

HOUSE No. 2213

The Commonwealth of Massachusetts

Senate, April 6, 2012.

BILL #: H04000

BILL STATUS: Favorable with Amendment

DISSENTERS:

None

ACCOMPANIED BILLS:

None

For the committee,

BRIAN A. JOYCE

SENATE No. 2213

[Pin Slip]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand Twelve
—————

1 SECTION 1. To provide for a program of transportation development and improvements,
2 the sums set 1 forth in sections 2 to 2D, inclusive, for the several purposes and subject to the
3 conditions specified in this act, are hereby made available, subject to the laws regulating the
4 disbursement of public funds. The sums appropriated in this act shall be in addition to any
5 amounts previously appropriated and made available for these purposes.

6 SECTION 2.

7 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

8 Highway Division

9 6121-1215 For projects on the interstate federal aid highway system; provided, that funds
10 may be expended for the costs of these projects including, but not limited to, the nonparticipating
11 portions of these projects and the costs of engineering and other services essential to these
12 projects, rendered by Massachusetts Department of Transportation employees or by consultants;
13 provided further, that amounts expended for department employees may include the salary and
14 salary-related expenses of these employees to the extent that they work on or in support of these
15 projects; provided further, that notwithstanding this act or any other general or special law to the
16 contrary, the department shall not enter into any obligations for projects which are eligible to

17 receive federal funds under this act unless state matching funds exist which have been
18 specifically authorized and are sufficient to fully fund the corresponding state portion of the
19 federal commitment to fund these obligations; and provided further, that the department shall
20 only enter into obligations for projects under this act based upon a prior or anticipated future
21 commitment of federal funds and the availability of corresponding state funding authorized and
22 appropriated for this use by the general court for the class and category of project for which this
23 obligation applies.....25,000,000.

24 6121-1216 For federal aid projects on the non-interstate federal highway system;
25 provided, that funds may be expended for the costs of these projects including, but not limited to,
26 the nonparticipating portions of these projects and the costs of engineering and other services
27 essential to these projects rendered by department employees or by consultants; provided further,
28 that amounts expended for department employees may include the salary and salary-related
29 expenses of these employees to the extent that they work on or in support of these projects;
30 provided further, that notwithstanding this act or any other general or special law to the contrary,
31 the department shall not enter into any obligations for projects which are eligible to receive
32 federal funds under this act unless state matching funds exist which have been specifically
33 authorized and are sufficient to fully fund the corresponding state portion of the federal
34 commitment to fund these obligations; and provided further, that the department shall only enter
35 into obligations for projects under this act based upon a prior or anticipated future commitment
36 of federal funds and the availability of corresponding state funding authorized and appropriated
37 for this use by the general court for the class and category of project for which this obligation
38 applies.....\$525,000,000

39 SECTION 2A.

40 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

41 Highway Division

42 6121-1217 For the design, construction and repair of, or improvements to, nonfederally-
43 aided roadway and bridge projects and for the nonparticipating portion of federally-aided
44 projects; provided, that the costs of professional personnel directly and exclusively involved in
45 the construction, planning, engineering and design of the projects funded herein may be charged
46 to this item and any other general operating costs of the department ; provided further, that those
47 costs shall not be classified as administrative costs; and provided further, that the amounts
48 specified in this item or for a particular project may be adjusted in order to facilitate other needs
49 of the
50 department.....\$325,000,000

51 SECTION 2B.

52 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

53 Highway Division

54 6122-1223 For the construction and reconstruction of town and county ways as described
55 in clause (b) of the second paragraph of section 4 of chapter 6C of the General Laws; provided
56 that a city or town complies with the procedures established by the Massachusetts Department of
57 Transportation; provided further, that a city or town may appropriate for these projects amounts
58 not in excess of the amount provided to the city or town under this item, preliminary notice of
59 which shall be provided by the department to the city or town not later than April 1 of each year;
60 provided further, that the appropriation shall be considered as an available fund upon approval of

61 the commissioner of revenue under section 23 of chapter 59 of the General Laws; and provided
62 further, that the commonwealth shall reimburse a city or town under this item, subject to the
63 availability of funds as provided in section 9B of chapter 29 of the General Laws, within 30 days
64 after receipt by the department of a request for reimbursement from the city or town, which
65 request shall include certification by the city or town that actual expenses have been incurred on
66 projects eligible for reimbursement under this item and that the work has been completed to the
67 satisfaction of the city or town according to the specifications of the project and in compliance
68 with applicable laws and procedures established by the department.....\$200,000,000

69 SECTION 2C.

70 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

71 Rail and Transit Division

72 6622-1205 For the purposes of chapter 161B of the General Laws, including the purchase
73 and rehabilitation of rolling stock, related assets and support equipment necessary to safely serve
74 transit passengers, construction and rehabilitation of regional transit authority operations and
75 passenger facilities and purchase of related appurtenances and tools.....\$11,000,000

76 SECTION 2D.

77 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

78 Rail and Transit Division

79 6622-1280 For the purpose of implementing rail improvements under chapter 161C of the
80 General Laws; provided, that funds may also be used for transportation planning, design,
81 permitting, acquisition of interests in land and engineering for heavy rail, light rail, bus and other

82 transit projects, including the industrial rail access program; provided, however, the department
83 shall adopt regulations within 180 days of the effective date of this act implementing the
84 industrial rail access program, which shall increase access to rail freight service and preserve or
85 stimulate economic development through the generation of new or expanded rail service;
86 provided further, that the secretary of transportation shall evaluate and select eligible projects, in
87 consultation with the secretary of housing and economic development, where the public benefit
88 will be gained through improved use of the rail transportation network or that will facilitate
89 economic growth through access to the rail assets within the commonwealth; provided further,
90 that the program shall be available to any political subdivision, railroad or shipper operating
91 within the commonwealth; and provided further, that the amounts specified in this item or for a
92 particular project may be adjusted in order to facilitate other needs of the department or other
93 projects.....\$300,000,000

94 SECTION 3. To meet the expenditures necessary in carrying out section 2, the state
95 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
96 amount to be specified by the governor from time to time but not exceeding, in the aggregate,
97 \$171,750,000. All bonds issued by the commonwealth as aforesaid shall be designated on their
98 face, Transportation Improvement Loan, Act of 2012, and shall be issued for a maximum term of
99 years, not exceeding 30 years, as the governor may recommend to the general court under
100 section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all
101 such bonds shall be payable not later than June 30, 2047. All interest and payments on account of
102 principal on these obligations shall be payable from the Commonwealth Transportation Fund.
103 Notwithstanding any other provision of this act, bonds and interest thereon issued under this
104 section shall be general obligations of the commonwealth.

105 SECTION 4. To meet the expenditures necessary in carrying out section 2A, the state
106 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
107 amount to be specified by the governor from time to time but not exceeding, in the aggregate,
108 \$325,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their
109 face, Transportation Improvement Loan, Act of 2012, and shall be issued for a maximum term of
110 years, not exceeding 30 years, as the governor may recommend to the general court under
111 section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all
112 such bonds shall be payable not later than June 30, 2047. All interest and payments on account of
113 principal on these obligations shall be payable from the Commonwealth Transportation Fund.
114 Notwithstanding any other provision of this act, bonds and interest thereon issued under this
115 section shall be general obligations of the commonwealth.

116 SECTION 5. To meet the expenditures necessary in carrying out section 2B, the state
117 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
118 amount to be specified by the governor from time to time but not exceeding, in the aggregate, the
119 sum of \$200,000,000. All the bonds issued by the commonwealth as aforesaid shall be
120 designated on their face, Town and County Ways and Economic Development Loan, Act of
121 2012, and shall be issued for a maximum terms of years, not exceeding 30 years, as the governor
122 may recommend to the general court under section 3 of Article LXII of the Amendments to the
123 Constitution; provided, however, that all such bonds shall be payable not later than June 30,
124 2047. All interest and payments on account of principal of these obligations shall be payable
125 from the General Fund. Notwithstanding any general or special law to the contrary, bonds and
126 interest thereon issued under this section shall be general obligations of the commonwealth.

127 SECTION 6. To meet the expenditures necessary in carrying out section 2C, the state
128 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
129 amount to be specified by the governor from time to time but not exceeding, in the aggregate,
130 \$11,000,000 which shall be in addition to those bonds previously authorized for projects and
131 programs which are eligible to receive federal funding and which authorizations remain
132 uncommitted or unobligated on the effective date of this act. All bonds issued by the
133 commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan,
134 Act of 2012, and shall be issued for a maximum term of years, not exceeding 30 years, as the
135 governor may recommend to the general court under section 3 of Article LXII of the
136 Amendments to the Constitution; provided, however, that all such bonds shall be payable not
137 later than June 30, 2047. All interest and payments on account of principal on these obligations
138 shall be payable from the Commonwealth Transportation Fund. Bonds and interest thereon
139 issued under this section shall be general obligations of the commonwealth.

140 SECTION 7. To meet the expenditures necessary in carrying out section 2D, the state
141 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
142 amount to be specified by the governor from time to time but not exceeding, in the aggregate,
143 \$177,500,000 which shall be in addition to those bonds previously authorized for projects and
144 programs which are eligible to receive federal funding and which authorizations remain
145 uncommitted or unobligated on the effective date of this act. All bonds issued by the
146 commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan,
147 Act of 2012, and shall be issued for a maximum term of years, not exceeding 30 years, as the
148 governor may recommend to the general court under section 3 of Article LXII of the
149 Amendments to the Constitution; provided, however, that all such bonds shall be payable not

150 later than June 30, 2047. All interest and payments on account of principal on these obligations
151 shall be payable from the Commonwealth Transportation Fund. Bonds and interest thereon
152 issued under this section shall be general obligations of the commonwealth.

153 SECTION 8. Notwithstanding any general or special law to the contrary, in carrying out
154 this act, the Massachusetts Department of Transportation may enter into contracts, agreements or
155 transactions that may be appropriate with other federal, state, local or regional public agencies or
156 authorities. The contracts, agreements or transactions may relate to such matters as the
157 department shall determine including, without limitation, the research, design, layout,
158 construction, reconstruction or management of construction of all or a portion of these projects.
159 In relation to any such contract, agreement or transaction, the department may advance monies to
160 these agencies or authorities, without prior expenditure by the agencies or authorities, and the
161 agencies and authorities may accept monies necessary to carry out such contract, agreement or
162 transaction; provided, however, that the department shall certify to the comptroller the amounts
163 so advanced; provided further, that these contracts, agreements or transactions shall contain
164 provisions satisfactory to the department for the accounting of monies expended by any other
165 agency or authority; and provided further, that all monies not expended under any such contract,
166 agreement or transaction shall be credited to the account of the department from which they were
167 advanced. The department shall report to the house and senate committees on ways and means
168 on any transfers completed under this section.

169 SECTION 9. (a) Notwithstanding any general or special law to the contrary, the
170 Massachusetts Department of Transportation shall expend the sums authorized in sections 2A
171 and 2B for the following purposes: projects for the laying out, construction, reconstruction,
172 resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle

173 paths or facilities, on-street and off-street bicycle projects, sidewalks, telecommunications,
174 parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and
175 alterations of other crossings, traffic safety devices on state highways and on roads constructed
176 under clause (b) of the second paragraph of section 4 of chapter 6C of the General Laws,
177 highway or mass transportation studies including, but not limited to, traffic, environmental or
178 parking studies, the establishment of school zones in accordance with section 2 of chapter 85 of
179 the General Laws, improvements on routes not designated as state highways without assumption
180 of maintenance responsibilities and, notwithstanding any general or special law to the contrary,
181 projects to alleviate contamination of public and private water supplies caused by the
182 department's storage and use of snow removal chemicals necessary for highway safety and for
183 the relocation of persons or businesses or for the replacement of dwellings or structures
184 including, but not limited to, providing last resort housing under federal law and such functional
185 replacement of structures in public ownership as may be necessary for the foregoing purposes
186 and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform
187 Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et
188 seq. and to sell any structure the title to which has been acquired for highway purposes;
189 provided, however, that environmental studies conducted pursuant to this subsection may include
190 an assessment of both existing and proposed highway rest stop facilities to determine the cost-
191 effectiveness of sanitary facilities that utilize zero pollution discharge technologies, including
192 recycling greywater systems.

193 When dwellings or other structures are removed in furtherance of any of the foregoing
194 projects, the excavations or cellar holes remaining shall be filled in and brought to grade within 1
195 month after removal. In planning projects funded by said sections 2A and 2B, consideration shall

196 be made, to the extent feasible, to accommodate and incorporate provisions to facilitate the use
197 of bicycles and walking as a means of transportation; provided, however, that nothing in this
198 section shall be construed to give rise to enforceable legal rights in any party or a cause of action
199 or an enforceable entitlement as to the projects described in this section.

200 (b) Except as otherwise specifically provided in this act, funds authorized in sections 2A
201 and 2B shall be subject to the first paragraph of section 6 and sections 7 and 9 of chapter 718 of
202 the acts of 1956, if applicable, and notwithstanding any general or special law to the contrary,
203 may be used for the purposes stated in this act in conjunction with funds of cities, towns and
204 political subdivisions.

205 (c) In addition to the foregoing, the Massachusetts Department of Transportation may
206 expend funds made available by this act: (1) to acquire from a person by lease, purchase, eminent
207 domain under chapter 79 of the General Laws or otherwise, land or rights in land for parking
208 facilities adjacent to a public way to be operated by the department or under contract with an
209 individual; and (2) for the acquisition of van-type vehicles used for multi-passenger, commuter-
210 driven carpools and high-occupancy vehicles including, but not limited to, water shuttles and
211 water taxis; and may, in accordance with all applicable state and federal laws and regulations,
212 exercise all powers and do all things necessary and convenient to carry out this act.

213 (d) In carrying out this section, the Massachusetts Department of Transportation may
214 enter into contracts or agreements with cities to mitigate the effects of projects undertaken under
215 this act and to undertake additional transportation measures within the city and may enter into
216 contracts, agreements or transactions with other federal, state, local or regional public agencies,
217 authorities, nonprofit organizations or political subdivisions that may be necessary to implement

218 these contracts or agreements with cities. Cities and other state, local or regional public agencies,
219 authorities, nonprofit organizations or political subdivisions may enter into these contracts,
220 agreements, or transactions with the department. In relation to these agreements, the department
221 may advance to these agencies, organizations or authorities, without prior expenditure by the
222 agencies, organizations or authorities, monies necessary to carry out these agreements; provided,
223 however, that the department shall certify to the comptroller the amount so advanced; provided
224 further, that all monies not expended under these agreements shall be credited to the account of
225 the department from which they were advanced. The department shall report to the house and
226 senate committees on ways and means on any transfers completed under this subsection.

227 SECTION 10. Notwithstanding any other general or special law to the contrary, the
228 Massachusetts Department of Transportation shall take all necessary actions to secure federal
229 highway or transportation assistance which is or may become available to the department
230 including, but not limited to, actions authorized under or in compliance with Title 23 of the
231 United States Code, the Surface Transportation and Relocation Assistance Act of 1987, Pub. L.
232 100-17, the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, the
233 Transportation Equity Act for the 21st Century, Pub. L. 105-178, the Safe, Accountable,
234 Flexible, Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109-59,
235 Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. Law 110-53 and
236 actions such as filing applications for federal assistance, supervising the expenditure of funds
237 under federal grants or other assistance agreements and making any determinations and
238 certifications necessary or appropriate to the foregoing. If a federal law, administrative regulation
239 or practice requires an action relating to federal assistance to be taken by a department, agency or

240 other instrumentality of the commonwealth other than the Massachusetts Department of
241 Transportation, the other department, agency or instrumentality shall take such action.

242 SECTION 11. Notwithstanding any general or special law to the contrary, all
243 construction contracts funded in whole or in part by the funds authorized in this act shall include
244 a price adjustment clause for each of the following: fuel, both diesel and gasoline, asphalt,
245 concrete and steel. A base price for each material shall be set by the awarding authority or
246 agency and included in the bid documents at the time a project is advertised. The awarding
247 authority or agency shall also identify in the bid documents the price index to be used for each
248 material or supply. The adjustment clause shall provide for a contract adjustment to be made on a
249 monthly basis when the monthly cost change exceeds +/- 5 per cent.

250 SECTION 12. Notwithstanding any general or special law to the contrary, sections 61
251 and 62A to 62I, inclusive, of chapter 30 of the General Laws, chapter 91 of the General Laws
252 and section 40 of chapter 131 of the General Laws shall not apply to bridge projects of the
253 Massachusetts Department of Transportation and the Massachusetts Bay Transportation
254 Authority for the repair, reconstruction, replacement or demolition of existing state highway,
255 authority and municipally-owned bridges, including the immediate approaches necessary to
256 connect the bridges to the existing adjacent highway and rail system, in which the design is
257 substantially the functional equivalent of, and in similar alignment to, the structure to be
258 reconstructed or replaced; provided, however, that said sections 61 and 62A to 62I, inclusive, of
259 said chapter 30 shall apply to the repair, reconstruction, replacement or demolition project where
260 the project requires a mandatory environmental impact report under 301 CMR 11.00; provided
261 further, that all such work shall be subject to the requirements of the then current edition of the
262 department's Stormwater Handbook as approved by the department of environmental protection

263 in accordance with applicable law, that notice shall be published in the Environmental Monitor
264 of any application to the department of environmental protection for a water quality certification,
265 and that the work shall be subject to performance standards prescribed by the department of
266 environmental protection under section 401 of the Federal Clean Water Act if applicable to the
267 project; provided further, that notwithstanding the foregoing, said section 61 and said sections
268 62A to 62I, inclusive, of said chapter 30, said chapter 91, and said section 40 of said chapter 131
269 shall apply to any portions of the bridge and roadway approaches to the crossing of the Charles
270 river for the Central Artery/Tunnel Project. If any state highway, authority or municipal bridge
271 crosses over a railroad right-of-way or railroad tracks, the department or authority, as applicable,
272 shall seek the opinion of a railroad company, railway company or its assigns operating on the
273 track of a necessary clearance between the track and the bridge, but the applicable department
274 and the authority and their agents or contractors may enter upon any right-of-way, land or
275 premises of a railroad company or railway company or its assigns for purposes that the
276 applicable department or authority, may consider necessary or convenient to carry out this
277 section. If a flagman is needed to carry out this section, the railroad company or railway
278 company or its assigns shall provide the flagman. For the purposes of this section, "bridge" shall
279 include any structure spanning and providing passage over water, railroad right-of-way, public or
280 private way, other vehicular facility or other area. Any project exempted from any provision of
281 law under this section shall be subject to the public consultation process required by the then
282 current version of the Massachusetts Department of Transportation's Project Development and
283 Design Guidebook.

284 SECTION 13. Notwithstanding any general or special law to the contrary, the
285 unexpended balances of all capital accounts which otherwise would revert on June 30, 2012, but

286 which are necessary to fund obligations during fiscal year 2013, are hereby re-authorized; but
287 this re-authorization shall terminate upon enactment of capital account extension legislation. The
288 comptroller, with the approval of the secretary of transportation and the secretary of
289 administration and finance, may eliminate appropriation accounts established under the former
290 executive office of transportation and construction before the effective date of chapter 25 of the
291 acts of 2009.