

SENATE No. 2087

The Commonwealth of Massachusetts

In the Year Two Thousand Eight

An Act modernizing the transportation systems of the Commonwealth.

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

1 SECTION 1. Section 17 of chapter 6 of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by striking out, in line 13, the words ”, the Massachusetts
3 aeronautics commission”.

4 SECTION 2. The second sentence of section 17A of said chapter 6, as most recently
5 amended by section 1 of chapter 27 of the acts of 2008, is hereby amended by striking out the
6 words “secretary of transportation and public works” and inserting in place thereof the following
7 words:- “secretary of transportation”.

8 SECTION 3. Sections 57, 58 and 59 of said chapter 6 are hereby repealed.

9 SECTION 4. Section 8C of chapter 6A of the General Laws, inserted by section 6 of
10 chapter 233 of the acts of 2008, is hereby amended by striking out subsection (a) and inserting
11 in place thereof the following subsection:-

12 (a) There shall be established a structurally deficient bridge improvement program
13 coordination and oversight council. The council shall consist of a chair appointed by the

14 governor, the secretary of administration and finance, the secretary of transportation, the
15 secretary of energy and environmental affairs, the administrator of the division of highways of
16 the Massachusetts Department of Transportation, and the commissioner of capital asset
17 management and maintenance, or their designees.

18 SECTION 5. Sections 19, 19 1/2 and 19A of said chapter 6A are hereby repealed.

19 SECTION 6. Section 103 of said chapter 6A is hereby repealed.

20 SECTION 7. Section 104 of said chapter 6A is hereby repealed.

21 SECTION 8. The General Laws are hereby amended by inserting after chapter 6A the
22 following chapter:-

23 Chapter 6C

24 MASSACHUSETTS DEPARTMENT of TRANSPORTATION

25 Section 1. As used in this chapter, the following words shall, unless the context clearly
26 requires otherwise, have the following meanings:-

27 "Board", the board of directors of the Massachusetts Department of Transportation
28 established pursuant to section 2.

29 "Boston extension", all roadways and tunnels for vehicular traffic that constitute that
30 portion of interstate highway route 90 beginning at and including the interchange of interstate
31 highway route 90 and state highway route 128 in the town of Weston and ending in the city of
32 Boston at the interchange of interstate highway route 90 and interstate highway route 93 and
33 such additional highway and bridge components as the general court may from time to time

34 determine and including such real property and any improvements thereon, personal property,
35 equipment, licenses, appurtenances and interests in land acquired or leased in connection with or
36 incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement,
37 repair, maintenance or administration of such roadways and tunnels as are necessary for their
38 safe and efficient operation and maintenance or which are otherwise convenient or desirable to
39 carry out the purposes of this chapter.

40 “Callahan tunnel”, the tunnel for vehicular traffic constructed under chapter 598 of the
41 acts of 1958 between the North End section of the city of Boston and the East Boston section of
42 said city and including such real property and any improvements thereon, personal property,
43 equipment, licenses, appurtenances and interests in land acquired or leased in connection with or
44 incident to the construction, ownership, operation, rehabilitation, reconstruction, improvement,
45 repair, maintenance or administration of such tunnel as are necessary for its safe and efficient
46 operation and maintenance or which are otherwise convenient or desirable to carry out the
47 purposes of this chapter.

48 “Central artery”, all roadways and tunnels for vehicular traffic constructed by the
49 highway division that constitute that portion of interstate highway route 93 beginning at a point
50 immediately south of the Southampton street interchange, so-called, and continuing to and
51 including the interchange of interstate highway route 93 and Massachusetts avenue in the South
52 End section of the city of Boston and continuing to and including the interchange of interstate
53 highway route 90 and interstate highway route 93 in the South Bay section of the city of Boston,
54 so-called, and continuing to and including the interchange of state highway route 1 and interstate
55 highway route 93 in the Charlestown section of the city of Boston including, but not limited to,
56 the so-called Charles river crossing portion of interstate highway route 93 and such additional

57 highway and bridge components as the general court may from time to time determine, but
58 excluding the central artery north area. "Central artery" shall also include such real property and
59 any improvements thereon, personal property, equipment, licenses, appurtenances and interests
60 in land acquired or leased in connection with or incident to the construction, ownership,
61 operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of
62 such roadways and tunnels as are necessary for their safe and efficient operation and
63 maintenance or which are otherwise convenient or desirable to carry out the purposes of this
64 chapter.

65 "Central artery north area", all roadways and tunnels for vehicular traffic constructed by
66 the highway division consisting of a portion of state highway route 1 beginning at, but not
67 including, the southern boundary of the Tobin memorial bridge and continuing to the interchange
68 of interstate highway route 93 and state highway route 1, including such real property and any
69 improvements thereon, personal property, equipment, licenses, appurtenances and interests in
70 land acquired or leased in connection with or incident to the construction, ownership, operation,
71 rehabilitation, reconstruction, improvement, repair, maintenance or administration of such
72 roadways and tunnels as are necessary for their safe and efficient operation and maintenance or
73 which are otherwise convenient or desirable to carry out the purposes of this chapter.

74 "Cost", as applied to any project of the department any or all costs, whenever incurred, of
75 carrying out and placing such projects in operation, including, without limiting the generality of
76 the foregoing, amounts for the following: acquisition, construction expansion improvement and
77 rehabilitation of facilities; acquisition of real or personal property; demolitions and relocations;
78 labor, materials, machinery and equipment; services of architects, engineers and environmental
79 and financial experts and other consultants; feasibility studies, plans, specifications and surveys;

80 interest prior to and during the carrying out of any project and for a reasonable period thereafter;
81 reserves for debt service or other capital or current expenses; costs of issuance; and working
82 capital, administrative expenses; legal expenses and other expenses necessary or incidental to the
83 aforesaid, to the financing thereof and to the issuance therefor of bonds under this chapter.

84 “Costs of issuance”, any amounts payable or reimbursable directly or indirectly by the
85 department and related to the sale and issuance of bonds and the investment of the proceeds
86 thereof and of revenues securing the same including, without limiting the generality of the
87 foregoing, printing costs, filing and recording fees, fees and charges of trustees, depositories,
88 authenticating agents and paying agents, legal and auditing fees and charges, financial consultant
89 fees, costs of credit ratings, premiums for insurance of the payment of bonds and fees payable for
90 letters or lines of credit or other credit facilities securing bonds, underwriting or placement costs,
91 fees and charges for execution, transportation and safekeeping of bonds, costs and expenses of
92 refunding and other costs, fees and charges in connection with the foregoing.

93 “Current expenses”, the department's current expenses, whether or not annually recurring,
94 of maintaining, repairing and operating the assets under the possession, custody and control of
95 the department and engaging in other activities authorized by this chapter including, without
96 limiting the generality of the foregoing, amounts for administrative expenses of the department
97 including costs of salaries and benefits, as provided in this chapter, cost of insurance, payments
98 for engineering, financial, accounting, legal and other services rendered to the department, taxes
99 upon the department or its income, operations or property and payments in lieu of such taxes,
100 costs incurred or payable by the department with respect to the assets under the possession,
101 custody and control of the department, costs of issuance not financed in the cost of a project, and
102 other current expenses required or permitted by law to be paid by the department, including the

103 funding of reasonable reserves for upgrading, maintenance, repair, replacements, insurance,
104 emergency contingencies or operations.

105 “Department”, the Massachusetts Department of Transportation established in section 2.

106 “Designated parkways,” McGrath and O’Brien Highways in the cities of Cambridge and
107 Somerville, the Carrol parkway, Middlesex avenue in the city of Medford, William Casey
108 highway overpass in the Jamaica Plain section of the city of Boston, Columbia road in the South
109 Boston section of the city of Boston, Morton Street in Boston and Gallivan boulevard in the
110 Dorchester section of the city of Boston, all formerly operated and maintained by the department
111 of conservation and recreation.

112 “Fund”, the Massachusetts Transportation Trust Fund established in section 4.

113 “Independent agencies”, shall include, without limitation, the Massachusetts Bay
114 Transportation Authority, the Massachusetts Port Authority, the Woods Hole, Martha’s
115 Vineyard, and Nantucket Steamship Authority, and the Massachusetts association of regional
116 transit authorities.

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

119 “Massachusetts Bay Transportation Authority”, the Massachusetts bay transportation
120 authority; established by chapter 161A.

121 “Maurice J. Tobin Memorial Bridge”, the bridge formerly known as the Mystic River
122 Bridge in the cities of Chelsea and Boston.

123 “Metropolitan highway system”, the integrated system of roadways, bridges, tunnels,
124 overpasses, interchanges, parking facilities, entrance plazas, approaches, connecting highways,
125 service stations, restaurants, tourist information centers and administration, storage, maintenance
126 and other buildings that the department owns, constructs or operates and maintains pursuant to
127 this chapter which consists of the Boston extension, the Callahan tunnel, the central artery, the
128 central artery north area, the Tobin memorial bridge, the Sumner tunnel and the Ted Williams
129 tunnel and any additional highway, tunnel and bridge components as the general court may from
130 time to time determine.

131 “Metropolitan highway system revenues”, (i) all rates, fees, tolls, rentals or other charges
132 and other earned income and receipts as derived from or with respect to the ownership,
133 operation, lease, rent or other use or disposition of the metropolitan highway system or any part
134 thereof; and (ii) all other funds received by the department, from whatever source, relating to the
135 metropolitan highway system.

136 “Notes or bonds”, the notes, bonds or other evidences of indebtedness of the department
137 issued pursuant to this chapter.

138 “Revenues”, all charges and other receipts derived by the department from operation of
139 the assets under the possession, custody and control of the department and all other activities or
140 properties of the Office of Planning and Programming including, without limiting the generality
141 of the foregoing, proceeds of grants, gifts or appropriations to the department, investment
142 earnings and proceeds of insurance or condemnation and the sale or other disposition of real or
143 personal property.

144 “Secretary”, the secretary of the Massachusetts Department of Transportation.

145 “State agencies”, shall include, without limitation, the department, the department of
146 conservation and recreation and such other state agencies as may be involved in transportation
147 related functions from time to time.

148 “State highway system”, all roadways, bridges, tunnels, overpasses, interchanges, parking
149 facilities, entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
150 information centers and administration, storage, maintenance and other buildings that the
151 department owns, constructs or operates and maintains pursuant to this chapter, including the
152 designated parkways, and any additional highway, tunnel and bridge components as the general
153 court may from time to time determine.

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

156 “Sumner tunnel”, the vehicular tunnel under Boston harbor, heretofore constructed and
157 financed by the city of Boston under chapter 297 of the acts of 1929, including such real property
158 and any improvements thereon, personal property, equipment, licenses, appurtenances and
159 interests in land acquired or leased in connection with or incident to the construction, ownership,
160 operation, rehabilitation, reconstruction, improvement, repair, maintenance or administration of
161 such tunnel as are necessary for its safe and efficient operation and maintenance or which are
162 otherwise convenient or desirable to carry out the purposes of this chapter.

163 “Ted Williams tunnel”, all or any segments of the roadways, bridges, viaducts and
164 tunnels for vehicular traffic constructed by the highway department that constitute the interstate
165 highway route 90 extension and its connecting roadways and tunnels, including: (i) the harbor
166 tunnel crossing beneath Boston harbor, beginning at and including the interchanges of state

167 highway route 1A and the Logan airport access and egress roadways with interstate highway
168 route 90 and continuing beneath Boston harbor to and including the interchange of interstate
169 highway route 90 and South Boston bypass road, but excluding the Logan airport access and
170 egress roadways owned by the Massachusetts Port Authority on March 1, 1997 and any
171 additional access and egress roadways acquired by the Massachusetts Port Authority after March
172 1, 1997; (ii) the seaport access highway, so-called, beginning at the interchange of interstate
173 highway routes 90 and 93 and continuing to the interchange of interstate highway route 90 and
174 South Boston bypass road; and (iii) South Boston bypass road, a portion of which is also known
175 as South Boston haul road, beginning at the interchange of interstate highway route 93 and South
176 Boston bypass road and continuing to the interchange of the seaport access highway, so-called,
177 in the South Boston section of the city of Boston, including such real property and any
178 improvements thereon, personal property, equipment, licenses, appurtenances and interests in
179 land acquired or leased by the highway department in connection with or incident to the
180 construction, ownership, operation, rehabilitation, reconstruction, improvement, repair,
181 maintenance or administration of such roadways and tunnels as are necessary for their safe and
182 efficient operation and maintenance or which are otherwise convenient or desirable to carry out
183 the purposes of this chapter.

184 “Turnpike”, the limited access express toll highway, designated as interstate highway
185 route 90, and all bridges, tunnels, overpasses, underpasses, interchanges, parking facilities,
186 entrance plazas, approaches, connecting highways, service stations, restaurants, tourist
187 information centers and administration, storage, maintenance and other buildings that the
188 department may own, construct or operate and maintain pursuant to this chapter and any
189 additional highway, tunnel and bridge components as the general court may from time to time

190 determine, extending from the town of West Stockbridge on the commonwealth's border with
191 New York state to, but not including, the interchange of interstate highway route 90 and state
192 highway route 128 in the town of Weston.

193 "Turnpike corridor", the cities and towns of the commonwealth from the New York state
194 border to state highway route 128 through which the turnpike runs and municipalities contiguous
195 to such cities and towns.

196 "Turnpike revenues", (i) all rates, fees, tolls, rentals or other charges and other earned
197 income and receipts derived from or with respect to the ownership, operation, lease, rent or other
198 use or disposition of the turnpike or any part thereof; and (ii) all other funds received by the
199 department, from whatever source, relating to the turnpike.

200 Section 2. (a) There is hereby created a body politic and corporate to be known as the
201 Massachusetts Department of Transportation. The department is hereby constituted a public
202 instrumentality and the exercise by the department of the powers conferred by this chapter shall
203 be considered to be the performance of an essential governmental function.

204 The department is hereby placed in the executive office of the governor but shall not be
205 subject to the supervision or control of said office, or of any board, bureau, department or other
206 center of the commonwealth, except as specifically provided in this chapter.

207 (b) The authority shall be governed and its corporate powers exercised by a board of
208 directors. The board shall consist of 5 members appointed by the governor for a term of 4 years,
209 2 of whom shall be experts in the field of public or private transportation finance; 2 of whom
210 shall have practical experience in transportation planning and policy; and 1 of whom shall be a
211 registered civil engineer with at least 10 years experience. One of the members shall be

212 appointed by the governor to serve as chairperson of the board; provided, however, that said
213 designee shall not be an employee of the department, department or any division thereof. Not
214 more than 3 of the directors shall be members of the same political party. Each director shall
215 serve without compensation but may be reimbursed for actual and necessary expenses reasonably
216 incurred in the performance of their duties, including reimbursement for reasonable travel;
217 provided, however that that such reimbursement shall not exceed \$500 annually. Any person
218 appointed to fill a vacancy in the office of a member of the board shall be appointed in a like
219 manner and shall serve for only the unexpired term of such former member. Any director shall
220 be eligible for reappointment. Any director may be removed from his appointment by the
221 governor for cause. The board shall annually elect 1 of its members to serve as vice-chairperson.

222 (c) Four directors shall constitute a quorum and the affirmative vote of a majority of
223 directors present at a duly called meeting, if a quorum is present, shall be necessary for any
224 action to be taken by the board. Any action required or permitted to be taken at a meeting of the
225 directors may be taken without a meeting if all of the directors' consent in writing to such action
226 and such written consent is filed with the records of the minutes of the meetings of the board.
227 Such consent shall be treated for all purposes as a vote at a meeting. Each director shall make
228 full disclosure, under subsection (d), of his financial interest, if any, in matters before the board
229 by notifying the state ethics commission, in writing, and shall abstain from voting on any matter
230 before the board in which he has a financial interest, unless otherwise permissible under chapter
231 268A.

232 (d) Chapters 268A and 268B shall apply to all ex-officio directors or their designees and
233 employees of the department. Said chapters 268A and 268B shall apply to all other directors of
234 the department, except that the department may purchase from, sell to, borrow from, loan to,

235 contract with or otherwise deal with any person in which any director of the department is in any
236 way interested or involved; provided, however, that such interest or involvement is disclosed in
237 advance to the members of the board and recorded in the minutes of the board; and provided,
238 further, that no director having such an interest or involvement may participate in any decision of
239 the board relating to such person. Employment by the commonwealth or service in any agency
240 thereof shall not be deemed to be such an interest or involvement.

241 (e) The governor shall have the power to appoint and employ a secretary of the
242 department, whose term of service shall be coterminous with the term of the governor, and to fix
243 his compensation and conditions of employment. The secretary shall be the chief executive,
244 administrative and operational officer of the department and shall direct and supervise the
245 administrative affairs and the general management of the department. The secretary shall appoint
246 and employ a chief financial and accounting officer and may, subject to the general supervision
247 of the board, employ other employees, consultants, agents, including legal counsel and advisors,
248 and shall attend meetings of the board. The chief financial and accounting officer of the
249 department shall be in charge of its funds, books of account and accounting records. No funds
250 shall be transferred by the department without the approval of the board and the signatures of the
251 chief financial and accounting officer and the treasurer, as elected by the board pursuant to
252 subsection (f).

253 (f) The board shall bi-annually elect 1 of its members as treasurer and 1 of its members as
254 secretary. The secretary of the board shall keep a record of the proceedings of the board and shall
255 be custodian of all books, documents, and papers filed by the board and of its minute book and
256 seal. The secretary of the board shall cause copies to be made of all minutes and other records

257 and documents of the department and shall certify that such copies are true copies, and all
258 persons dealing with the department may rely upon such certification.

259 (g) All officers and employees of the department having access to its cash or negotiable
260 securities shall give bond to the department at its expense in such amounts and with such surety
261 as the board may prescribe. The persons required to give bond may be included in 1 or more
262 blanket or scheduled bonds.

263 (h) Board members and officers who are not compensated employees of the department
264 shall not be liable to the commonwealth, to the department or to any other person as a result of
265 their activities, whether ministerial or discretionary, as such board members or officers except
266 for willful dishonesty or intentional violations of law. Neither members of the department nor
267 any person executing bonds or policies of insurance shall be liable personally thereon or be
268 subject to any personal liability or accountability by reason of the issuance thereof. The board of
269 directors may purchase liability insurance for board members, officers and employees and may
270 indemnify such persons against claims of others.

271 (i) The department shall continue as long as it shall have bonds or insurance or guarantee
272 commitments outstanding and until its existence is terminated by law. Upon the termination of
273 the existence of the department, all right, title and interest in and to all of its assets and all of its
274 obligations, duties, covenants, agreements and obligations shall vest in and be possessed,
275 performed and assumed by the commonwealth.

276 (j) Any action of the department may take effect immediately and need not be published
277 or posted unless otherwise provided by law. Meetings of the department shall be subject to
278 section 11A 1/2 of chapter 30A, except that said section 11A 1/2 shall not apply to any meeting

279 of members of the department serving ex officio in the exercise of their duties as officers of the
280 commonwealth so long as no matter relating to the official business of the department is
281 discussed and decided at the meeting. The department shall be subject to all other provisions of
282 said chapter 30A, and records pertaining to the administration of the department shall be subject
283 to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the department shall be
284 considered to be public funds for purposes of chapter 12A.

285 Section 3. The department shall have all powers necessary or convenient to carry out and
286 effectuate its purposes including, without limiting the generality of the foregoing, the power to:

287 (1) adopt and amend by-laws, regulations and procedures for the governance of its
288 affairs and the conduct of its business for the administration and enforcement of this chapter;
289 provided, however, that regulations adopted by the department shall be adopted pursuant to
290 chapter 30A;

291 (2) adopt an official seal and a functional name;

292 (3) exercise any powers necessary for the commonwealth to be in compliance with 23
293 U.S.C. section 302;

294 (4) maintain offices at places within the commonwealth as it may determine and to
295 conduct meetings of the department in accordance with the by-laws of the department and the
296 second paragraph of section 59 of chapter 156B;

297 (5) direct, operate, administer and implement the programs of roadway, general
298 aviation, rail and transit, and vehicular registration and regulation and, in cooperation with the
299 office of planning and programming for the design, construction, repair, maintenance, capital

300 improvements, development, and planning of the transportation facilities throughout the
301 department, as appropriate;

302 (6) direct, coordinate and supervise the administration of the department to promote
303 economy and efficiency and to leverage federal funding and private sector investment;

304 (7) develop and administer a long-term statewide transportation plan for the
305 commonwealth, in conjunction with the executive office of administration and finance, that
306 includes planning for intermodal and integrated transportation;

307 (8) develop and administer procedures to be used for transportation project selection;

308 (9) establish criteria, including criteria to reduce greenhouse gases, for project
309 selection for use in the procedures developed pursuant to clause (7);

310 (10) enter into agreements and transactions with federal, state and municipal agencies
311 and other public institutions and private individuals, partnerships, firms, corporations,
312 associations and other entities on behalf of the department;

313 (11) institute and administer the Massachusetts Transportation Trust Fund for the
314 purposes of making appropriations, allocations, grants or loans to leverage development and
315 investments in transportation investment;

316 (12) sue and be sued in its own name, plead and be impleaded;

317 (13) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police,
318 administer, control and operate the state highway system, the metropolitan highway system and
319 the turnpike, or any part thereof; provided, however, that chapter 91 shall not apply to the
320 department, except for any parts or areas thereof subject to said chapter 91 on March 1, 1997;