

SENATE No. 2354

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 forth in sections 2 to 2C, 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.....\$225,000,000

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 Massachusetts Department of Transportation employees
28 or by consultants; provided further, that amounts expended for department employees may
29 include the salary and salary-related expenses of these employees to the extent that they work on
30 or in support of these projects; provided further, that notwithstanding this act or any other
31 general or special law to the contrary, the department shall not enter into any obligations for
32 projects which are eligible to receive federal funds under this act unless state matching funds
33 exist which have been specifically authorized and are sufficient to fully fund the corresponding
34 state portion of the federal commitment to fund these obligations; and provided further, that the
35 department shall only enter into obligations for projects under this act based upon a prior or
36 anticipated future commitment of federal funds and the availability of corresponding state
37 funding authorized and appropriated for this use by the general court for the class and category
38 of project for which this obligation 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, non-federally-
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 associated costs; provided further, that those costs shall not be
47 classified as administrative costs.....\$325,000,000

48 SECTION 2B.

49 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

50 Rail and Transit Division

51 6622-1205 For the purposes of chapter 161B of the General Laws, including the purchase
52 and rehabilitation of rolling stock, related assets and support equipment necessary to safely serve
53 transit passengers, construction and rehabilitation of regional transit authority operations and
54 passenger facilities, and purchase of related appurtenances and tools.....\$11,000,000

55 SECTION 2C.

56 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

57 Rail and Transit Division

58 6622-1280 For the purpose of implementing rail improvements under chapter 161C of the
59 General Laws; provided, that funds may also be used for transportation planning, design,

60 permitting, acquisition of interests in land, and engineering for heavy rail, light rail, bus, and
61 other transit projects, including the industrial rail access program; provided, however, the
62 department shall adopt regulations within 180 days of the effective date of this act implementing
63 the industrial rail access program, which shall increase access to rail freight service and preserve
64 or stimulate economic development through the generation of new or expanded rail service;
65 provided that, the secretary of transportation shall have the responsibility for evaluating and
66 selecting eligible projects, in consultation with the secretary of housing and economic
67 development, where the public benefit will be gained through improved use of the rail
68 transportation network or that will facilitate economic growth through access to the rail assets
69 within the commonwealth; provided that the program shall be available to any political
70 subdivision, railroad or shipper operating within the commonwealth.....\$300,000,000

71 SECTION 3. To meet the expenditures necessary in carrying out section 2, the state
72 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
73 amount to be specified by the governor from time to time but not exceeding, in the
74 aggregate,\$171,750,000. All bonds issued by the commonwealth shall be designated on their
75 face, Transportation Improvement Loan Act of 2012, and shall be issued for a maximum term of
76 years, not exceeding 30 years, as the governor may recommend to the general court under
77 section 3 of Article LXII of the Amendments to the Constitution. All bonds shall be payable not
78 later than June 30, 2047. All interest and payments on account of principal on these obligations
79 shall be payable from the Commonwealth Transportation Fund. Notwithstanding any other
80 provisions of this act, bonds and interest thereon issued under this section shall be general
81 obligations of the commonwealth.

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

SECTION 5. To meet the expenditures necessary in carrying out section 2B, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$11,000,000 which shall be in addition to those bonds previously authorized for projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan Act of 2012, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all these bonds shall be payable not later than June 30, 2047. All interest and payments on account of principal on these obligations

shall be payable from the Commonwealth Transportation Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth.

SECTION 6. To meet the expenditures necessary in carrying out section 2C, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$177,500,000 which shall be in addition to those bonds previously authorized for projects and programs which are eligible to receive federal funding and which authorizations remain uncommitted or unobligated on the effective date of this act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan Act of 2012, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution; provided, however, that all these bonds shall be payable not later than June 30, 2047. All interest and payments on account of principal on these obligations shall be payable from the Commonwealth Transportation Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth.

SECTION 7. Notwithstanding any general or special law to the contrary, in carrying out sections 2 to 2C, inclusive, and all other provisions of this act, the Massachusetts Department of Transportation may enter into contracts, agreements, or transactions that may be appropriate with other federal, state, local or regional public agencies or authorities. The contracts, agreements, or transactions may relate to such matters as the department shall determine including, without limitation, the research, design, layout, construction, reconstruction or management of construction of all or a portion of these projects. In relation to any such contracts, agreements, or transactions the department may advance monies to these agencies or authorities, without prior

expenditure by the agencies or authorities, and the agencies and authorities may accept monies necessary to carry out these agreements; provided, however, that the department shall certify to the comptroller the amounts so advanced; provided further, that these agreements shall contain provisions satisfactory to the department for the accounting of monies expended by any other agency or authority; and provided, further, that all monies not expended under any such agreement shall be credited to the account of the department from which they were advanced. The department shall report to the house and senate committees on ways and means on any transfers completed under this section.

SECTION 8. (a) Notwithstanding any other general or special law to the contrary, the Massachusetts Department of Transportation shall expend the sums authorized in section 2A for the following purposes: projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, on- and off-street bicycle projects, sidewalks, telecommunications, parking facilities, auto-restricted zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways and on roads constructed under clause (b) of the second paragraph of section 4 of chapter 6C of the General Laws, highway or mass transportation studies, including, but not limited to, traffic, environmental or parking studies, the establishment of school zones in accordance with section 2 of chapter 85 of the General Laws, improvements on routes not designated as state highways without assumption of maintenance responsibilities and, notwithstanding any general or special law to the contrary, projects to alleviate contamination of public and private water supplies caused by the department's storage and use of snow removal chemicals which are necessary for the purposes of highway safety and for the relocation of persons or businesses or for the replacement of dwellings or structures

including, but not limited to, providing last resort housing under federal law and such functional replacement of structures in public ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., Pub. L. 97-646, 84 Stat. 1864 (1971), and to sell any structure the title to which has been acquired for highway purposes. When dwellings or other structures are removed in furtherance of any of the foregoing projects, the excavations or cellar holes remaining shall be filled in and brought to grade within 1 month after the removal. In planning projects funded by said section 2A, consideration shall be made, to the extent feasible, to accommodate and incorporate provisions to facilitate the use of bicycles and walking as a means of transportation; provided, however, that nothing in this section shall be construed to give rise to enforceable legal rights in any party or a cause of action or an enforceable entitlement as to the projects described in this section.

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

(c) In addition to the foregoing, the Massachusetts Department of Transportation may expend funds made available by this act to acquire from a person by lease, purchase, eminent domain under chapter 79 of the General Laws or otherwise, land or rights in land for parking facilities adjacent to a public way to be operated by the department or under contract with an individual; expend funds made available by this act for the acquisition of van-type vehicles used

for multi-passenger, commuter-driven carpools and high-occupancy vehicles including, but not limited to, water shuttles and water taxis; and, in accordance with all applicable state and federal laws and regulations, exercise all powers and do all things necessary and convenient to carry out the purposes of this act.

(d) In carrying out this section, the Massachusetts Department of Transportation may enter into contracts or agreements with cities to mitigate the effects of projects undertaken under this act and to undertake additional transportation measures within the city and may enter into contracts, agreements, or transactions with other federal, state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions that may be necessary to implement these contracts or agreements with cities. Cities and other state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions may enter into these contracts, agreements, or transactions with the department. In relation to these agreements, the department may advance to these agencies, organizations or authorities, without prior expenditure by the agencies, organizations or authorities, monies necessary to carry out these agreements; provided, however, that the department shall certify to the comptroller the amount so advanced; provided further, that all monies not expended under these agreements shall be credited to the account of the department from which they were advanced. The department shall report to the house and senate committees on ways and means on any transfers completed under this subsection.

SECTION 9. Notwithstanding any other general or special law to the contrary, the Massachusetts Department of Transportation shall take all necessary actions to secure federal highway or transportation assistance which is or may become available to the department including, but not limited to, actions authorized under or in compliance with Title 23 of the United States Code, the Surface Transportation Act of 1987, Pub. L. 100-17, the Intermodal

196 Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, the Transportation Equity Act
197 for the 21st Century, Pub. L. 105-178, the Safe, Accountable, Flexible, Efficient Transportation
198 Equity Act: A Legacy for Users, Pub. L. 109-59, Implementing Recommendations of the 9/11
199 Commission Act of 2007, Pub. Law 110-53 and any successor acts or reauthorizations of those
200 acts, and actions such as filing applications for federal assistance, supervising the expenditure of
201 funds under federal grants or other assistance agreements and making any determinations and
202 certifications necessary or appropriate to the foregoing. If a federal law, administrative regulation
203 or practice requires an action relating to federal assistance to be taken by a department, agency or
204 other instrumentality of the commonwealth other than the Massachusetts Department of
205 Transportation, the other department, agency or instrumentality shall take such action.

206 SECTION 10. Notwithstanding any other general or special law to the contrary, all
207 construction contracts funded in whole or in part by the funds authorized by this act shall include
208 a price adjustment clause for each of the following: fuel, both diesel and gasoline, asphalt,
209 concrete and steel. A base price for each material shall be set by the awarding authority or
210 agency and included in the bid documents at the time a project is advertised. The awarding
211 authority or agency shall also identify in the bid documents the price index to be used for each
212 material or supply. The adjustment clause shall provide for a contract adjustment to be made on a
213 monthly basis when the monthly cost change exceeds +/- 5 per cent.

214 SECTION 11. Notwithstanding any other general or special law to the contrary, section
215 61 and sections 62A to 62I, inclusive, of chapter 30 of the General Laws, chapter 91 of the
216 General Laws and section 40 of chapter 131 of the General Laws shall not apply to bridge
217 projects of the Massachusetts Department of Transportation and the Massachusetts Bay
218 Transportation Authority for the repair, reconstruction, replacement or demolition of existing

219 state highway, authority and municipally-owned bridges, including the immediate approaches
220 necessary to connect the bridges to the existing adjacent highway and rail system, in which the
221 design is substantially the functional equivalent of, and in similar alignment to, the structure to
222 be reconstructed or replaced; provided, however, that said section 61 and said sections 62A to
223 62I, inclusive, of said chapter 30 shall apply to the repair, reconstruction, replacement or
224 demolition project where the project requires a mandatory environmental impact report under
225 301 CMR 11.00; provided further, that all such work shall be subject to the requirements of the
226 then current edition of the Massachusetts Department of Transportation's Stormwater Handbook
227 as approved by the department of environmental protection in accordance with applicable law,
228 that notice shall be published in the Environmental Monitor of any application to the department
229 of environmental protection for a water quality certification, and that the work shall be subject to
230 performance standards prescribed by the department of environmental protection under section
231 401 of the Federal Clean Water Act if applicable to the project; provided further, that
232 notwithstanding the foregoing, said section 61 and said sections 62A to 62I, inclusive, of said
233 chapter 30, said chapter 91, and said section 40 of said chapter 131 shall apply to any portions of
234 the bridge and roadway approaches to the crossing of the Charles river for the Central
235 Artery/Tunnel Project. If any state highway, authority, or municipal bridge crosses over a
236 railroad right-of-way or railroad tracks, the department or authority, as applicable, shall seek the
237 opinion of a railroad company, railway company or its assigns operating on the track of a
238 necessary clearance between the track and the bridge, but the department and the authority and
239 their agents or contractors may enter upon any right-of-way, land or premises of a railroad
240 company or railway company or its assigns for purposes that the department or authority may
241 consider necessary or convenient to carry out this section. If a flagman is needed to carry out the

242 section, the railroad company, railway company or its assigns shall provide the flagman, the cost
243 which shall be borne by the bridge project except in the case of a bridge transferred pursuant to
244 Chapter 634 of the Acts of 1971. For the purposes of this section, “bridge” shall include any
245 structure spanning and providing passage over water, railroad right-of-way, public or private
246 way, other vehicular facility or other area. Any project exempted from any provision of law
247 under this section shall be subject to the public consultation process required by the then current
248 version of the Massachusetts Department of Transportation’s Project Development and Design
249 Guidebook.

250 SECTION 12. Notwithstanding any general or special law to the contrary, the
251 unexpended balances of all capital accounts which otherwise would revert on June 30, 2012, but
252 which are necessary to fund obligations during fiscal year 2013, are hereby re-authorized.