5211 subdivision of the commonwealth or by any department, board or officer of such political
5212 subdivision. Bonds and notes issued by an authority, the transfer thereof and the income
5213 therefrom, including any profit made on the sale thereof, shall at all times be free from taxation
5214 within the commonwealth.

5215 Section 14. An authority described in section 2 shall be deemed to be established after:
5216 (a) 20 per cent of the votes on the advisory board have recorded themselves in favor of calling a
5217 meeting to vote on the establishment of the authority; (b) notice of the meeting has been sent by
5218 a member municipality of the authority to the chief executive officer of the Massachusetts
5219 Surface Transportation Authority, the regional transit advisory board and every other member
5220 municipality at least 2 weeks prior to the meeting; and (c) the advisory board has sent the chief
5221 executive officer of the Massachusetts Surface Transportation Authority written notification that
5222 the advisory board has voted to establish the authority; provided, however, that such notification
5223 shall not be given except after a majority of municipalities have voted to establish the authority
5224 and after a majority of the regional transit advisory board have voted to establish the authority.

5225 The membership of the authority, upon its establishment as provided in this section, shall
5226 consist of those cities and towns that affirmatively vote for the formation of the authority as
5227 provided in this section. This section shall not prevent any city or town, including a city or town

5228 which did not vote for the formation of the authority, from joining an authority subsequent to the
5229 formation thereof.

5230 Section 15. Any city or town which is a member of an authority may place upon the
5231 official ballot at any biennial, regular or special city election or annual or special town election
5232 the following question:

5233 “Shall this (city, town) continue to be a member of the (name) Regional Transit
5234 Authority?”

5235 The city or town solicitor shall prepare a fair, concise summary of each question not later
5236 than 35 days prior to such election. Such question shall not be placed upon the official ballot
5237 unless the city council or town meeting shall have voted that such question be so placed or a
5238 petition signed by not less than 5 per cent of the registered voters of the city or town, certified as
5239 such by the registrars of voters thereof, shall have been filed with the city or town clerk, at least
5240 60 days before the date for any such election. Forms for such petitions shall be made available
5241 without cost by the city or town clerk and each form shall bear the following heading: “The
5242 undersigned registered voters of the (city or town) hereby petition for the placement upon the
5243 official ballot of the question whether this (city, town) shall continue to be a member of the
5244 (name) Regional Transit Authority”.

5245 The votes upon such a question shall be counted and returned to the city or town clerk in
5246 the same manner as votes for candidates in municipal elections. The clerk shall forthwith notify
5247 the authority of the result of the vote. If a majority of the votes cast upon the question shall be in
5248 the negative, the authority shall forthwith take all steps necessary and appropriate for the
5249 termination of membership of such city or town in such authority.

5250 Section 16. In the event of any conflict between the regulatory powers and duties of the
5251 department of public utilities in respect to mass transportation service within an area, the
5252 department of public utilities shall resolve such dispute and exercise such powers as it deems
5253 required in the particular instance.

5254 Section 17. An authority is hereby authorized to provide by resolution at 1 time or from
5255 time to time for the issue of bonds of the authority for any 1 or more of the following purposes:

5256 (1) To acquire by purchase or otherwise, plan, design, construct, reconstruct, alter,
5257 recondition and improve for lease to any eligible private company, mass transportation facilities
5258 and equipment; or

5259 (2) To pay any capital costs of the authority, whether or not bonds for any such purchase
5260 may also be issued under clause (1);

5261 Bonds may be issued for any costs of the foregoing incurred either before or after the
5262 issue of the bonds. Bonds issued under either of the foregoing clauses may be issued in sufficient
5263 amount to pay the expenses of issues and to establish such reserves as may be required by any
5264 applicable trust agreement or bond resolution. The aggregate principal amount of bonds for all
5265 authorities established under this chapter which may be outstanding at any 1 time under this
5266 section shall not exceed the sum of \$20,000,000; provided, however, that no such bonds may be
5267 issued under this section without the prior approval of the chief executive officer of the
5268 Massachusetts Surface Transportation Authority. Seventy-five per cent of the bond proceeds
5269 shall be extended only for projects for which the authority has agreements with the federal
5270 government or other sources including, but not limited to, other governmental jurisdictions or

5271 private entities providing for matching grants or for expenditures which are preliminary to the
5272 obtaining of federal grants.

5273 The chief executive officer of the Massachusetts Surface Transportation Authority shall
5274 make and, from time to time revise, guidelines for the allocation and distribution of the principal
5275 amount of said bonds, or any part thereof, among the authorities established by this chapter..

5276 The chief executive officer of the Massachusetts Surface Transportation Authority shall
5277 adopt rules and regulations governing the procedures by which private companies shall apply for
5278 assistance pursuant to any agreements financed from proceeds of bonds or bond anticipation
5279 notes and governing the use of such assistance. Such rules and regulations shall include: (a)
5280 requiring any private company which receives such assistance to agree to limit its profits and its
5281 expenses for salaries and overhead to make available as much of its earnings as possible for
5282 repayment to the authority of such assistance; (b) requiring such repayment; (c) enabling the
5283 authority and the chief executive officer of Massachusetts Surface Transportation Authority to
5284 examine and audit the books and records of such company for the purpose of establishing and
5285 enforcing such limitation and repayment; and (d) requiring the authority to transfer to the
5286 Massachusetts Surface Transportation Authority, the Massachusetts Surface Transportation
5287 Authority's share of such repayment.

5288 The bonds of each issue shall be dated, shall bear interest at such rates, shall mature at
5289 such time not exceeding 40 years from the date thereof as may be determined by the authority
5290 and may be made redeemable before maturity at the option of the authority at such price or
5291 prices and under such terms and conditions as may be fixed by the authority prior to the issue of
5292 the bonds. The authority shall determine the form of the bonds, including any interest coupons to

5293 be attached thereto, and the manner of execution of the bonds and shall fix the denomination of
5294 the bonds and the place of payment of principal and interest which may be at any bank or trust
5295 company within or without the commonwealth. In case any officer whose signature or a
5296 facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer
5297 before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid
5298 and sufficient for all purposes, as if he had remained in office until such delivery. All bonds
5299 issued under this chapter shall have, and are hereby declared to have, all the qualities and
5300 incidents of negotiable instruments under the Uniform Commercial Code. The bonds may be
5301 issued in coupon or in registered form, or both, as the authority may determine and provisions
5302 may be made for the registration of any coupon bonds as to principal alone and also as to both
5303 principal and interest, for the reconversion into coupon bonds of any bonds registered as to both
5304 principal and interest and for the exchange of coupon and registered bonds. The authority may
5305 sell such bonds in such manner, either at public or private sale, and for such price as it may
5306 determine to be for the best interest of the authority.

5307 The proceeds of such bonds shall be disbursed in such manner and under such
5308 restrictions, if any, as the authority may provide. The authority may also provide for the
5309 replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds and
5310 bond anticipation notes may be issued under the provisions of this chapter after obtaining the
5311 consent of the Massachusetts Surface Transportation Authority and without any other
5312 proceedings or the happening of any other conditions or things other than those proceedings,
5313 conditions or things which are specifically required by this chapter. This chapter, as it, relates to
5314 the preparation, adoption or approval of plans, programs, projects, budgets and expenditures,

5315 shall not affect the issue of bonds and notes and the bonds and notes may be issued either before
5316 or after such preparation, adoption or approval.

5317 While any bonds or notes issued or assumed by the authority remain outstanding, the
5318 powers, duties and existence of the authority and the provisions for payments by the
5319 Massachusetts Surface Transportation Authority to the authority shall not be diminished or
5320 impaired in any way that will adversely affect the interests and rights of the holders of such
5321 bonds or notes.

5322 Section 18. In the discretion of the authority, such bonds shall be secured by a trust
5323 agreement by, and between, the authority and a corporate trustee, which may be any trust
5324 company or bank having the powers of a trust company within the commonwealth. Either the
5325 resolution providing for the issue of bonds or the trust agreement may contain provisions for
5326 protecting and enforcing the rights and remedies of the bondholders as may be reasonable and
5327 proper and not in violation of law, including covenants setting forth the duties of the authority in
5328 relation to the acquisition, improvement, maintenance, operation, repair and insurance of
5329 property, and the custody, safeguarding and application of all moneys and may pledge or assign
5330 the revenues to be received, but shall not convey or mortgage any property.

5331 Section 19. Bonds issued under this chapter are hereby made securities in which all
5332 public officers and public bodies of the commonwealth and its political subdivisions, all
5333 insurance companies, and savings banks, co-operative banks and trust companies in their
5334 banking departments, banking associations, investment companies, executors, trustees and other
5335 fiduciaries and all other persons who are now, or may hereafter be, authorized to invest in bonds
5336 or other obligations of a similar nature may properly and legally invest funds, including capital in

5337 their control or belonging to them and such bonds are hereby made obligations which may
5338 properly and legally be made eligible for the investment of savings deposits and the income
5339 thereof in the manner provided by section 15B of chapter 167. Such bonds are hereby made
5340 securities which may properly and legally be deposited with and received by any state or
5341 municipal officer or any agency or political subdivision of the commonwealth for any purpose
5342 for which the deposit of bonds or other obligations of the commonwealth now or may hereafter
5343 be authorized by law.

5344 Section 20. Any holder of bonds issued under this chapter or of any of the coupons
5345 appertaining thereto, and the trustee under the trust agreement, if any, except to the extent the
5346 rights herein may be restricted by such resolution or trust agreement may, either at law or in
5347 equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights
5348 under the laws of the commonwealth or granted hereunder or under such resolution or trust
5349 agreement and may enforce and compel the performance of all duties required by this chapter or
5350 by such resolution or trust agreement to be performed by the authority or by any officer thereof.

5351 Section 21. An authority may provide by resolution, at 1 time or from time to time, for
5352 the issue of interest bearing or discounted notes for the purposes and in the amounts that bonds
5353 may be issued. The notes shall be payable within 3 years from their dates, but the principal of
5354 and interest on notes issued for a shorter period may be renewed or paid from time to time by the
5355 issue of other notes hereunder maturing within the required time from the date of the original
5356 loan being refunded. When bonds are issued for the purposes for which the notes were issued,
5357 the proceeds of the bonds shall be used to repay the notes, except that interest on the notes may
5358 be financed as a current expense to the extent deemed appropriate by the authority. The notes
5359 may be secured by a trust agreement or by the provisions of a resolution, as in the case of bonds.

5360 Bond anticipation notes may be issued either before or after the authorization of the bonds being
5361 anticipated. If any bond anticipation note is paid otherwise than from the proceeds of bonds or
5362 renewal notes, such payment shall be included in the measure of the net cost of service;
5363 provided, however, that if bonds or renewal notes are later issued to provide for such payment,
5364 there shall be a corresponding offset against the net cost of service.

5365 Section 22. Each authority, in conjunction with the regional transit advisory board, shall,
5366 from time to time, take all necessary action to secure any federal assistance which is, or may
5367 become, available to the Massachusetts Surface Transportation Authority for any of the purposes
5368 of this chapter. If any federal law, administrative regulation or practice requires any action
5369 relating to such federal assistance to be taken by any department or instrumentality of the
5370 commonwealth, other than the authority, such other department or instrumentality shall take all
5371 such action including, without limitation, filing applications for assistance, supervising the
5372 expenditure of federal grants or loans and making any determinations and certifications
5373 necessary or appropriate to the foregoing and the authority shall take all action necessary to
5374 permit such other department or instrumentality to comply with all federal requirements.

5375 Section 23. The chief executive officer of the Massachusetts Surface Transportation
5376 Authority may enter into a contract with the authorities created in this chapter providing that at
5377 least 50 per cent and up to 75 per cent of the net cost of service of each authority incurred in each
5378 fiscal year shall be paid by the Massachusetts Surface Transportation Authority, and shall not be
5379 assessed upon the cities and towns constituting the authorities; provided, however, that the share
5380 assessed upon the cities and towns shall be at least 25 per cent of the net cost of service;
5381 provided further, that in the event that 25 per cent of the net cost of service of each authority
5382 exceeds 102.5 per cent of the previous year's local assessment, excluding payments made by

5383 cities and towns for the costs of new service for which the cities and towns have not previously
5384 been assessed by the regional transit authority, the authority shall reduce its operating expenses
5385 of an increase its revenues to meet the difference. Such amount, not to be so assessed, shall be
5386 called contract assistance.

5387 Contracts shall provide for payment of debt service by the Massachusetts Surface
5388 Transportation Authority when due, except to the extent that the authority shall have previously
5389 notified the state treasurer that the revenues of the authority are sufficient for the purpose.

5390 Any debt service on bonds issued by an authority, for which contract assistance is
5391 provided, shall mature serially beginning not later than 10 years after the date of issue and
5392 ending not later than 40 years after the date of the bonds, so that the amounts payable in the
5393 several years for principal and interest combined shall be as nearly equal as in the opinion of the
5394 authority as is practicable to make them or, in the alternative, in accordance with a schedule
5395 providing a more rapid amortization of principal.

5396 Any contracts or agreements made between an authority and any private company or
5397 carrier for which contract assistance is provided shall be subject to the following limitations: (i)
5398 in determining whether assistance is needed under this paragraph with respect to an operating
5399 agreement with a private transportation company, and in determining the terms of such
5400 assistance, the authority shall review the entire transportation operations of the company and its
5401 affiliates and shall make a finding that the assistance will not permit the applicant company to
5402 make more than a reasonable return overall; and (ii) that the assistance shall cover only those
5403 services determined by the authority to be in the public interest.

5404 Any contract under this section shall include such provisions as the chief executive
5405 officer of the Massachusetts Surface Transportation Authority deems necessary and desirable to
5406 assure the efficient operation of the authority and the minimum burden on the Massachusetts
5407 Surface Transportation Authority and on the cities and towns within the authority and to insure
5408 contract assistance is provided for projects which are consistent with the program for public mass
5409 transportation of the authority.

5410 Section 24. Section 10 of chapter 40A, sections 28, 59 to 64, inclusive, 83 to 85,
5411 inclusive, and 92 to 104, inclusive, of chapter 159 and sections 89, 103 and 113 of chapter 161
5412 shall apply to the authorities created by this chapter, its property and employees in the same
5413 manner as though each were a street railway company.

5414 Section 25. Nothing in this chapter shall be deemed to authorize or permit any authority
5415 established by this chapter to directly operate any mass transportation service.

5416 Section 26. The regional transit authorities shall establish a Stabilization Fund into which
5417 the authorities shall deposit revenues in excess of expenditures. The Stabilization Fund shall
5418 have a fund balance not greater than 15 per cent of total revenues for all regional transit
5419 authorities for the fiscal year most recently ended. Monies from the fund shall be subject to
5420 appropriation and used for capital improvements and expenditures, to offset the unforeseen and
5421 dramatic loss of revenues within a fiscal year, and to pay current expenses after implementing all
5422 efficiencies and savings possible. The authorities may not assume draws from the fund in
5423 preparing their annual budgets. In the event that an authority requires a draw from the fund, it
5424 shall file with the chief executive officer of the Massachusetts Surface Transportation Authority,
5425 the regional transit advisory board, the joint committee on transportation and the house and

5426 senate committees on ways and means a financial plan that projects to produce, in the following
5427 fiscal year, an excess of revenues over expenses, all measures taken to implement efficiencies
5428 and savings, the amount necessary to offset operating losses and any other information that the
5429 chief executive officer, regional transit advisory board or committees may require.

5430 Section 27. (a) There shall be a regional transit advisory board within the division of
5431 public transit of the Massachusetts Surface Transportation Authority to represent the needs of the
5432 15 regional transit authorities in the commonwealth.

5433 The regional transit advisory board shall consist of 17 members including the following:
5434 1 representative from each of the regional transit authorities, as defined in section 2, to serve
5435 terms of 2 years; 1 representative, appointed by the governor, for a term of 3 years who shall be
5436 an expert with experience in the fields of transportation law or public policy, transportation
5437 planning or design and construction of transportation projects; provided, however, that the
5438 representative shall not reside in an area constituting the division for public transit for mass
5439 transit; and the chief executive officer of the authority, or his designee. The members of the
5440 advisory board shall be appointed not later than August 1, 2009.

5441 The first meeting of the regional transit advisory board shall be held as soon as
5442 practicable upon the call of the chief executive officer of the authority. The regional transit
5443 advisory board shall act by a majority vote, except that it may delegate its power of approval to
5444 an executive committee formed and elected pursuant to duly adopted by-laws of the board and
5445 constituting among its members as least one-half of the total vote of the regional transit advisory
5446 board, and may at any time, revoke such delegation; provided, however, that no such executive
5447 committee shall be empowered to approve the governor's appointments to the Massachusetts

5448 Surface Transportation Authority's board of directors. Until the regional transit advisory board
5449 has adopted by-laws and elected officers, the chief executive officer of the authority may call
5450 meetings of the regional transit advisory board by sending notice to the executive director of
5451 each regional transit authority and shall preside at such meetings.

5452 The regional transit advisory board may incur expenses, not to exceed \$10,000 annually,
5453 for stenographic and clerical work, and such expenses shall be paid by the Massachusetts Surface
5454 Transportation Authority.

5455 (b) The regional transit advisory board shall be deemed to be a governmental body for
5456 purposes of, and shall be subject to, section 11A1/2 of chapter 30A and shall also be subject to
5457 section 10 of chapter 66.

5458 (c) The purpose of the regional transit advisory board shall be as follows:

5459 (i) oversee the federally funding Rural Transit Assistance Program under contract with
5460 the Massachusetts Surface Transportation Authority;

5461 (ii) coordinate and share information and best practices in matters of security and public
5462 safety planning and preparedness, service delivery including, the disabled and senior population,
5463 cost savings and administrative efficiencies;

5464 (iii) to create, after public hearings and in consultation with the administrator of the
5465 division of public transit, mechanisms for ensuring reliable, high-quality and cost-effective
5466 operations by establishing and implementing service quality standards;

5467 (iv) to adopt and revise, as appropriate, a system-wide fare policy which addresses fare
5468 levels, including discounts, fare equity and a fare structure including, but not limited to, fare

5469 media and passes. The fare policy shall include a system for free or substantially price-reduced
5470 transfer privileges;

5471 (v) to make recommendation to the division of public transit on its regional transit
5472 charges;

5473 (vi) to hold hearings, which may be held jointly with the division of public transit at the
5474 discretion of the regional transit advisory board and the division of public transit, on matters
5475 relating to the division of public transit;

5476 (vii) to review the annual report of the authority and to prepare comments thereon to the
5477 authority and the secretary of transportation and to make such examinations of the reports on the
5478 division of public transit's records and affairs as the regional transit advisory board deems
5479 appropriate; and

5480 (viii) to make recommendations to the governor and the general court respecting the
5481 authority and its regional transit programs. The regional transit advisory board shall have all
5482 powers necessary or convenient to carry out and effectuate the forgoing purposes.

5483 SECTION 45. Chapter 161C of the General Laws is hereby repealed.

5484 SECTION 46. Section 1 of chapter 258 of the General Laws, as appearing in the 2006
5485 Official Edition, is hereby amended by inserting after the word "including", in line 40, the words
5486 "the Massachusetts Surface Transportation Authority established pursuant to chapter 81B,".

5487 SECTION 47. Said Section 1 of said chapter 258, as so appearing is hereby further
5488 amended by striking out, in lines 50 and 51, the words, "the Massachusetts Bay Transportation
5489 Authority".

5490 SECTION 48. Said section 1 of said chapter 258, as so appearing, is hereby further
5491 amended by striking out, in lines 51 and 52, the words “the Massachusetts Turnpike Authority,”.

5492 SECTION 49. Section 2 of chapter 634 of the acts of 1971, as most recently amended by
5493 section 1 of chapter 364 of the acts of 1990, is hereby amended by striking out the second
5494 paragraph and inserting in place thereof the following paragraph:-

5495 Following acquisition of the bridges by the department, the department shall, in its
5496 discretion, furnish or otherwise provide for the necessary flag protection on the railroad rights-
5497 of-way of the Massachusetts Bay Transportation Authority, which may be required when the
5498 department is performing inspection, maintenance and repair, reconstruction or replacement of
5499 any such bridges.

5500 SECTION 49A. The first sentence of subsection (b) of section 11 of chapter 233 of the
5501 acts of 2008 is hereby amended by inserting after the word “engineering” the following words:-
5502 “and construction”.

5503 SECTION 49B. Notwithstanding section 31 of chapter 15 of the acts of 1988 or any
5504 other general or special law to the contrary, the Massachusetts Bay Transportation Authority is
5505 hereby approved to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise
5506 dispose of the public parking garage constructed and operated by the authority and the land
5507 acquired by the authority pursuant to such law, subject to such terms, restrictions, covenants and
5508 conditions, for facilitating economic development, employment opportunities and increase of the
5509 tax base, as determined by the Authority in consultation with the Boston Redevelopment
5510 Authority.

5511 SECTION 50. Notwithstanding any general or special law to the contrary, the secretary
5512 of administration and finance shall establish an office of transition management for
5513 transportation within the executive office for administration and finance to accomplish the
5514 purposes of this act. Agencies from within that executive office including, but not limited to, the
5515 human resources division and the division of capital asset management and maintenance, as well
5516 as the executive office of transportation and public works and the department of labor shall staff
5517 the office.

5518 The office shall monitor compliance with this act, recommend to the secretary of
5519 transportation and public works rules and regulations not inconsistent with this act to facilitate
5520 the orderly, expeditious transfer of assets and functions from the executive office of
5521 transportation and public works, the Massachusetts Turnpike Authority, the Massachusetts Bay
5522 Transportation Authority, the Massachusetts Port Authority, the department of conservation and
5523 recreation and the department of highways to the Massachusetts Surface Transportation
5524 Authority, developing administrative processes to assure continuity of employment and
5525 operations during the transitions, identifying opportunities for potential efficiencies and cost
5526 savings and recommending legislation to realize such savings and efficiencies, resolve issues or
5527 assist government agencies with the transition of transportation agencies.

5528 Ninety days after the effective date of this act and quarterly thereafter until such
5529 transition period is complete, the secretary of transportation and public works shall submit a
5530 report to the governor, the secretary of administration and finance, the joint committee on
5531 transportation, the senate and house committees on ways and means and the clerks of the senate
5532 and the house of representatives, relative to the progression of the incorporation of the agencies
5533 and authorities into the Massachusetts Surface Transportation Authority.

5534 The report shall include, but shall not be limited to, plans for the assignment and
5535 reassignment of resources including personal, equipment and supplies into the Massachusetts
5536 Surface Transportation Authority. The reports shall also include the status of the transition of
5537 roads, bridges, parkways and any other transportation assets of the Massachusetts Turnpike
5538 Authority, the Massachusetts Bay Transportation Authority, the Massachusetts Port Authority,
5539 the department of conservation and recreation and the department of highways and shall further
5540 include approximate schedules for the completion of the transition.

5541 SECTION 51. Notwithstanding any general or special law to the contrary, the bureau for
5542 environmental health within the department of public health shall conduct a comprehensive
5543 baseline study of the health effects of particulate air pollution from surface transportation in
5544 Massachusetts. The study shall focus on understanding the health impacts from fine and ultrafine
5545 particulate matter upon populations that are located within 500 feet of any roadway with 50,000
5546 or more motor vehicle trips per day or any rail line regularly used by diesel locomotives;
5547 provided, however, that the study may include, but shall not be limited to, examining respiratory
5548 and cardiovascular disease and cancer incidence that may be affected by exposure to traffic-
5549 related particles. The following departments and agencies of the commonwealth shall provide
5550 information to the bureau relevant to this study: the department of environmental protection, the
5551 executive office of transportation, the Massachusetts Surface Transportation Authority and the
5552 central transportation planning staff of the Boston region metropolitan planning organization.
5553 The bureau shall report its interim findings, or a progress report, together with any recommended
5554 response actions by the commonwealth to the house and senate committees on ways and means
5555 not later than December 31, 2009. The study shall be concluded and filed with the house and
5556 senate committees on ways and means not later than June 30, 2010.

5557 SECTION 52. (a) In order to provide funds during the period from the effective date of
5558 this act until December 31, 2009, the state treasurer, on behalf of the commonwealth, shall loan
5559 to the authority through investment in a note or other appropriate instrument of the Authority,
5560 and the authority is authorized to borrow from the state treasurer, at any time and from time to
5561 time on or prior to December 31, 2009, on such terms and conditions as the state treasurer and
5562 the authority shall agree, an amount not to exceed \$100,000,000. Any amount so borrowed by
5563 the authority, with interest thereon at such reasonable rate as the state treasurer and the authority
5564 shall agree, shall be repaid to the commonwealth to be credited on the books of the
5565 commonwealth not later than June 30, 2010.

5566 (b) The authority may issue at 1 time or from time to time prior to June 30, 2014, notes of
5567 the Authority in the aggregate principal amount of \$1,000,000,000 outstanding at any 1 time,
5568 excluding notes refunded by other notes issued under this paragraph, for the purpose of
5569 providing funds for: (i) repaying the commonwealth for any amounts borrowed by the authority
5570 from the commonwealth including interest thereon pursuant to paragraph (c); (ii) paying all or
5571 part of the cost of the authority's projects undertaken at any time prior to December 31, 2013;
5572 (iii) paying all or any part of the current expenses of the authority in anticipation of receipt of
5573 revenues of the authority, but in no event shall the aggregate amount of notes outstanding for this
5574 purpose exceed one-half of the budgeted current expenses of the authority for the fiscal year in
5575 which such notes are outstanding; and (iv) paying all or any part of the interest payable on any
5576 notes of the authority issued under this paragraph. Notes issued by the Authority in accordance
5577 with this subsection shall be issued for such term or terms as the authority shall determine and
5578 may be renewed from time to time; provided, however, that all such notes and any renewals
5579 thereof shall mature and be payable not later than June 30, 2014 except that notes issued in

5580 anticipation of revenues shall be payable and shall mature not later than 1 year from their date.
5581 Notes issued by the authority in accordance with this paragraph, except notes issued in
5582 anticipation of revenues, shall be issued in anticipation of bonds to be issued by the authority
5583 pursuant to section 22 of chapter 81B of the General Laws. All notes issued pursuant to this
5584 subsection shall be authorized, issued and sold in the same manner as, and shall otherwise be
5585 subject to said section 22 of said chapter 81B and the other provisions of said chapter 81B
5586 relating to bonds; provided, however, that notes issued under this subsection shall be issued at a
5587 fixed..

5588 (c) The commonwealth, acting by and through the secretary of administration and finance
5589 with the approval of the governor, upon application of the authority, shall guarantee the principal
5590 of and interest on notes of the authority issued in accordance with subsection (b). The secretary
5591 of administration and finance with the approval of the governor may approve the form, terms and
5592 conditions of, and may execute and deliver on behalf of the commonwealth such guaranty and
5593 any related agreements with or for the benefit of the holders of such notes containing such terms,
5594 conditions and covenants as the secretary of administration and finance may deem reasonable,
5595 including provision for the payment of notes not paid or refunded by the authority by application
5596 of the proceeds of the loan authorized in subsection (d) . Without limiting the generality of the
5597 foregoing, such guaranty may take the form of an agreement to reimburse the issuer of a letter of
5598 credit or other credit facility which relates to such notes. The full faith and credit of the
5599 commonwealth shall be pledged for the guaranty provided for in this paragraph. The total
5600 principal amount of notes to be guaranteed under this paragraph shall not exceed \$1,000,000,000
5601 in the aggregate; provided, however, that the refunding note shall be included within such total

5602 amount; provided, further, that any note being refunded by the issuance of a guaranteed note
5603 shall not be included within such total amount.

5604 (d) If the authority fails or is otherwise unable to refund or pay when due any guaranteed
5605 notes, or the interest thereon, issued by the authority in accordance with subsection (c), such
5606 notes, and the interest thereon, upon presentation to the state treasurer, shall be paid by the
5607 commonwealth. For the purpose of providing funds to pay any such guaranteed notes and
5608 interest or to reimburse the treasury for any such payments, the state treasurer shall, upon the
5609 request of the governor, issue and sell bonds of the commonwealth in an amount specified by the
5610 governor from time to time, but not exceeding in the aggregate the sum of \$1,000,000,000 for
5611 principal and \$150,000,000 for interest. Bonds issued by the commonwealth under this
5612 subsection shall be designated on their face, Massachusetts Surface Transportation Authority
5613 Loan, Act of 2009. Such bonds shall be issued for such maximum term or terms not exceeding
5614 20 years as the governor may recommend to the general court in accordance with Section 3 of
5615 article LXII of the amendments to the constitution of the commonwealth. The Authority shall
5616 reimburse the commonwealth in accordance with a schedule to be determined by the secretary of
5617 administration and finance at the time such bonds are issued, from any moneys of the authority
5618 which are available for such purposes. Bonds and interest thereon issued by the commonwealth
5619 under the authority of this section shall, notwithstanding any other provisions of this act, be
5620 general obligations of the commonwealth. In anticipation of the receipt of proceeds of such
5621 bonds, the treasurer may issue and sell temporary notes and renewals thereof in an amount
5622 outstanding at 1 time not in excess of the amount of bonds specified by the governor pursuant to
5623 this subsection, for a term not to exceed 3 years, including any renewals thereof. The principal of
5624 and interest on such notes may be paid from the proceeds of the renewal notes or bonds and to

5625 the extent not so paid shall be paid from any other funds or receipts; provided, however, that if
5626 the principal amount of such notes is paid from other than the proceeds of the renewal notes or
5627 bonds, the principal amount of the bonds which may be issued under this section shall be
5628 reduced by a like amount. Such notes and any renewals thereof shall be general obligations of
5629 the commonwealth.

5630 (e) The state treasurer may borrow, from time to time, on the credit of the commonwealth
5631 such amounts as may be necessary to make any loans required of the commonwealth under
5632 subsection (a) and to pay any interest or other charges incurred in borrowing such money, and
5633 may issue notes of the commonwealth therefor, bearing interest payable at such times and at such
5634 rates as shall be fixed by him. No note issued under this paragraph shall mature more than one
5635 and one-half years from its date but notes may be refunded 1 or more times. Such notes shall be
5636 issued for such maximum term of years, not exceeding one and one-half years, as the governor
5637 may recommend to the general court in accordance with Section 3 of article LXII of the
5638 amendments to the constitution.

5639 SECTION 53. The state auditor shall perform a close-out audit of each agency or
5640 authority admitted to the Massachusetts Surface Transportation Authority. Said audit shall
5641 include a catalog of any issues relating to the agency or authority's current and future finances
5642 and operations, current and future revenues or debt structure, and internal policies and
5643 procedures, that he believes are not within Financial Accounting Standards Board of practice or
5644 may violate other General Laws, rules and procedures..

5645 SECTION 54. (a) The Massachusetts Surface Transportation Authority may provide by
5646 resolution for the issuance of revenue bonds of the authority, at 1 time or from time to time, for

5647 the purpose of providing funds for: (1) refunding the western turnpike revenue bonds then
5648 outstanding, including the payment of the redemption premium thereon; (2) paying the cost of
5649 constructing such extensions, enlargements and improvements to the western turnpike as may be
5650 authorized by said resolution; and (3) providing funds for paying the current expenses of the
5651 authority prior to the time when the revenues of the projects will be available for such purposes.

5652 (b) The proceeds of such bonds shall be deposited with the trustee and applied as follows:

5653 (1) such amount of the proceeds as may be required for paying the principal of and the
5654 redemption premium on the western turnpike revenue bonds then outstanding shall be deposited
5655 with the trustee under the trust agreement securing the bonds in trust for the sole and exclusive
5656 purpose of paying such principal and redemption premium, and the bonds shall thereupon be
5657 called for redemption at the earliest practicable date; (2) the trustee shall set aside from the
5658 proceed amounts as may be provided in the trust agreement for paying the current expenses of
5659 the authority prior to the time when the revenues of the projects will be available for such
5660 purpose; and (3) the balance of such proceeds shall be deposited with the trustee to the credit of
5661 a special fund to be used solely for the payment of the cost of the extensions, enlargements and
5662 improvements of the western turnpike authorized by the resolution and shall be disbursed in such
5663 manner and under such restrictions as may be provided in the trust agreement.

5664 (c) The Authority may, in its sole discretion assume the western turnpike revenue bonds
5665 then outstanding.

5666 (d) Upon the issuance of revenue bonds under subsection (a) and the application of the
5667 proceeds of the bonds as provided in subsection (b), or the assumption of revenue bonds under
5668 subsection (c), title to the western turnpike shall be vested in the authority; provided, however,

5669 that the turnpike shall thereafter be maintained, repaired and operated by the Authority, the
5670 trustee under the trust agreement securing the outstanding western turnpike revenue bonds shall
5671 deposit with the trustee for the credit of the appropriate funds all moneys then in its hands which
5672 pertain to the western turnpike.

5673 (e) The Massachusetts Turnpike Authority shall transfer the turnpike, as defined in
5674 section 3 of chapter 81A of the General Laws, its right to collect toll revenues on the turnpike,
5675 and all related assets, liabilities, expenses and obligations to the division of roads and bridges in
5676 the Massachusetts Surface Transportation Authority not later than July 1, 2009. The transfer by
5677 the Massachusetts Turnpike Authority of the turnpike may be made pursuant to such other terms
5678 and conditions as may be acceptable to the transferor and the Massachusetts Surface
5679 Transportation Authority, but such terms shall be consistent with any trust agreement to which
5680 the Massachusetts Turnpike Authority is a party as of the effective date of this act.

5681 (f) On July 1, 2009, ownership, possession and control of the turnpike shall pass to and
5682 be vested in the Massachusetts Surface Transportation Authority without consideration or further
5683 evidence of transfer.

5684 (g) All books, maps, papers, plans, records and documents of whatever description
5685 pertaining to the design, construction, operation and affairs of the turnpike which are in the
5686 possession of the Massachusetts Turnpike Authority on June 30, 2009, or which thereafter come
5687 into the possession of the Massachusetts Turnpike Authority shall also be transferred and
5688 delivered to the Massachusetts Surface Transportation Authority for its use, ownership,
5689 possession and control.

5690 (h) On July 1, 2009, all proceeds of the western turnpike revenue bonds, any other bonds
5691 and grants and other aid which are held by the Massachusetts Turnpike Authority for the benefit
5692 of the turnpike at the effective date of this act shall then and thereafter be deemed to be held in
5693 trust for the Massachusetts Surface Transportation Authority, be transferred to the Massachusetts
5694 Surface Transportation Authority to be applied to projects for which such bonds, grants or other
5695 aid was authorized. All proceeds of bonds, grants or other aid referred to herein, which shall be
5696 so held in trust and transferred pursuant to this section, and shall be in the amount as certified by
5697 the executive director of the Massachusetts Turnpike Authority to the state treasurer.

5698 SECTION 55. (a) The commonwealth shall transfer the roadways, driveways, parkways,
5699 boulevards and bridges and land thereunder, in the care, custody and control of the department
5700 of conservation and recreation and all appurtenant facilities, works and systems and any
5701 machinery and equipment related to the operation and maintenance of the assets and the roads
5702 and bridges, as well as any machinery and equipment related to the operation and maintenance of
5703 said assets and all appurtenant facilities, works and systems in the custody and control of the
5704 department of highways to the division of roads and bridges in the Massachusetts Surface
5705 Transportation Authority not later than July 1, 2009.

5706 The division of capital asset management and maintenance shall take any required actions
5707 relative to specifically defining and documenting the boundaries of the transfer affected by this
5708 section.

5709 Nothing in this section shall be construed to transfer any lands, parks, reservations,
5710 approaches or other facilities under the care, custody or control of the department of
5711 conservation and recreation.

5712 On July 1, 2009, ownership, possession and control of the facilities transferred under this
5713 section shall pass to and be vested in the Massachusetts Surface Transportation Authority
5714 without consideration or further evidence of transfer.

5715 SECTION 56. (a) The Massachusetts Port Authority shall transfer the Maurice J. Tobin
5716 Memorial Bridge, in the city of Chelsea its right to collect toll revenues on that bridge and all
5717 related assets, liabilities, expenses and obligations to the division of roads and bridges in the
5718 Massachusetts Surface Transportation Authority not later than July 1, 2010, provided, however,
5719 that the tolls collected from transit over or through the bridge by private passenger vehicles
5720 registered in the city of Chelsea or the Charlestown section of the city of Boston, as the Boston
5721 transportation department has determined the geographical boundaries thereof, shall not be
5722 greater than the tolls in effect for such vehicles at existing toll facilities at the bridge as of
5723 January 1, 2009, pursuant to the Resident Commuter Permit program as provided under 740
5724 CMR 11.03.

5725 The transfer by the Massachusetts Port Authority of that bridge may be made pursuant to
5726 such other terms and conditions as may be acceptable to the Massachusetts Port Authority and
5727 the Massachusetts Surface Transportation Authority, but such terms shall be consistent with and
5728 authorized by chapter 465 of the act of 1956 and any trust agreement to which the Massachusetts
5729 Port Authority is a party as of the effective date of this act. (b) On July 1, 2009, ownership,
5730 possession and control of the bridge shall pass to and be vested in the Massachusetts Surface
5731 Transportation Authority without consideration or further evidence of transfer. (c) All books,
5732 maps, papers, plans, records and documents of whatever description pertaining to the design,
5733 construction, operation and affairs of the bridge which are in the possession of the Massachusetts
5734 Port Authority on June 30, 2010, or which thereafter come into the possession of the

5735 Massachusetts Port Authority shall be transferred and delivered to the Massachusetts Surface
5736 Transportation Authority for its use, ownership, possession and control. (d) On July 1, 2010,
5737 all proceeds of bonds and grants and other aid which are held by the Massachusetts Port
5738 Authority for the benefit of the bridge on the effective date of this act shall then and thereafter be
5739 deemed to be held in trust for, and shall upon demand of the Massachusetts Surface
5740 Transportation Authority be transferred to the Massachusetts Surface Transportation Authority to
5741 be applied to projects for which such bonds, grants or other aid were authorized. All proceeds of
5742 bonds, grants or other aid referred to herein, which shall be so held in trust and transferred upon
5743 demand, shall be in the amount as certified by the executive director of the Massachusetts Port
5744 Authority to the state treasurer.

5745 SECTION 57. (a) The Massachusetts Surface Transportation Authority shall provide by
5746 resolution for the issuance of revenue bonds of the authority for the purpose of providing funds
5747 to be used to refund the metropolitan highway system revenue bonds outstanding, including the
5748 payment of the redemption premium thereon. Such resolution shall be adopted as soon as
5749 reasonably prudent considering all applicable market conditions. Revenue from tolls collected
5750 for transit over the turnpike or metropolitan highway system as authorized by subsections (j) and
5751 (k) of section 4 of chapter 81B shall not be pledged or assigned for such notes or bonds.

5752 (a 1/2) The Massachusetts Surface Transportation may provide by resolution for the
5753 issuance of revenue bonds of the authority, at 1 time or from time to time, for the purpose of
5754 providing funds for: (1) paying the cost of constructing such extensions, enlargements and
5755 improvements to the metropolitan highway system as may be authorized by the resolution; and
5756 (2) providing funds for paying the current expenses of the authority prior to the time
5757 when the revenues of the projects will be available for such purposes.

5758 (b) The proceeds of such bonds shall be deposited with the trustee and applied as
5759 follows:

5760 (1) such amount of the proceeds as may be required for paying the principal of and the
5761 redemption premium on the metropolitan highway system revenue bonds then outstanding shall
5762 be deposited with the trustee under the trust agreement securing the bonds in trust for the sole
5763 and exclusive purpose of paying such principal and redemption premium, and the bonds shall
5764 thereupon be called for redemption at the earliest practicable date; (2) the trustee shall set aside
5765 from the proceed amounts as may be provided in the trust agreement for paying the current
5766 expenses of the authority prior to the time when the revenues of the projects will be available for
5767 such purpose; and (3) the balance of such proceeds shall be deposited with the trustee to the
5768 credit of a special fund to be used solely for the payment of the cost of the extensions,
5769 enlargements and improvements of the metropolitan highway system authorized by the
5770 resolution and shall be disbursed in such manner and under such restrictions as may be provided
5771 in the trust agreement.

5772 (c)The Authority may, in its sole discretion, assume the metropolitan highway system
5773 revenue bonds then outstanding.

5774 (d) Upon the issuance of revenue bonds under subsection (a) and the application of the
5775 proceeds of the bonds as provided in subsection (b) or the assumption of revenue bonds under
5776 subsection (c), title to the metropolitan highway system shall be vested in the authority. The
5777 metropolitan highway system shall thereafter be maintained, repaired and operated by the
5778 Authority, the trustee under the trust agreement securing the outstanding metropolitan highway
5779 system revenue bonds shall deposit with the trustee for the credit of the appropriate funds all

5780 moneys then in its hands which pertain to the metropolitan highway system and the
5781 Massachusetts Turnpike Authority shall be dissolved.

5782 (e) The Massachusetts Turnpike Authority shall transfer the metropolitan highway
5783 system, as defined in section 3 of chapter 81A of the General Laws, its right to collect toll
5784 revenues on the metropolitan highway system and all related assets, liabilities, expenses and
5785 obligations to the division of roads and bridges in the Massachusetts Surface Transportation
5786 Authority not later than July 1, 2010.

5787 (f) The transfer by the Massachusetts Turnpike Authority of the metropolitan highway
5788 system may be made pursuant to such other terms and conditions as may be acceptable to the
5789 transferor and the Massachusetts Surface Transportation Authority, but such terms shall be
5790 consistent with and authorize by chapter 354 of the Act of 1952 and any trust agreement to
5791 which the Massachusetts Turnpike Authority is a party as of the effective date of this act.

5792 (g) On July 1, 2010, ownership, possession and control of the metropolitan highway
5793 system shall pass to and be vested in the Massachusetts Surface Transportation Authority
5794 without consideration or further evidence of transfer.

5795 (h) All books, maps, papers, plans, records and documents of whatever description
5796 pertaining to the design, construction, operation, and affairs of the metropolitan highway system
5797 which are in the possession of the Massachusetts Turnpike Authority on June 30, 2010, or which
5798 thereafter come into the possession of the Massachusetts Turnpike Authority shall be transferred
5799 and delivered to the Massachusetts Surface Transportation Authority for its use, ownership,
5800 possession and control.

5801 (i) On July 1, 2010, all proceeds of the metropolitan highway system revenue bonds, all
5802 other bonds and grants and other aid which are held by the Massachusetts Turnpike Authority at
5803 the effective date of this act shall then and thereafter be deemed to be held in trust for, and shall
5804 upon demand of the Massachusetts Surface Transportation Authority be transferred to the
5805 Massachusetts Surface Transportation Authority to be applied by the Massachusetts Surface
5806 Transportation Authority to projects for which such bonds, grants or other aid were authorized.
5807 All proceeds of bonds, grants or other aid referred to herein, which shall be so held in trust and
5808 transferred upon demand, shall be in the amount as certified by the executive director of the
5809 Massachusetts Turnpike Authority to the state treasurer.

5810 SECTION 58. (a) The Massachusetts Bay Transportation Authority shall transfer all mass
5811 transportation facilities and equipment under its custody and control, the right to collect fare
5812 revenue for services in connection with such mass transportation facilities and equipment and all
5813 related assets, liabilities, expenses and obligations to the division of public transit in the
5814 Massachusetts Surface Transportation Authority not later than July 1, 2011.

5815 (b) The transfer by the Massachusetts Bay Transportation Authority of the mass
5816 transportation facilities and equipment required in this section may be made pursuant to such
5817 other terms and conditions as may be acceptable to the transferor and the Massachusetts Surface
5818 Transportation Authority, but such terms shall be consistent with and authorized by chapter
5819 161A of the General Laws and any trust agreement to which the Massachusetts Bay
5820 Transportation Authority is a party as of the effective date of this act.

5821 (c) On July 1, 2011, ownership, possession and control of the mass transportation
5822 facilities and equipment referred to in this section shall pass to and be vested in the

5823 Massachusetts Surface Transportation Authority without consideration or further evidence of
5824 transfer.

5825 (d) All books, maps, papers, plans, records and documents of whatever description
5826 pertaining to the design, construction, operation and affairs of the mass transportation facilities
5827 and equipment which are in the possession of the Massachusetts Bay Transportation Authority
5828 on June 30, 2011, or which thereafter come into the possession of the Massachusetts Bay
5829 Transportation Authority shall be transferred and delivered to the Massachusetts Surface
5830 Transportation Authority for its use, ownership, possession and control.

5831 (e) On July 1, 2011, all proceeds of bonds, grants and other aid which are held by the
5832 Massachusetts Bay Transportation Authority on the effective date of this act shall then and
5833 thereafter be deemed to be held in trust for, and shall upon demand of the Authority be
5834 transferred to the Massachusetts Surface Transportation Authority to be applied to projects for
5835 which such bonds, grants or other aid were authorized. All proceeds of bonds, grants or other aid
5836 referred to herein, which shall be so held in trust and transferred upon demand, shall be in the
5837 amount as certified by the general manager of the Massachusetts Bay Transportation Authority
5838 to the state treasurer.

5839 SECTION 59. Notwithstanding any other provision of this act or any other general or
5840 special law to the contrary, commencing on July 1, 2009, all amounts of any kind received by the
5841 commonwealth which are derived from or related to the operation of the state highway system,
5842 as defined in section 3 of chapter 81B of the General Laws, shall be deemed to be held in trust
5843 for and shall be transferred and paid over to the Massachusetts Surface Transportation Authority,
5844 herein after referred to as the Authority, when received without further appropriation to be

5845 applied to the purposes of the Authority. All amounts of any kind received by the Massachusetts
5846 Turnpike Authority which are derived from the operation of the turnpike, as defined in said
5847 chapter 3 of said chapter 81B, shall be deemed to be held in trust for and shall be transferred and
5848 paid over to the Massachusetts Surface Transportation Authority when received without further
5849 appropriation to be applied to the purposes of the Massachusetts Surface Transportation
5850 Authority.

5851 SECTION 60. Notwithstanding any other provision of this act or any other general or
5852 special law to the contrary, commencing on July 1, 2010, all amounts of any kind received by the
5853 Massachusetts Port Authority which are derived from or related to the operation of the Tobin
5854 memorial bridge, as defined in section 3 of chapter 81B of the General Laws, shall be deemed to
5855 be held in trust for and shall be transferred and paid over to the Massachusetts Surface
5856 Transportation Authority , hereinafter referred to as the Authority, when received without
5857 further appropriation to be applied to the purposes of the said Massachusetts Surface
5858 Transportation Authority . All amounts of any kind received by the Massachusetts Turnpike
5859 Authority which are derived from the operation of the metropolitan highway system, as defined
5860 in said section 5 of said chapter 81B, shall be deemed to be held in trust for and shall be
5861 transferred and paid over to the Massachusetts Surface Transportation Authority when received
5862 without further appropriation to be applied to the purposes of the Massachusetts Surface
5863 Transportation Authority.

5864 SECTION 61. All amounts of any kind received by the Massachusetts Bay
5865 Transportation Authority which are derived from the operation of the state public transit system,
5866 as defined in section 3 of chapter 81B of the General Laws, shall be deemed to be held in trust
5867 for and shall be transferred and paid over to the Massachusetts Surface Transportation Authority

5868 when received without further appropriation to be applied to the purposes of the Massachusetts
5869 Surface Transportation Authority.

5870 SECTION 61A. Notwithstanding any general or special law to the contrary, any fees
5871 formerly pledged to the Highway Fund shall be pledged to the Surface Transportation Trust
5872 Fund.

5873 SECTION 62. (a) Upon transfer of control of all roads, driveways, parkways, boulevards
5874 and bridges by the department of conservation and recreation to the division of roads and bridges
5875 of the Massachusetts Surface Transportation Authority, the employees in the department of
5876 conservation and recreation whose work is directly related to projects to be administered by the
5877 division shall be transferred to the division.

5878 (b) The employees of the department of conservation and recreation including those who,
5879 immediately before the effective date of this act, hold permanent appointment in positions
5880 classified under chapter 31 of the General Laws or have tenure in their positions as provided in
5881 section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential
5882 positions, are hereby transferred to the division of roads and bridges, without interruption of
5883 service within the meaning of said section 9A of said chapter 30, without impairment of
5884 seniority, retirement or other rights of the employee, and without reduction in compensation or
5885 salary grade, notwithstanding any change in title or duties resulting from such reorganization and
5886 without loss of accrued rights to holidays, sick leave, vacation and further benefits, and without
5887 change in union representation or certified collective bargaining unit as certified by the state
5888 labor relations commission or in local union representation or affiliation. Any collective
5889 bargaining agreement in effect immediately before the transfer date shall continue in effect and

5890 the terms and conditions of employment therein shall continue as if the employees had not been
5891 so transferred. The transfer shall not impair the civil service status of reassigned employee who
5892 immediately before the effective date of this act either holds a permanent appointment in a
5893 position classified under chapter 31 of the General Laws or has tenure in a position by reason of
5894 section 9A of chapter 30 of the General Laws. Notwithstanding any general or special law to the
5895 contrary, all such employees shall continue to retain their right to collectively bargain pursuant to
5896 chapter 150E of the General Laws and shall be considered employees for the purposes of said
5897 chapter 150E. Nothing in this section shall be construed to confer upon any employee any right
5898 not held immediately before the date of the transfer or to prohibit any reduction of salary or
5899 grade transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited
5900 before such date.

5901 (c) All petitions, requests, investigations and other proceedings appropriately and duly
5902 brought or duly begun and pending before the effective date of this act, shall continue unabated
5903 and remain in force, but shall be assumed and completed by the division of roads and bridges.

5904 (d) All orders, rules and regulations duly made and all approvals duly granted by the
5905 department of conservation and recreation, which are in force immediately before the effective
5906 date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised,
5907 rescinded or canceled, in accordance with law, by the division of roads and bridges.

5908 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other
5909 property, both personal and real, including all such property held in trust, which immediately
5910 before the effective date of this act are in the custody of each transferor agency shall be
5911 transferred to the respective transferee agency.

5912 All questions regarding the identification of such property and of the agencies to which
5913 custody thereof is transferred shall be determined by the secretary of transportation.

5914 (f) All duly existing contracts, leases and obligations of the department of conservation
5915 and recreation as they related to any property transferred to the division of roads and bridges
5916 pursuant to this section shall continue in effect but shall be assumed by the division of roads and
5917 bridges. No existing right or remedy of any character shall be lost, impaired or affected by this
5918 act; provided, however, that the department of conservation and recreation may approve
5919 construction requests and curb cut permitting for parkways under the control of the department
5920 as of January 1, 2009.

5921 SECTION 63. (a) On July 1, 2009, each employee of the Massachusetts Turnpike
5922 Authority whose salary is paid out of revenue generated by the authority as defined in section 3
5923 of chapter 81A of the General Laws, and whose salary is accounted for on the books of the
5924 Massachusetts Turnpike Authority as arising from revenue generated that authority shall become
5925 an employee of the Massachusetts Surface Transportation Authority, hereinafter referred to as
5926 the Authority.

5927 (b) On July 1, 2010, all remaining employees of the Massachusetts Turnpike Authority
5928 shall become employees of the Massachusetts Surface Transportation Authority.

5929 All officers and employees of the Massachusetts Turnpike Authority transferred to the
5930 service of the Massachusetts Surface Transportation Authority shall be transferred without
5931 impairment of seniority, civil service status, retirement or other statutory rights of employees,
5932 without reduction in compensation or salary grade, notwithstanding any change in job titles or
5933 duties, without loss of accrued rights to holidays, sick leave, vacation and other benefits, and

5934 without change in union representation, except as otherwise provided in this act. Terms of
5935 service of employees of the Massachusetts Turnpike Authority shall not be deemed to be
5936 interrupted by virtue of transfer to the Massachusetts Surface Transportation Authority.

5937 Rights and obligations under collective bargaining agreements with respect to employees
5938 transferred from the Massachusetts Turnpike Authority, except to the extent expressly
5939 inconsistent with this act, shall be assumed by and imposed upon the Massachusetts Surface
5940 Transportation Authority. Except to the extent expressly inconsistent with this act, any
5941 collective bargaining agreement in effect for such transferred employees immediately before the
5942 transfer date shall continue as if the employees had not been so transferred, until the expiration
5943 date of such collective bargaining agreement. The Massachusetts Surface Transportation
5944 Authority shall negotiate in good faith pursuant chapter 150E of the General Laws with respect
5945 to wages, hours and other terms and conditions of employment to become effective as of the
5946 expiration date of such collective bargaining agreement. Any expired collective bargaining
5947 agreement covering employees transferred to the Massachusetts Surface Transportation
5948 Authority for which successor contract negotiations are on-going as of March 1, 2009 will be
5949 extended for 6 months after the effective date of the act, unless mutually agreed otherwise by the
5950 employees' exclusive bargaining representative and the Massachusetts Surface Transportation
5951 Authority, to permit the successful completion of successor negotiations. Nothing in this section
5952 shall be construed to confer upon any employee any right not held immediately prior to the date
5953 of the transfer or to prohibit any reduction of salary or grade, transfer, reassignment, suspension,
5954 discharge, layoff or abolition of position not prohibited before such date.

5955 (e) Notwithstanding any general or special law to the contrary, an employee of the
5956 Massachusetts Turnpike Authority who is hired on or after the effective date of this act shall only

5957 be eligible for health care coverage under the group insurance commission, provided that the
5958 employee meets the eligibility requirements of the group insurance commission.

5959 (f) Notwithstanding any general or special law to the contrary, an employee of the
5960 Massachusetts Turnpike Authority whose salary is paid out of revenue generated by the
5961 authority, as defined in section 3 of chapter 81A of the General Laws, and whose salary is
5962 accounted for on the books of the Massachusetts Turnpike Authority as arising from revenue
5963 generated by the authority who is employed by the Massachusetts Turnpike Authority on the
5964 effective date of this act and who becomes an employee of the Massachusetts Surface
5965 Transportation Authority on July 1, 2009 and who is eligible for group insurance coverage under
5966 insurance plans offered by the Massachusetts Turnpike Authority or who is insured under such a
5967 plan, shall have his eligibility and coverage transferred to the jurisdiction of the group insurance
5968 commission effective on July 1, 2009 and such person shall cease to be eligible or insured under
5969 the plans previously offered by the Massachusetts Turnpike Authority.

5970 (g) Notwithstanding any general or special law to the contrary, an employee of the
5971 Massachusetts Turnpike Authority who is employed by the Massachusetts Turnpike Authority on
5972 the effective date of this act and who becomes an employee of the Authority on July 1, 2010 and
5973 who is eligible for group insurance coverage under insurance plans offered by the Massachusetts
5974 Turnpike Authority or who is insured under such a plan, shall have his eligibility and coverage
5975 transferred to the jurisdiction of the group insurance commission effective on July 1, 2010 and
5976 such person shall cease to be eligible or insured under the plans previously offered by the
5977 Massachusetts Turnpike Authority.

5978 (h) The group insurance commission shall provide uninterrupted coverage for group life
5979 and accidental death and dismemberment insurance and group general or blanket insurance
5980 providing hospital, surgical, medical, dental and other health insurance benefits to the extent
5981 authorized under chapter 32A of the General Laws; provided, however, that an employee who
5982 was covered by a collective bargaining agreement on the date of the transfer to the
5983 Massachusetts Surface Transportation Authority shall continue to receive the group insurance
5984 benefits required by his respective collective bargaining agreement until the expiration date of
5985 such agreement. All questions relating to group insurance rights, obligations, costs and payments
5986 shall be determined by the group insurance commission and shall include the manner and method
5987 for the payment of all required premiums applicable to all such coverage.

5988 (i) If the Massachusetts Turnpike Authority has monies in an employees' group insurance
5989 trust fund related to the employees transferred to the Massachusetts Surface Transportation
5990 Authority, these funds shall be transferred to the group insurance commission trust fund
5991 established in section 9 of said chapter 32A.

5992 (j) Nothing in this section shall be construed to affect the eligibility and coverage of
5993 retired employees of the Massachusetts Turnpike Authority and the surviving spouses of active
5994 or retired employees of the Massachusetts Turnpike Authority who are eligible for group
5995 insurance coverage under a plan offered by the Massachusetts Turnpike Authority or who are
5996 insured under a plan offered by the Massachusetts Turnpike Authority.

5997 SECTION 63A. Notwithstanding any general or special law to the contrary, any
5998 employee who retires from the executive office of transportation, the highway department, the
5999 registry of motor vehicles, the Massachusetts Turnpike Authority, the Massachusetts Port

6000 Authority, the Massachusetts Bay Transportation Authority, the Massachusetts Aeronautics
6001 Commission, or the Massachusetts Surface Transportation Authority is prohibited from
6002 employment by the agency or authority from which the employee retired or any successor
6003 agency or authority to the agency or authority from which the employee retired, for a period of
6004 not less than 1 year.

6005 SECTION 64. (a) On July 1, 2010, each employee of the Massachusetts Port Authority
6006 who is, as of the effective date of this act, employed to work primarily on the Maurice J. Tobin
6007 Memorial Bridge in the city of Chelsea shall become an employee of the Massachusetts Surface
6008 Transportation Authority. For purposes of this section, all such employees shall be known as
6009 “Tobin bridge employees.”

6010 (b) All Tobin bridge employees transferred to the service of the Massachusetts Surface
6011 Transportation Authority shall be transferred without impairment of seniority, civil service
6012 status, retirement or other statutory rights of employees, without reduction in compensation or
6013 salary grade, notwithstanding any change in job titles or duties, without loss of accrued rights to
6014 holidays, sick leave, vacation and other benefits and without change in union representation,
6015 except as otherwise provided in this act. Terms of service of Tobin bridge employees shall not
6016 be deemed to be interrupted by virtue of transfer to the Massachusetts Surface Transportation
6017 Authority.

6018 (c) Rights and obligations under collective bargaining agreements with respect to Tobin
6019 bridge employees, except to the extent expressly inconsistent with this act, shall be assumed by
6020 and imposed upon the Massachusetts Surface Transportation Authority. Except to the extent
6021 expressly inconsistent with this act, any collective bargaining agreement in effect for such

6022 transferred employees immediately before the transfer date shall continue as if the employees
6023 had not been so transferred, until the expiration date of such collective bargaining agreement.
6024 The Massachusetts Surface Transportation Authority shall negotiate in good faith beginning on
6025 April 1, 2010 to the end of the collective bargaining agreement with Teamsters Local #25
6026 pursuant to chapter 150E of the General Laws with respect to wages, hours and other terms and
6027 conditions of employment to become effective as of the expiration date of such collective
6028 bargaining agreement. Any expired collective bargaining agreement covering employees
6029 transferred to the Massachusetts Surface Transportation Authority for which successor contract
6030 negotiations are on-going as of March 1, 2009 will be extended for 6 months after the effective
6031 date of the act, unless mutually agreed otherwise by the employees' exclusive bargaining
6032 representative and the Massachusetts Surface Transportation Authority, to permit the successful
6033 completion of successor negotiations.

6034 (d) Nothing in this section shall be construed to confer upon any employee any right not
6035 held immediately prior to the date of the transfer or to prohibit any reduction of salary or grade,
6036 transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited
6037 before such date.

6038 (e) Notwithstanding any general or special law to the contrary, a Tobin bridge employee
6039 who is employed by the Massachusetts Port Authority on the effective date of this act and who
6040 becomes an employee of the Massachusetts Surface Transportation Authority on July 1, 2010
6041 and who is eligible for group insurance coverage under insurance plans offered by the
6042 Massachusetts Port Authority or who is insured under such a plan, shall have his eligibility and
6043 coverage transferred to the jurisdiction of the group insurance commission effective on July 1,

6044 2010 and such a person shall cease to be eligible or insured under the plans previously offered by
6045 the Massachusetts Port Authority.

6046 (f) The group insurance commission shall provide uninterrupted coverage for group life
6047 and accidental death and dismemberment insurance and group general or blanket insurance
6048 providing hospital, surgical, medical, dental and other health insurance benefits to the extent
6049 authorized under chapter 32A of the general laws; provided, however, that a Tobin bridge
6050 employee who was covered by a collective bargaining agreement on the date of the transfer to
6051 the Massachusetts Surface Transportation Authority shall continue to receive the group insurance
6052 benefits required by his respective collective bargaining agreement until the expiration date of
6053 such agreement. All questions relating to group insurance rights, obligations, costs and payments
6054 shall be determined by the group insurance commission and shall include the manner and method
6055 for the payment of all required premiums applicable to all such coverage.

6056 (g) If the Massachusetts Port Authority has monies in an employees' group insurance
6057 trust fund related to the Tobin bridge employees transferred to the Massachusetts Surface
6058 Transportation Authority, these funds shall be transferred to the group insurance commission
6059 trust fund established in section 9 of said chapter 32A.

6060 (h) Nothing in this section shall be construed to affect the eligibility and coverage of
6061 retired Tobin bridge employees and the surviving spouses of active or retired Tobin bridge
6062 employees who are eligible for group insurance coverage under a plan offered by the
6063 Massachusetts Port Authority or who are insured under a plan offered by the Massachusetts Port
6064 Authority.

6065 (i) On and after the effective date of this act, the Massachusetts Port Authority shall not
6066 hire any employee to work primarily on the Maurice J. Tobin Memorial Bridge in the city of
6067 Chelsea.

6068 SECTION 65. (a) On July 1, 2011, each employee of the Massachusetts Bay
6069 Transportation Authority shall become an employee of the Massachusetts Surface Transportation
6070 Authority.

6071 (b) All officers and employees of the Massachusetts Bay Transportation Authority
6072 transferred to the service of the Massachusetts Surface Transportation Authority shall be
6073 transferred without impairment of seniority, civil service status, retirement or other statutory
6074 rights of employees, without reduction in compensation or salary grade, notwithstanding any
6075 change in job titles or duties, without loss of accrued rights to holidays, sick leave, vacation and
6076 benefits and without change in union representation, except as otherwise provided in this act.
6077 Terms of service of employees of the Massachusetts Bay Transportation Authority shall not be
6078 deemed to be interrupted the transfer to the Massachusetts Surface Transportation Authority.

6079 (c) Rights and obligations under collective bargaining agreements with respect to
6080 employees transferred from the Massachusetts Bay Transportation Authority, except to the extent
6081 expressly inconsistent with this act, shall be assumed by and imposed upon the Massachusetts
6082 Surface Transportation Authority. Except to the extent expressly inconsistent with this act, any
6083 collective bargaining agreement in effect for such transferred employees immediately before the
6084 transfer date shall continue as if the employees had not been so transferred, until the expiration
6085 date of such collective bargaining agreement. The Massachusetts Surface Transportation
6086 Authority shall negotiate in good faith pursuant to chapter 150E of the General Laws with

6087 respect to wages, hours and other terms and conditions of employment to become effective as of
6088 the expiration date of such collective bargaining agreement. To permit the successful completion
6089 of successor negotiations, any expired collective bargaining agreement covering employees
6090 transferred to the Massachusetts Surface Transportation Authority for which successor contract
6091 negotiations are on-going as of March 1, 2009 shall be extended for 6 months after the effective
6092 date of this act, unless mutually agreed otherwise by such employees' exclusive bargaining
6093 representative and the Massachusetts Surface Transportation Authority.

6094 (d) Nothing in this section shall be construed to confer upon any employee any right not
6095 held immediately prior to the date of the transfer, or to prohibit any reduction of salary or grade,
6096 transfer, reassignment, suspension, discharge, layoff or abolition of position not prohibited prior
6097 to such date.

6098 (e) Prior to July 1, 2011, the Massachusetts Bay Transportation Authority shall be subject
6099 to regulations adopted by the secretary of administration and finance creating a process to
6100 evaluate the Massachusetts Bay Transportation Authority's future cost of providing health
6101 benefits to its active employees. Within 30 days after the regulations have been adopted, and in
6102 subsequent years as determined by the regulations, the group insurance commission and the
6103 Massachusetts Bay Transportation Authority shall submit to the secretary all documentation
6104 necessary for this evaluation. The evaluation shall be based on an actuarial analysis that
6105 compares: (1) the Massachusetts Bay Transportation Authority's projected total net cost of
6106 providing health benefits to its active employees, including both administrative costs and the
6107 employer premium contributions; to (2) the projected total net cost of providing health benefits,
6108 including both administrative costs and the employer premium contributions, to the same
6109 member group under the group insurance commission.

6110 In estimating the total net cost for health benefits provided under the Massachusetts Bay
6111 Transportation Authority, the secretary shall assume that the benefit level and premium
6112 contribution ratio are consistent with the most current collective bargaining agreement. In
6113 estimating the total net cost for health benefits provided under the group insurance commission,
6114 the secretary shall assume that the benefit level and premium contribution ratio are consistent
6115 with other active state employees covered through the group insurance commission.

6116 If the secretary determines that the total projected net cost of providing health benefits
6117 under the Massachusetts Bay Transportation Authority exceeds the total projected net cost of
6118 providing health benefits under the group insurance commission by more than a percentage
6119 determined in the regulations, the secretary shall notify the Massachusetts Bay Transportation
6120 Authority that on December 31, 2011 the active employees covered by the Massachusetts Bay
6121 Transportation Authority shall have their eligibility and health care coverage and any other
6122 future eligible post-retirement benefits transferred to the group insurance commission. In this
6123 event, all questions relating to group insurance rights, obligations, costs and payments shall be
6124 determined by the group insurance commission and shall include the manner and method for the
6125 payment of all required premiums applicable to all such coverage. Benefit levels and premium
6126 contribution ratios for transferred employees shall be consistent with other state employees
6127 covered through the group insurance commission.

6128 The secretary may contract with another entity with the requisite objective financial and
6129 actuarial expertise to assist the secretary in conducting this evaluation.

6130 (f) Nothing in this section shall be construed to affect the eligibility, coverage, and
6131 premium contribution ratios of retired employees of the Massachusetts Bay Transportation

6132 Authority and the surviving spouses of active or retired employees of the Massachusetts Bay
6133 Transportation Authority who are eligible for group insurance coverage under a plan offered by
6134 the Massachusetts Bay Transportation Authority or who are insured under a plan offered by the
6135 Massachusetts Bay Transportation Authority.

6136 SECTION 65A. (a) There shall be in the division of roads and bridges within the
6137 Massachusetts Surface Transit Authority a tollpayer advocate. The tollpayer advocate shall serve
6138 without compensation and may attend all meetings of the board of the authority and all meetings
6139 of any subsidiary board. The tollpayer advocate shall advocate on behalf of the tollpayers to
6140 ensure that their interests are fully understood and considered by the board in its deliberations
6141 and decisions.

6142 (b) There shall be the division of public transit within the Massachusetts Surface Transit
6143 Authority a ridership advocate. The ridership advocate shall serve without compensation and
6144 may attend all meetings of the board of the authority and all meetings of any subsidiary board.
6145 The ridership advocate shall advocate on behalf of the riders of the public transit system to
6146 ensure that the public transit system maintains high standards of quality and punctuality.

6147 SECTION 65B. The Massachusetts Surface Transportation Authority, established by
6148 section 1 of chapter 81B of the General Laws, shall develop an inventory of all real property
6149 owned by the authority. The inventory shall be filed with the clerks of the house and senate not
6150 later than 180 days after the effective date of this act.

6151 SECTION 66. Notwithstanding any other general or special law to the contrary, the
6152 Massachusetts Surface Transportation Authority may enter into contracts to create and permit

6153 employee contributions to individual retirement accounts for employees of the Authority
6154 pursuant to sections 64A to 64C, inclusive, of chapter 29 of the General Laws.

6155 SECTION 67. Notwithstanding any general or special law to the contrary, the
6156 Massachusetts Turnpike Authority shall not enter into any contract to employ a person as an
6157 employee or officer for a fixed term of more than 1 year, nor shall it extend any employment
6158 contract for a term of more than 1 year.

6159 SECTION 68. Notwithstanding section 2 of chapter 81A of the General Laws or of any
6160 other general or special law to the contrary, the Massachusetts Bay Transportation Authority
6161 shall not enter into any contract to employ a person as an employee or officer for a fixed term of
6162 more than 1 year, nor shall it extend any employment contract for a term of more than 1 year.

6163 SECTION 69. Notwithstanding any general or special law to the contrary, the
6164 Massachusetts Turnpike Authority shall not extend the term of any collective bargaining
6165 agreement to a date after December 31, 2010 and shall not enter into any collective bargaining
6166 agreement with an expiration date after December 31, 2010.

6167 SECTION 70. Notwithstanding any general or special law to the contrary, on and after
6168 the effective date of this act, the Massachusetts Bay Transportation Authority shall not extend
6169 the term of any collective bargaining agreement to a date after December 31, 2011, and shall not
6170 enter into any collective bargaining agreement with an expiration date after December 31, 2011.
6171 Any collective bargaining agreement necessary solely to conform the requirements of the
6172 Massachusetts Bay Transportation Authority retirement system to the requirements of this
6173 legislation shall not be subject to the restriction set forth in the preceding sentence.

6174 SECTION 71. (a) Notwithstanding any general or special law to the contrary, employees
6175 of the Massachusetts Turnpike Authority who: (i) are employed by or have retired from the
6176 Massachusetts Turnpike Authority on or before the effective date of this act; or (ii) are inactive
6177 members of the Massachusetts Turnpike Authority's retirement system shall be members of the
6178 Massachusetts Turnpike Authority's retirement system. The Massachusetts Turnpike
6179 Authority's retirement system shall pay the cost of benefits to the employees and retirees
6180 identified in this subsection and their survivors. The Massachusetts Turnpike Authority's
6181 retirement system shall be responsible for the accrued pension liability attributable to the service
6182 of such employees, retirees and inactive members.

6183 (b) Notwithstanding paragraph (c) of subsection (8) of the section 3 of chapter 32 of
6184 General Laws or any other general or special law to the contrary, employees of the
6185 Massachusetts Turnpike Authority who are hired by the Massachusetts Turnpike Authority after
6186 the effective date of this act shall become members of the state retirement system. The state
6187 retirement system shall be responsible for all liability attributable to the service of such
6188 employees. The liabilities attributable to the service of such employees shall be recoverable by
6189 the commonwealth pursuant to said subdivision 8 of said section 3 of said chapter 32.
6190 Employees hired by the Massachusetts Turnpike Authority after the effective date of this act
6191 shall not be members of the Massachusetts Turnpike Authority's retirement system.

6192 SECTION 72. (a) Notwithstanding any general or special law to the contrary, employees
6193 of the Massachusetts Bay Transportation Authority who: (i) are employed by, or had retired
6194 from, the Massachusetts Bay Transportation Authority on or before the effective date of this act
6195 or (ii) are inactive members of the Massachusetts Bay Transportation Authority's retirement
6196 system shall be members of the Massachusetts Bay Transportation Authority's retirement

6197 system. The Massachusetts Bay Transportation Authority's retirement system shall pay the cost
6198 of benefits to such the employees and retirees identified in this subsection and their survivors.
6199 The Massachusetts Bay Transportation Authority's retirement system shall be responsible for the
6200 accrued pension liability attributable to the service of such employees, retirees and inactive
6201 members.

6202 (b)Notwithstanding any general or special law to the contrary, the Massachusetts Bay
6203 Transportation Authority or any successor authority, shall enter into an agreement to establish or
6204 amend existing retirement or pension benefits only if any employee hired after the effective date
6205 of the agreement or amendment may not receive a retirement or pension benefit prior to the
6206 completion of 25 years of credited pension service and attained 55 years of age. The
6207 Massachusetts Bay Transportation Authority is not prohibited by this section from permitting
6208 retirement prior to attaining age 55, provided however, that either: (i) the employee is entitled to
6209 a disability pension under the Massachusetts Bay Transportation Authority retirement system; or
6210 (ii) the employee has earned the maximum percentage allowed under the retirement formula of
6211 the Massachusetts Bay Transportation Authority retirement system and that the employee waives
6212 the ability to collect a pension and retirement benefit due until attaining age 55.

6213 SECTION 72A. Notwithstanding any general or special law to the contrary, members of
6214 the Massachusetts Bay Transportation Authority police retirement system pursuant sections 1 to
6215 28, inclusive, of chapter 32 of the General Laws, who (i) are employed by, or have retired from,
6216 the Massachusetts Bay Transportation Authority police retirement system on or before the
6217 effective date of this act; or (ii) are inactive members of the Massachusetts Bay Transportation
6218 Authority's police retirement system, shall be members of the Massachusetts Bay Transportation
6219 Authority's police retirement system. The Massachusetts Bay Transportation Authority's police

6220 retirement system shall pay the cost of benefits to the employees and retirees identified in this
6221 section and their survivors. The Massachusetts Bay Transportation Authority's police retirement
6222 system shall be responsible for the accrued pension liability attributable to the service of such
6223 employees, retirees and inactive members.

6224 SECTION 73. (a) Notwithstanding the provisions of any general or special law to the
6225 contrary, employees of the Massachusetts Port Authority who: (i) on the effective date of this
6226 act, are employed to work primarily on the Maurice J. Tobin Memorial Bridge in the city of
6227 Chelsea, or who had been so employed and have retired from the Massachusetts Port Authority
6228 on or before the effective date of this act; or (ii) are or have been employed to work primarily on
6229 said Maurice J. Tobin Memorial Bridge in the city of Chelsea, and are inactive members of the
6230 Massachusetts Port Authority's retirement system shall be members of the Massachusetts Port
6231 Authority's retirement system. The Massachusetts Port Authority's retirement system shall pay
6232 the cost of benefits to such the employees and retirees identified in this section and their
6233 survivors. The Massachusetts Port Authority's retirement system shall be responsible for the
6234 accrued pension liability attributable to the service of such employees, retirees and inactive
6235 members.

6236 (b) Notwithstanding paragraph (c) of subdivision 8 of section 3 of chapter 32 of the
6237 General Laws and any other general or special law to the contrary, employees of the
6238 Massachusetts Port Authority who are hired by the Massachusetts Port Authority to work
6239 primarily on the Maurice J. Tobin Memorial Bridge in the city of Chelsea after the effective date
6240 of this act shall become members of the state retirement system and notwithstanding the any
6241 general or special law to the contrary including, but not limited to, , the system shall be
6242 responsible for all liability attributable to the service of such employees. The liabilities

6243 attributable to the service of such employees shall be recoverable by the commonwealth pursuant
6244 to the terms of said subdivision 8 of said section 3 of said chapter 32. Employees hired by the
6245 Massachusetts Port Authority after the effective date of this act shall not be members of the
6246 Massachusetts Port Authority's retirement system.

6247 (c) Nothing in this section shall be considered to decrease or abridge the annuities,
6248 pensions, retirement allowances, refunds or accumulated total deductions or any right or benefit
6249 to which an employee was entitled immediately before the effective date of this act.

6250 (d) Except as otherwise expressly provided by this section, employees of said authority
6251 shall become members of the state retirement system.

6252 SECTION 74. (a) When all payments due on account of the turnpike and the
6253 metropolitan highway system, both as defined in section 3 of chapter 81B of the General Laws,
6254 shall have been made, and when all bonds issued under chapter 81A of the General Laws and the
6255 interest thereon shall have been paid or a sufficient amount of the payment of all such bonds and
6256 the interest thereon to the maturity thereof shall have been set aside in trust for the benefit of the
6257 bondholders, and contributions shall have been made to the several funds of the Massachusetts
6258 Turnpike Authority employees' retirement system established in sections 1 to 28, inclusive, of
6259 chapter 32 of the General Laws such as are sufficient, in the opinion of the actuary, as defined in
6260 said section 1 of said chapter 32, to provide for the payment of all amounts payable by the
6261 system after that date with respect to all persons then receiving allowances from the
6262 Massachusetts Turnpike Authority employees' retirement system and with respect to all persons
6263 who are then employees, as defined in said section 1 of said chapter 32, of the Massachusetts
6264 Turnpike Authority, whether or not any such amount is or becomes payable to any such person

6265 or the spouse or other beneficiary of any such person, such opinion to be based upon the
6266 assumption, among others, that such persons who are then employees are then or thereafter
6267 become entitled to receive retirement allowances in the amounts then provided by sections 5, 6
6268 and 7 of said chapter 32 on the basis of the regular compensation received by, and the years of
6269 creditable service of, such persons at such date, all projects then under the control of the
6270 Massachusetts Turnpike Authority shall be operated and maintained by the division of roads and
6271 bridges in the Massachusetts Surface Transportation Authority.

6272 (b) Upon the transfer provided in subsection (a), the members of the Massachusetts
6273 Turnpike Authority employees' retirement system on the effective date of the dissolution of the
6274 authority who do not then transfer to or enter service in a governmental unit in which a
6275 contributory retirement system established under sections 1 to 28, inclusive, of said chapter 32,
6276 or under corresponding provisions of earlier laws or of any special law, shall continue to be
6277 members of the Massachusetts Turnpike Authority employees' retirement system and shall then
6278 be entitled to apply for and receive retirement allowances from such system in the amounts, upon
6279 the terms, subject to the conditions and with all of the related rights provided by and under
6280 sections 6, 7, 10 and 12 of said chapter 32.

6281 (c) Effective upon the date of dissolution of the Massachusetts Turnpike Authority: (1)
6282 the Massachusetts Turnpike Authority employees' retirement system shall continue under
6283 sections 1 to 28, inclusive of said chapter 32; (2) the management of the Massachusetts Turnpike
6284 Authority employees' retirement system shall be transferred to the state board of retirement
6285 provided for in section 18 of chapter 10 of the General Laws which board shall have with respect
6286 thereto the general powers and duties set forth in subdivision (5) of section 20 of chapter 32 of
6287 the General Laws; (3) all data, files, papers and records and other materials of the retirement

6288 board provided for in paragraph (b) of subdivision (4 1/2) of said section 20 of said chapter 32
6289 shall be transferred to and held by the state board of retirement; (4) the funds of the
6290 Massachusetts Turnpike Authority employees' retirement system in the custody of the secretary-
6291 treasurer of said Authority shall be transferred to the state treasurer who shall be the custodian of
6292 such funds to be held by him for the exclusive benefit and use of the members of the
6293 Massachusetts Turnpike Authority employees' retirement system and their beneficiaries; and (5)
6294 the retirement board provided for in said paragraph (b) of said subdivision (4 1/2) of said section
6295 20 of said chapter 32 shall be abolished; provided, however, that the members and officers
6296 thereof shall continue to be authorized to do all such things and take all such action as may be
6297 necessary or desirable to be done or taken by them to effectuate the transfers to be made pursuant
6298 to this section.

6299 (d) Effective upon the date of dissolution of the Massachusetts Turnpike Authority or a
6300 default in its obligations under said chapter 32, the payment of all annuities, pensions, retirement
6301 allowances and refunds of accumulated total deductions and of any other benefits granted under
6302 the provisions of sections 1 to 28, inclusive, of said chapter 32 shall obligations of the
6303 commonwealth in the case of any such payments from funds of the Massachusetts Turnpike
6304 Authority employees' retirement system.

6305 SECTION 75. Notwithstanding any general or special law to the contrary, the authority,
6306 in consultation with the commissioner of conservation and recreation and the Massachusetts
6307 historical commission, shall promulgate regulations and procedures within 1 year after the
6308 effective date of this act relative to the design, construction, reconstruction, maintenance, repair,
6309 improvement and operation of all roadways, driveways, parkways, boulevards and bridges, and
6310 land thereunder, and all appurtenant facilities, works and systems, machinery and equipment

6311 related to the operation and maintenance of such roadways, driveways, parkways, boulevards
6312 and bridges, and land thereunder, and appurtenant facilities, works and systems related thereto
6313 transferred to the division of roads and bridges in the Massachusetts Surface Transportation
6314 Authority pursuant to section 55, and such regulations and procedures shall comply with the
6315 Historic Parkways Preservation Treatment guidelines except to the extent that compliance with
6316 such guidelines is waived by the commissioner of conservation and recreation, in consultation
6317 with the Massachusetts historical commission. The authority shall establish in the regulations
6318 and procedures a process for public input into the development of plans and projects relating to
6319 the parkways, bridges and other assets transferred to the division of roads and bridges pursuant to
6320 said section 55 consistent with the Historic Parkways Preservation Treatment guidelines.

6321 SECTION 75A. In order to promote transparency, accountability and equity, the
6322 executive office of transportation and public works, in coordination with the Massachusetts
6323 Surface Transportation Authority, shall not later than October 31, submit an annual revenue and
6324 expenditure report, not later than October 31, to the house and senate chairs of the joint
6325 committee on transportation and the chairpersons of the house and senate committees on ways
6326 and means. The report also shall be posted on the websites for the executive office of
6327 transportation and public works and the Massachusetts Surface Transportation Authority.

6328 The annual revenue and expenditure report shall provide a full accounting of the
6329 operational and capital revenues received and expended by the executive office of transportation
6330 and public works, the registry of motor vehicles, the Massachusetts aeronautics commission and
6331 the Massachusetts Surface Transportation Authority, including the Division of Roads and
6332 Bridges and the Division of Public Transit, during the preceding fiscal year ending the preceding
6333 June 30, including fiscal activity during the accounts payable period for that fiscal year.

6334 The report shall include, among other information necessary to provide a full accounting,
6335 the following information relative to revenues: revenues raised by the various state motor fuels
6336 taxes, broken down by category, such as gasoline, special fuels and aviation fuel; revenues raised
6337 through fares, which shall be broken down to reflect fares collected for commuter rail, rapid
6338 transit, bus service, water transportation, regional transit service and any other similar fares;
6339 tolls, broken down by those collected for travel on the metropolitan highway system, for travel
6340 on the turnpike and any other similar tolls; fees collected by the registry of motor vehicles, which
6341 shall be broken down by each specific fee; revenues raised by the portion of the sales tax
6342 credited to the Surface Transportation trust fund; assessments deposited into the Surface
6343 Transportation Trust Fund, broken down by source; federal funds received from the Federal
6344 Highway Administration, funds received from the Federal Transit Administration and any other
6345 similar federal funds; and any other revenues received by the executive office of transportation
6346 and public works, the registry of motor vehicles, the Massachusetts aeronautics commission and
6347 the Massachusetts Surface Transportation Authority and any of its divisions.

6348 The report shall also include, amongst other information necessary to provide a full
6349 accounting, the following information relative to the expenditures: expenditures by the executive
6350 office of transportation and public works, including expenditures for operations, capital planning
6351 and rail; expenditures by the registry of motor vehicles, including operations and capital
6352 expenditures; expenditures by the Massachusetts aeronautics commission, including operations
6353 and capital expenditures; and expenditures by the Massachusetts Surface Transportation
6354 Authority and its divisions of roads and bridges and division of public transit, including
6355 operating and capital expenditures. In addition to the above-referenced expenditures, the report
6356 shall also detail the overall expenditures for commuter rail, rapid transit, water transportation,;

6357 regional transit services; the state-wide road and bridge program, the chapter 90 program, which
6358 funds town and county ways; the accelerated bridge program, and any other capital programs
6359 administered by the executive office of transportation and public works or the Massachusetts
6360 Surface Transportation Authority.

6361 The report shall include an accounting of debt of the Massachusetts Surface
6362 Transportation Authority, including those projects and programs for which the debt was incurred,
6363 and what revenues have been pledged to repay that debt.

6364 SECTION 76. This act provides additional, alternative and complete methods for
6365 accomplishing the purpose of this act and shall be construed to be supplemental and additional
6366 to, and not in derogation of any powers conferred upon the Massachusetts Surface Transportation
6367 Authority and others by law; provided, however, that insofar as the provisions of this act are
6368 inconsistent with any general or special law, administrative order or regulation, the provisions of
6369 this act shall be controlling.

6370 SECTION 77. Any order, rule, or regulation duly promulgated, or any license, permit,
6371 certificate or approval duly granted, by or on behalf of the Massachusetts Turnpike Authority
6372 shall continue in full force and effect to the extent consistent with this act and the laws of the
6373 commonwealth, and, from and after the date of dissolution of that authority, shall continue to be
6374 enforced, until superseded, revised, rescinded or cancelled by the chief operating officer of the
6375 Massachusetts Surface Transportation Authority, with the approval of the secretary of
6376 transportation.

6377 SECTION 77A. All uncommitted and unexpended funds and authorizations, which have
6378 been appropriated from time to time to the executive office of transportation and public works,

6379 including any agency and authority within said executive office, including but not limited to,
6380 funds authorized in chapter 15 of the acts of 1988, chapter 33 of the acts of 1991, chapter 102 of
6381 the acts of 1994, chapter 273 of the acts of 1994, chapter 28 of the acts of 1996, chapter 113 of
6382 the acts of 1996, chapter 205 of the acts of 1996, chapter 11 of the acts of 1997, chapter 55 of the
6383 acts of 1999, chapter 87 of the acts of 2000, chapter 235 of the acts of 2000, chapter 246 of the
6384 acts of 2002, chapter 40 of the acts of 2003, chapter 291 of the acts of 2004, chapter 27 of the
6385 acts of 2007, chapter 86 of the acts of 2008, chapter 233 of the acts of 2008, and chapter 303 of
6386 the acts of 2008, shall be transferred to the Massachusetts Surface Transportation Authority for
6387 use by the authority or any of its divisions for purposes consistent with such authorizations.

6388 SECTION 77B. The human resources division, in consultation with the secretary of
6389 transportation and the Massachusetts Surface Transportation Authority, shall develop and
6390 implement a revised salary structure for positions within the commonwealth requiring licensure
6391 as a professional engineer. That salary structure shall be competitive with salaries earned in the
6392 private industry for similar employment requiring licensure as a professional engineer and shall
6393 be collectively bargained once implemented.

6394 SECTION 77C. The Massachusetts Surface Transportation Authority shall, in
6395 consultation with the Federal Highway Administration, inventory the requirements for, and
6396 assume the responsibilities of, rehabilitating and reconstructing the turnpike and metropolitan
6397 highway system in compliance with Title 23 of the United States Code. The inventory shall
6398 include operational and safety considerations associated with direct access to the mainline
6399 roadway from: (i) maintenance, administration, and state police facilities, (ii) emergency median
6400 crossovers, and (iii) adjacent local roadways and service plazas.

6401 SECTION 77D. Notwithstanding any general or special law to the contrary, the division
6402 of roads and bridges of the Massachusetts Surface Transportation Authority shall enter into an
6403 agreement with the Massachusetts Bay Transportation Authority to assume all bridge inspection
6404 responsibilities for any bridges owned and operated by the Massachusetts Bay Transportation
6405 Authority over the roads of the commonwealth.

6406 SECTION 77E. The secretary of transportation shall submit a report on the progress and
6407 all expenditures related to state transportation infrastructure projects undertaken through use of
6408 federal funds received under the American Recovery and Reinvestment Act of 2009 to the clerks
6409 of the senate and house of representatives, the chairs of the senate and house committees on
6410 ways and means, the senate and house chairs of the joint committee on transportation and the
6411 chairs of the senate and house committees on bonding, capital expenditures and state assets. The
6412 report shall include, but not be limited to: the total estimated cost of each project; the amount
6413 expended for the planning and design of each project up to the time the report is filed; the
6414 amount expended on construction of each project up to the time the report is filed; the timeline
6415 from advertisement through contract award and from the start of actual design and construction
6416 by the design build team to project completion; the time saved, if any, by employing the design
6417 build procurement method; and the estimated lifetime maintenance schedule and cost of each
6418 project, the original estimated completion date of each project and the current anticipated
6419 completion date of each project. The report shall also include the total number of employees and
6420 outside contractors and amount expended on the salaries and benefits for such employees and
6421 outside contractors that are specifically working on projects to be carried out as part of projects
6422 funded through said American Recovery and Reinvestment Act of 2009. The report shall be

6423 submitted on December 31 of each year until the culmination of any project constructed with
6424 funds authorized by said American Recovery and Reinvestment Act of 2009.

6425 SECTION 77F. Section 77E of this act shall expire on July 1, 2011.

6426 SECTION 77G. The healthy transportation compact established by subsection (g) of
6427 section 19 of chapter 6A of the General Laws shall complete, in consultation with the department
6428 of public health, not later than September 30, 2010, a comprehensive baseline study of the health
6429 effects of particulate air pollution from surface transportation in Massachusetts. The study shall
6430 focus on understanding the health impacts from fine and ultrafine particulate matter upon
6431 populations that are located within 500 feet of any roadway with 50,000 or more motor vehicle
6432 trips per day, or any rail line regularly used by diesel locomotives as reported between January 1,
6433 2007 and January 1, 2008; provided, however, that the study may include, but shall not be
6434 limited to, examining respiratory and cardiovascular disease and cancer incidence that may be
6435 affected by exposure to traffic-related particles. The following departments and agencies shall
6436 provide information relevant to this study: the department of environmental protection, the
6437 department of public health, and the central transportation planning staff of the Boston
6438 metropolitan planning organization.

6439 SECTION 77H. The Massachusetts Surface Transportation Authority shall develop and
6440 implement the integrated management system required under section 5 of chapter 81B of the
6441 General Laws not later than January 1, 2012.

6442 SECTION 77I. The initial progress report required under subsection (d) of section 8 of
6443 chapter 81B of the General Laws shall be filed by the Massachusetts Surface Transportation
6444 Authority on December 15, 2009.

6445 SECTION 77J. The Massachusetts Surface Transportation Authority shall file the initial
6446 report required by subsection (a) of section 29 of chapter 81B of the General Laws shall apply to
6447 the fiscal year of the said authority commencing July 1, 2009.

6448 SECTION 77K. The parkway advisory board established by section 60 of chapter 81C of
6449 the General Laws shall convene its first meeting within 60 days after the transfer of parkways
6450 and bridges from the department of conservation and recreation to the division of roads and
6451 bridges of the Massachusetts surface transportation authority

6452 SECTION 77L. The members of the special public-private infrastructure oversight
6453 commission established in section 70 of chapter 7 of the General Laws, shall be appointed not
6454 later than August 30, 2009.

6455 SECTION 77M. On June 30, 2009, the state comptroller shall transfer the balance of the
6456 Central Artery and Statewide Road and Bridge Infrastructure Fund, established in section 63 of
6457 chapter 10 of the General Laws, and the Infrastructure Fund, established in section 20 of chapter
6458 29 of the General Laws, into the Surface Transportation Trust Fund, established pursuant to
6459 section 35LL of chapter 10 of the General Laws, to be used for transportation-related purposes;
6460 provided, however, that if either such repealed fund has a negative balance as of June 30, 2009,
6461 the comptroller shall first transfer positive balances from funds that contribute to the
6462 consolidated net surplus, as defined in section 1 of chapter 29 of the General Laws, to eliminate
6463 the negative balance.

6464 SECTION 77N. On June 30, 2011, the state comptroller shall transfer the balance of the
6465 MBTA Infrastructure Renovation Fund, established by section 35U of chapter 10 of the General

6466 Laws, to the Surface Transportation Trust Fund, established in section 35LL of said chapter 10,
6467 to be used for transportation-related purposes.

6468 SECTION 77O. In order to provide for the successful completion of successor
6469 negotiations pursuant to section 13 of chapter 81B of the General Laws, inserted by section 20,
6470 any expired collective bargaining agreement covering employees transferred to the
6471 Massachusetts Surface Transportation Authority for which successor contract negotiations are
6472 ongoing as of March 1, 2009, shall be extended for 6 months after the effective date of this act
6473 unless otherwise agreed upon by the employees' exclusive bargaining representative and the
6474 authority.

6475 SECTION 77P. (a) Upon transfer of assets within the custody and control the department
6476 of highways to the division of roads and bridges of the Massachusetts Surface Transportation
6477 Authority, established by chapter 81B of the General Laws, the employees in the department of
6478 highways shall be transferred to the division of roads and bridges.

6479 (b) The employees of the department of highways, including those who, immediately
6480 before the effective date of this act: hold permanent appointment in positions classified under
6481 chapter 31 of the General Laws; have tenure in their positions as provided in section 9A of
6482 chapter 30 of the General Laws; do not hold such tenure; or hold confidential positions, are
6483 hereby transferred to the division of roads and bridges, without interruption of service within the
6484 meaning of said section 9A of said chapter 30, without impairment of seniority, retirement or
6485 other rights of the employee, and without reduction in compensation or salary grade,
6486 notwithstanding any change in title or duties resulting from such reorganization and without loss
6487 of accrued rights to holidays, sick leave, vacation and further benefits, and without change in

6488 union representation or certified collective bargaining unit as certified by the state labor relations
6489 commission or change in local union representation or affiliation. Any collective bargaining
6490 agreement in effect immediately before July 1, 2009 shall continue in effect and the terms and
6491 conditions of employment therein shall continue as if the employees, to whom such agreement
6492 applies, had not been so transferred. The transfer shall not impair the civil service status of
6493 reassigned employees who, immediately before the effective date of this act, either hold a
6494 permanent appointment in a position classified under said chapter 31 or have tenure in a position
6495 by reason of said section 9A said chapter 30. Notwithstanding any general or special law to the
6496 contrary, such employees shall continue to retain their right to collectively bargain pursuant to
6497 chapter 150E of the General Laws and shall be considered employees for the purposes of said
6498 chapter 150E. This section shall not confer upon any employee any right not held immediately
6499 before July 1, 2009 or prohibit any reduction of salary or grade transfer, reassignment,
6500 suspension, discharge, layoff or abolition of position not prohibited before said date.

6501 (c) All petitions, requests, investigations and other proceedings appropriately and duly
6502 brought or duly begun and pending before the effective date of this act, shall continue unabated
6503 and remain in force, but shall be assumed and completed by the division of roads and bridges.

6504 (d) All orders, rules and regulations duly made and all approvals duly granted by the
6505 department of highways, which are in force immediately before the effective date of this act,
6506 shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or
6507 canceled, in accordance with law, by the division of roads and bridges.

6508 (e) All books, papers, records, documents, equipment, buildings, facilities, cash and other
6509 property, both personal and real, including all such property held in trust, which immediately

6510 before the effective date of this act are in the custody of the department of highways shall be
6511 transferred to division of roads and bridges.

6512 All questions regarding the identification of such property and of the agencies to which
6513 custody thereof is transferred shall be determined by the secretary of transportation.

6514 (f) All duly existing contracts, leases and obligations of the department of highways as
6515 they relate to property transferred to the division of roads and bridges pursuant to this section
6516 shall continue in effect but shall be assumed by the division of roads and bridges. No existing
6517 right or remedy of any character shall be lost, impaired or affected by this section.

6518 SECTION 77Q. The Massachusetts Bay Transportation Authority and the Massachusetts
6519 Turnpike Authority may enter into an agreement with the attorney general whereby the attorney
6520 general may assume the representation of the authority or any of its officers and employees sued
6521 in their official or individual capacities for acts or omissions within the scope of their office or
6522 employment, in such judicial proceedings, whether pending on the effective date of this act or
6523 commenced thereafter, as the attorney general deems appropriate, in the same manner as the
6524 attorney general provides to other state agencies and their officers and employees; provided,
6525 however, that any such agreement shall provide for payment to the attorney general of all direct
6526 and indirect costs of such representation, and the attorney general may retain and expend such
6527 funds without further appropriation for the purpose of defraying such costs; and provided further,
6528 that when providing such representation, employees of the attorney general shall remain public
6529 employees acting within the scope of their employment for purposes of chapter 258 of the
6530 General Laws.

6531 SECTION 77R. The secretary of transportation, in consultation with the secretary of the
6532 executive office of labor and workforce development and director of workforce development
6533 shall institute a workforce retraining initiative to mitigate potential impacts to employees
6534 displaced by the organizational efficiencies and agency restructuring directed by this act. The
6535 secretary of transportation and the secretary of labor and workforce development, or their
6536 designees, shall establish a committee to coordinate the workforce retraining initiative and adopt
6537 policies that identify and categorize displaced employees, while advancing workforce
6538 development opportunities for those displaced employees whose lack of skills may prevent or
6539 limit their successful employment. That committee shall include representatives from labor
6540 unions likely to be affected by this act, representatives from the business industry, and
6541 representatives from the human resources division of the executive office for administration and
6542 finance. The committee shall outline and recommend various retraining programs available to
6543 employees identified as being displaced by this act, establish eligibility criteria and base skills
6544 requirements for the administration of these programs, promote program accountability and job
6545 placement through the division of career services and one stop career centers, identify available
6546 professional development and technical assistance needs and resources, and encourage economic
6547 diversification and industry growth through technology-focused training.

6548 The director of workforce development together with agencies and other entities that
6549 provide employment or training services in the commonwealth, shall utilize existing state and
6550 federal grant funding, including funding for workforce retraining programs at existing
6551 institutions, community colleges, labor organizations, and administrative entities to implement
6552 the workforce retraining initiative. Where applicable, the director may utilize any funds received

6553 pursuant to the federal Workforce Investment Act of 1998, 112 Stat. 936, 29 U.S.C. § 2801, as
6554 amended, to provide additional funding for the workforce retraining initiative.

6555 In the event an employee displaced by the operation of this act does not have severance
6556 or other termination benefits, the department of transportation shall pay, for a period not to
6557 exceed 2 months following the date of termination of employment, the then current salary for
6558 that employee.

6559 This section shall expire 18 months after the effective date of this act.

6560 SECTION 78. Section 67 is hereby repealed.

6561 SECTION 79. Section 68 is hereby repealed.

6562 SECTION 80. Section 69 is hereby repealed.

6563 SECTION 81. Section 70 is hereby repealed.

6564 SECTION 82. Sections 1, 1A, 2, 2A, 4A, 5, 8, 10 through 12, inclusive, 14 through 18,
6565 inclusive, 20, 30 through 40, inclusive, 42A, 42B, 42C, 45, 46, 54, 55, 59, 62, 63, 63A, 77B,
6566 77C, 77D, 77G, 77H, 77I, 77J, 77K, 77L, 77P and 77R, shall take effect on July 1, 2009.

6567 SECTION 83. Section 3, 9, 19, 21, 23, 25, 27, 43, 56, 57, 60, 64, 77, 78 and 80 shall take
6568 effect on July 1, 2010.

6569 SECTION 84. Sections 4, 6, 7, 13, 22, 24, 26, 28, 29, 42, 58, 61, 65, 79 and 81 shall take
6570 effect on July 1, 2011.

6571 SECTION 85. Except as otherwise provided for in this act, this act shall take effect upon
6572 its passage.