

HOUSE No. 3613

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 24, 2015.

The committee on the Transportation to whom was referred the message from His Excellency the Governor recommending legislation relative to for a reliable, sustainable Massachusetts Bay Transportation Authority (House, No. 3347), reports recommending that the accompanying bill (House, No. 3613) ought to pass.

For the committee,

WILLIAM M. STRAUS.

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**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

An Act for a reliable, sustainable Massachusetts Bay Transportation Authority.

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. As used in this act, the following words shall have the following
2 meanings, unless the context clearly requires otherwise:

3 “authority” shall mean the Massachusetts Bay Transportation Authority established under
4 section 2 of chapter 161A of the General Laws;

5 “board” shall mean the Massachusetts Department of Transportation board of directors
6 established under section 2 of chapter 6C of the General Laws;

7 “department” shall mean the Massachusetts Department of Transportation established
8 under section 2 of chapter 6C of the General Laws;

9 “general manager” shall mean the general manager of the Massachusetts Bay
10 Transportation Authority; and

11 “secretary” shall mean the secretary of the Massachusetts Department of Transportation.

12 SECTION 2. Section 2 of chapter 6C of the General Laws, as appearing in the 2012
13 Official Edition, is hereby amended by striking out subsection (b) and inserting in place thereof
14 the following subsection:-

15 (b) The department shall be governed and its corporate powers shall be exercised by a
16 board of directors. The board shall consist of 11 members, including the secretary of
17 transportation, who shall serve ex officio as chair. The governor shall appoint 10 members, 1 of
18 whom shall be a rider as defined in section 1 of chapter 161A, 1 of whom shall have experience
19 in the field of public or private finance, 1 of whom shall have experience in transportation
20 planning and policy, 1 of whom shall have experience in civil engineering, 1 of whom shall have
21 experience in the field of public or private finance or transportation planning and policy, 1 of
22 whom shall have municipal government experience in 1 of the 14 cities and towns as defined in
23 section 1 of chapter 161A, 1 of whom shall have municipal government experience in 1 of the 51
24 cities and towns as defined in said section 1 of said chapter 161A, 1 of whom shall have
25 municipal government experience in 1 of the other served communities as defined in said section
26 1 of said chapter 161A, 1 of whom shall have municipal government experience in a city or town
27 not part of the area constituting the authority as defined in said section 1 of said chapter 161A
28 and 1 of whom shall be a representative of a labor organization selected from a list of 3 nominees
29 provided by the Massachusetts State Labor Council, AFL-CIO. Four of the members other than
30 the chair shall serve for terms that are coterminous with the governor; provided, however, that at
31 least 3 of the coterminous members shall have experience in transportation policy, public finance
32 or civil engineering and at least 1 of the coterminous members shall be a rider. The 6 remaining
33 members appointed by the governor shall serve for terms of 4 years.

34 Not more than 6 of the directors, not including the chair, shall be members of the same
35 political party. The directors, with the exception of the chair, shall serve without compensation
36 but may be reimbursed for actual and necessary expenses reasonably incurred in the performance
37 of their duties, including reimbursement for reasonable travel; provided, however, that
38 reimbursement shall not exceed \$3,000 annually per director. A person appointed to fill a
39 vacancy in the board of directors shall serve only for the unexpired term of the former member.
40 A director shall be eligible for reappointment. A director may be removed by the governor for
41 cause. The board shall annually elect 1 of the directors to serve as vice-chair.

42 SECTION 3. Said section 2 of said chapter 6C, as so appearing, is hereby amended by
43 striking out, in lines 112 and 113, the words “and section 3” and inserting in place thereof the
44 following words:- , section 3 and section 3 of chapter 161A.

45 SECTION 4. Clause 45 of section 3 of said chapter 6C, as so appearing, is hereby
46 amended by inserting at the end thereof the following:-

47 ; provided, that notwithstanding any general or special law or regulation to the contrary,
48 funds made available in capital contracts, capital agreements or state capital formula grants
49 issued by the department to any regional transit authority established under Chapter 161B for
50 capital improvements, including but not limited to the purchase and rehabilitation of rolling
51 stock, the implementation of networking and intelligent transportation systems to provide for
52 interoperability communications, and the construction, reconstruction and rehabilitation of
53 regional transit authority facilities and related appurtenances, shall be available for expenditure
54 by the regional transit authority in the fiscal year in which the contract, agreement or formula
55 grant is issued and the subsequent fiscal year, and any portion of such funding provided in said

56 contract, agreement or formula grant representing encumbrances outstanding on the records of
57 the comptroller's bureau at the close of such second fiscal year may be expended by the regional
58 transit authority in any fiscal year thereafter as designated by the department, and the
59 unencumbered balance of such appropriation shall revert to the commonwealth at the close of
60 such second, or other designated, fiscal year;

61 SECTION 5. Said Chapter 6C, as so appearing, is hereby amended by inserting after
62 section 50 the following new section:-

63 Section 50A. (a) The regional transit authorities established under chapter 161B are
64 hereby authorized to create Regional Transit Authority Enterprise Funds; provided, however, the
65 regional transit authority shall receive approval from the secretary for any projects constructed or
66 operated as an Enterprise Fund project. All revenues and receipts generated by the regional
67 transit authority in association with the operation of approved Enterprise Fund projects shall be
68 credited to the Enterprise Fund and used in accordance with this section. Expenditures from the
69 Enterprise Fund shall be made for the following purposes: (i) for the payment of the principal,
70 including sinking fund payments of and premium, if any, and interest on special obligation bonds
71 of the regional transit authority, as hereinafter described, issued for payment of the cost of
72 construction of said project; (ii) for the maintenance of, or provision for, any reserves, additional
73 security, insurance or other form of credit enhancement required or provided for in any trust
74 agreement entered into pursuant to this section to secure such bonds; (iii) for the operation and
75 maintenance expenses of said project; and (iv) for the study, design, construction and
76 reconstruction of roads, exit and entrance ramps and highways in order to implement a traffic
77 mitigation plan to address the increased traffic flow which may be associated with the operation

78 of any project, provided, that said plan shall be completed in conjunction with the construction of
79 any said project garage, when necessary.

80 (b) Notwithstanding any provision of chapter 161B to the contrary, neither the income
81 nor the expenses allocable to an Enterprise Fund shall be included in the calculation of the
82 regional transit authority's net cost of service, nor shall subsection (c) of section 8 of said chapter
83 161B apply to expenses made from the Enterprise Fund; provided, however, that said subsection
84 (c) shall apply to expenses to be funded by excess revenues, if any, transferred to the regional
85 transit authority for purposes not related to the Enterprise Fund.

86 (c) Notwithstanding the provisions of any general or special law or regulation to the
87 contrary, including without limitation section 60A of chapter 29, any bonds issued by the
88 regional transit authority to finance the construction of said projects shall be special obligations
89 of the regional transit authority payable from special receipts to the extent available, and in any
90 case payable from monies credited to the Enterprise Fund together with other pledged revenues,
91 which additional revenue shall not be considered revenue of the Enterprise Fund; provided, that
92 revenues related to projects other than the approved project being financed may not be pledged
93 without the prior approval of the secretary. Such bonds shall not be general obligations of the
94 commonwealth. Bonds may be issued in such manner and on such terms and conditions as the
95 regional transit authority may determine in accordance with the provisions of this paragraph,
96 and, to the extent not inconsistent with the provisions hereof, provisions of general law for the
97 issuance of bonds of the regional transit authority. Bonds may be secured by a trust agreement
98 entered into by the regional transit authority, which trust agreement may pledge or assign all or
99 any part of monies credited to the Enterprise Fund and rights to receive the same, whether
100 existing or coming into existence and whether held or thereafter acquired, and the proceeds

101 thereof together with any other revenues as the regional transit authority may determine to be
102 necessary or desirable to enhance the credit of said bonds as security in order to prevent default.

103 The regional transit authority is also authorized to enter into additional security,
104 insurance or other forms of credit enhancement which may be secured on a parity or subordinate
105 basis with the bonds. A pledge in any such trust agreement or credit enhancement agreement
106 shall be valid and binding from the time such pledge shall be made without any physical delivery
107 or further act, and the lien of such pledge shall be valid and binding as against all parties having
108 claims of any kind in tort, contract or otherwise, irrespective of whether such parties have notice
109 thereof. Any such pledge shall be perfected by filing of the trust agreement or credit
110 enhancement agreement in the records of the authority, and no filing need be made under chapter
111 106. Any such trust agreement or credit enhancement agreement may establish provisions
112 defining defaults and establishing remedies and other matters relating to the rights and security
113 of the holders of the bonds or other secured parties as determined by the regional transit
114 authority, including provisions relating to the establishment of reserves, the issuance of
115 additional or refunding bonds, whether or not secured on a parity basis, the application of
116 receipts, monies or funds pledged pursuant to such agreement, hereinafter referred to as "pledged
117 funds," and other matters deemed necessary or desirable by the regional transit authority for the
118 security of such bonds, and may also regulate the custody, investment and application of monies.
119 Any such bonds shall be deemed to be investment securities under chapter 106, shall be
120 securities in which any public officer, fiduciary, insurance company, financial institution or
121 investment company may properly invest funds and shall be securities which may be deposited
122 with any public custodian for any purpose for which the deposit of bonds is authorized by law.
123 Any such bonds, their transfer and the income there from, including profit on the sale thereof,

124 shall at all times be exempt from taxation by and within the commonwealth. Within three months
125 of the first issuance of special obligation bonds under this section, the regional transit authority
126 shall report the results of the sale, including the cost of issuance, the interest rate for which the
127 bonds sold, and the rating assigned by the bond rating agencies, as well as an analysis of how
128 these compare to the regional transit authority's most recent bond issuance. Said report shall be
129 submitted to the regional transit authority's advisory board, the chairs of the joint committee on
130 transportation and the secretary.

131 (d) The regional transit authority shall incorporate in its annual budget a report which
132 details the revenues retained by any Enterprise Fund project, the expenditures made from said
133 Fund, and the remaining fund balance or deficit from the prior fiscal year.

134 SECTION 6. Said chapter 6C, as so appearing, is hereby amended by inserting at the end
135 thereof the following new section:-

136 Section 76. There shall be within the division of mass transit an office of Rail and
137 Maritime Planning and Policy Development, which shall perform such functions as the
138 administrator and secretary may determine in relation to the provision of policy and planning
139 assistance for the development and intermodal connectivity of the commonwealth's ports, rail
140 capacity, waterways, marine infrastructure and operations, in order to promote and increase the
141 use of the commonwealth's rail and waterborne transportation to maintain and increase the
142 commonwealth's economic competitiveness. The office shall be under the supervision and
143 control of the director. The director shall be the executive and administrative head of the division
144 and shall be responsible for administering and enforcing the provisions of law and regulations
145 relative to said office and to each administrative unit thereof. The duties given to the director in

146 this chapter and in any other general or special law shall be exercised and discharged subject to
147 the direction, control and supervision of the administrator and secretary; provided however, that
148 said functions, duties and powers shall not conflict in any way with the functions, administrative
149 duties, powers and jurisdiction granted to the Massachusetts Port Authority, the Woods Hole,
150 Martha's Vineyard, and Nantucket Steamship Authority, or authority by any general or special
151 laws.

152 SECTION 7. Subsection (a) of section 2zzz of chapter 29 of the General Laws, as
153 amended by chapter 46 of the acts of 2013, is hereby further amended by adding the following
154 sentence at the end thereof:-

155 Any monies in the fund at the end of the fiscal year shall not revert to the General Fund
156 but shall remain available for expenditure from such fund in subsequent fiscal years.

157 SECTION 8. Subsection (d) of section 4 of chapter 149A of the General Laws, as so
158 appearing, is hereby amended by inserting after the words "Massachusetts State College
159 Building Authority," in line 44, the following words:- the Massachusetts Bay
160 Transportation Authority,.

161 SECTION 9. Subsection (d) of section 16 of said chapter 149A, as so appearing, is
162 hereby amended by inserting after the words "the Massachusetts port authority," in line 39, the
163 following words:- the Massachusetts Bay Transportation Authority,.

164 SECTION 10. Section 3 of chapter 161A of the General Laws, as so appearing, is hereby
165 amended by striking out, in lines 1 to 3, inclusive, the words "In addition to all powers otherwise
166 granted to the authority by law, the authority shall have the following powers, in each case to be

167 exercised by the board unless otherwise specifically provided” and inserting in place thereof the
168 following words:-

169 The authority shall be governed and its corporate powers exercised by the board of
170 directors of the Massachusetts Department of Transportation established in chapter 6C. In
171 addition to the powers granted to the authority by law, the authority shall have the following
172 powers.

173 SECTION 11. Clause (d) of said section 3 of said chapter 161A, as so appearing, is
174 hereby amended by striking out the first sentence and inserting in place thereof the following
175 sentence:-

176 To employ, retain and supervise the managerial, professional and clerical staff as
177 necessary to carry out the work of the authority; provided, however, that the chief executive
178 officer of the authority shall be a general manager who shall be hired by, report to and serve at
179 the pleasure of the secretary of transportation and who shall fix the compensation and conditions
180 of employment for all other authority employees consistent with budgets that are subject to the
181 approval of the board.

182 SECTION 12. Said section 3 of said chapter 161A, as so appearing, is hereby further
183 amended by adding the following clause:-

184 (t) To delegate any of the powers in clauses (a) to (s), inclusive, to the general manager or
185 a designee of the general manager; provided, however, that the board shall not delegate the
186 powers set forth in clause (e) and the power to enter into agreements valued at more than
187 \$15,000,000.

188 SECTION 13. Chapter 161C of the General Laws, as so appearing, is hereby amended
189 by inserting after section 7 the following section:-

190 Section 8. It being in the public interest to utilize the surplus, discontinued rail assets of
191 the Commonwealth in ways that upgrade the in-state freight rail network, foster the safe
192 transport of goods and materials by in-state freight railroads, and preserve and enhance the
193 strength of the Massachusetts economy, the secretary of the department of transportation,
194 notwithstanding the provisions of any general or special law or rule or regulation to the contrary,
195 is hereby authorized to offer and convey surplus rail and other track material, surplus rail-related
196 equipment, such as signals, and surplus railroad bridge materials to the freight railroads
197 operating on tracks to which they have rights located within the Commonwealth and to the
198 freight railroads operating on in-state tracks owned by the Commonwealth. Working in concert
199 with the Massachusetts Railroad Association, the department shall design and implement a fair,
200 reasonable and orderly system to distribute the surplus assets; provided, the department shall
201 have the authority to change the system, as needed, in order to improve it in any way consistent
202 with the objectives of the re-use program. The assets may only be conveyed to a railroad which
203 has demonstrated an impending need for the assets at a specific in-state location. The secretary
204 shall cause to be created and published periodically a list of surplus rail assets, which may be
205 made available through the department, and/or from department projects and Massachusetts Bay
206 Transportation Authority projects, to the above-described freight railroad companies operating
207 within the Commonwealth.

208 SECTION 14. (a) There shall be within the department and reporting to the board a
209 Massachusetts Bay Transportation Authority Fiscal and Management Control Board.

210 (b) The Fiscal and Management Control Board shall consist of 5 members to be
211 appointed by the governor as follows: 3 shall be members of the board, including the secretary
212 who shall serve as chair; 1 shall have experience in transportation finance; and 1 shall have
213 experience in mass transit operation. Each member shall serve for the entire time that the Fiscal
214 and Management Control Board is in existence, unless removed with or without cause by the
215 governor. Any vacancy in the Fiscal and Management Control Board shall be filled in the same
216 manner as the original appointment of the member being replaced. The secretary may fix annual
217 time and expense reimbursements of not more than \$6,000 to be paid to members of the Fiscal
218 and Management Control Board from funds of the department. Directors serving on the Fiscal
219 and Management Control Board may receive the time and expense reimbursements in addition to
220 any payments provided to directors under subsection (b) of section 2 of chapter 6C of the
221 General Laws; provided, however, that the secretary shall not receive any such reimbursement.
222 The Fiscal and Management Control Board shall meet as regularly as necessary to ensure the
223 stability of authority operations and finances but not less frequently than 3 times each month.

224 (c) Notwithstanding sections 3 and 7 of chapter 161A of the General Laws or any other
225 general or special law or regulation to the contrary, the Fiscal and Management Control Board
226 shall be afforded all powers, responsibilities, and obligations relative to the authority that are
227 vested in the board, except as otherwise provided in this act, and those powers, responsibilities,
228 and obligations set forth in this act.

229 (d) Meetings of the Fiscal and Management Control Board shall be subject to sections 18
230 to 25, inclusive, of chapter 30A of the General Laws. Records of the Fiscal and Management
231 Control Board shall be subject to section 10 of chapter 66 of the General Laws.

232 (e) The Fiscal and Management Control Board may employ, retain, and supervise such
233 managerial, professional and clerical staff as may be necessary to carry out its responsibilities.
234 The Fiscal and Management Control Board shall have the authority to set the compensation,
235 terms and conditions of employment of its own staff. Staff hired under this subsection shall be
236 employees of the department, except such employees as the Fiscal and Management Control
237 Board formally designates as independent contractors; provided, however, that said independent
238 contractors shall be treated as executives under section 26 of chapter 161A of the General Laws.

239 (f) The Fiscal and Management Control Board shall initiate and assure the
240 implementation of appropriate measures to secure the fiscal, operational and managerial stability
241 of the authority and shall continue in existence until June 30, 2018, and thereafter for an
242 additional period of 2 years upon the recommendation by the Fiscal and Management Control
243 Board to the governor in writing based upon specific findings that such 2-year period is in the
244 best interest of the public and necessary to achieve operational stability and to establish
245 performance metrics for the authority; provided, that such recommendation has been approved in
246 writing by the governor not later than June 30, 2018; and provided further, that the Fiscal and
247 Management Control Board shall in no event continue beyond June 30, 2020. The
248 recommendation and findings by the Fiscal and Management Control Board, if any, and the
249 governor's approval, if any, shall be filed with the clerks of the house of representatives and
250 senate, the chairs of the house and senate committees on ways and means, and the chairs of the
251 joint committee on transportation.

252 (g) Following the dissolution of the Fiscal and Management Control Board, the board
253 shall resume governance of the authority.

254 SECTION 15. (a) The Fiscal and Management Control Board may delegate any powers,
255 responsibilities, and obligations specifically afforded to it to the general manager, unless
256 otherwise provided in this act.

257 (b) The general manager shall, at least monthly, provide the Fiscal and Management
258 Control Board with information on the status of the revenues and expenses for the operating
259 budget and on the status of revenues, contracting, procurement and authorized and actual
260 spending for the capital program. The general manager shall, at least quarterly, provide the
261 Fiscal and Management Control Board with data on progress toward achieving key performance
262 management targets. The reports shall be submitted to the board, the secretary of administration
263 and finance, the clerks of the house of representatives and senate, the chairs of the house and
264 senate committees on ways and means, and the chairs of the joint committee on transportation.

265 SECTION 16. (a) The Fiscal and Management Control Board shall formulate and
266 recommend a plan to the board to stabilize and strengthen the finances, management, operations
267 and asset condition of the authority. The Fiscal and Management Control Board shall develop
268 performance metrics and measure items included in the plan. The plan shall:

269 (i) provide a safe, reliable, and sustainable transit system consistent with the state
270 transportation plan under section 11 of chapter 6C of the General Laws;

271 (ii) establish fiscal stability, including short-term and long-term planning to ensure that
272 the authority's budgets are aligned with its operational and capital needs;

273 (iii) reorient the authority to focus on providing better service to its current riders and on
274 attracting future riders;

275 (iv) facilitate sound management and a safe and effective workplace consistent with
276 section 7 of chapter 6C of the General Laws; and

277 (v) develop a financially responsible, long-range approach to preserving and modernizing
278 the authority's assets and meeting future needs for regional transit facilities and services
279 consistent with the program for mass transportation required by paragraph (g) of section 5 of
280 chapter 161A of the General Laws.

281 SECTION 17. In addition to those powers otherwise provided in this act, the Fiscal and
282 Management Control Board shall have the authority to:

283 (i) establish separate operating and capital budgets each with clearly designated revenue
284 sources and uses and establish policies and procedures to ensure no funds are commingled
285 between operating and capital budgets;

286 (ii) establish 1-year and 5-year operating budgets, beginning with fiscal year 2017, which
287 are balanced primarily through a combination of internal cost controls and increased own-source
288 revenues consistent with paragraph (q) of section 5 of chapter 161A of the General Laws and
289 which facilitate the transfer of all employees of the authority from the capital budget to the
290 operating budget; provided, that said 1-year and 5-year budgets shall be consistent with section
291 20 of chapter 161A of the General Laws;

292 (iii) establish 5-year and 20-year capital plans that include a phased program for the
293 complete restoration of the physical assets of the authority including its vehicle fleet, a plan to
294 address failings within the existing capital program and funding recommendations to meet the
295 region's transit needs;

296 (iv) establish a rigorous performance management system and performance metrics and
297 targets that address, among other things, maximizing of own-source revenues, increasing
298 ridership, reducing absenteeism, addressing vacancies and attrition, improving employee morale,
299 achieving procurement and contracting improvements and improving customer focus and
300 orientation;

301 (v) review any contract for the provision of services entered into by the authority,
302 including contracts entered into before the establishment of the Fiscal and Management Control
303 Board, including, but not limited to, commuter rail and paratransit service contracts, and amend
304 those contracts, as necessary, in accordance with their terms; and

305 (vi) establish, increase, or decrease any fare, fee, rate, or charge for any service, license,
306 or activity within the scope of the authority subject to and consistent with subsection (d) of
307 section 61 of chapter 46 of the acts of 2013.

308 SECTION 18. Notwithstanding any general or special law or regulation to the contrary,
309 the Fiscal and Management Control Board shall have the authority to: (i) reorganize or
310 consolidate departments, divisions or entities of the authority, except the Metropolitan Boston
311 Transit Parking Corporation, in whole or in part; (ii) establish any new departments, divisions,
312 or entities as it deems necessary; and (iii) transfer the duties, powers, functions, and
313 appropriations of 1 department, division, or entity, except the duties, powers, functions, and
314 appropriations of the Metropolitan Boston Transit Parking Corporation, to another. Any such
315 reorganization or consolidation that affects the department shall not be effective unless approved
316 by the board.

317 SECTION 19. Based on a recommendation of the Fiscal and Management Control
318 Board, the board may amend any borrowing authorization or finance or refinance any debt of the
319 authority in accordance with law; provided, however, that the board shall not delegate this
320 authority.

321 SECTION 20. Not less frequently than monthly, the Fiscal and Management Control
322 Board shall appear before and report to the board.

323 SECTION 21. (a) Within 60 days after all of the members of the Fiscal and Management
324 Control Board have been appointed, the Fiscal and Management Control Board shall submit a
325 preliminary report to the secretary of administration and finance, the clerks of the house of
326 representatives and senate, the chairs of the joint committee on transportation, and the chairs of
327 the house and senate committees on ways and means. The report shall include a preliminary
328 analysis of, and management plans to address, the authority's structural operating deficit and its
329 capital and maintenance needs over the 5 years following the effective date of this act.

330 (b) Annually, not later than December 15, the Fiscal and Management Control Board
331 shall report on the authority's own source revenue, operating budget, capital plan and progress
332 toward meeting performance metrics and targets to the board, the secretary of administration and
333 finance, the clerks of the house of representatives and senate, the house and senate chairs of the
334 joint committee on transportation, and the chairs of the house and senate committees on ways
335 and means. The report shall include an update on the authority's progress in: (i) maintaining a
336 priority list of immediate capital needs for the next 5 years and procurement and implementation
337 plans; (ii) imposing a barrier between the commingling of operating and capital budgets; (iii)
338 increasing own-source revenue as required by section 61 of chapter 46 of the acts of 2013; (iv)

339 conducting thorough reviews and analyses of all proposals for system expansion, taking into
340 account operating and capital costs, benefits to current and new riders and economic
341 development impacts; (v) centralizing authority procurement and contracting, implementing best
342 procurement and contracting practices, and sharing or consolidating authority procurement and
343 contracting with that of the department consistent with this act; (vi) planning and preparedness
344 processes and adopting an incident command system; (vii) reorganizing internal structure along
345 modal business lines; (viii) maintaining 1-year and 5-year operating plans and budgets; (ix)
346 maintaining a 20-year capital plan for the restoration of physical assets; (x) improving customer
347 relations and instituting a customer-oriented performance management program; (xi) identifying
348 and implementing best practices supporting workforce productivity and engagement; (xii)
349 reducing employee absenteeism; (xiii) reducing barriers to public-private partnerships; and (xiv)
350 utilizing the lease and sale of real estate assets to support the long-term health of the system and
351 implementing value capture strategies.

352 SECTION 22. Notwithstanding any other provision contained in this act, no existing
353 rights of the holders of bonds, notes and other financing obligations issued by or on behalf of the
354 authority under chapter 161A of the General Laws shall be impaired and nothing in this act shall
355 be construed to alter or grant the power to alter existing agreements securing such bonds or other
356 obligations, hedge agreements or investment contracts pertaining thereto, other than in
357 accordance with their terms. The authority shall maintain the covenants and agreements of the
358 trust agreements, bond resolutions and other instruments pertaining to such bonds and other
359 obligations secured thereunder so long as such bonds and other obligations shall remain
360 outstanding. The Fiscal and Management Control Board shall not control, and shall not have the
361 power to alter or otherwise impair, the trust imposed in the third paragraph of subsection (a) of

362 section 35T of chapter 10 of the General Laws and shall not have the power to alter or otherwise
363 impair the other commonwealth covenants set forth in said third paragraph. The commonwealth
364 hereby re-affirms such trust and other covenants.

365 SECTION 23. Notwithstanding any general or special law to the contrary, the 10
366 members of the board appointed by the governor pursuant to section 2 shall be appointed and
367 begin their term upon the effective date of this act. Initial appointments made to the board
368 serving for terms that are not coterminous with the governor shall be composed of 3 members
369 who shall be appointed for initial terms of 2 years and 3 members who shall be appointed for
370 initial terms of 3 years. A director serving upon the passage of this act shall be eligible for
371 reappointment. The secretary shall begin serving as chair upon the effective date of this act.

372 SECTION 24. The secretary shall develop a plan that includes a process to facilitate the
373 transfer of authority employees from the capital budget to the operating budget, detailing: (i) the
374 number of employee salaries funded by capital expenditures in fiscal years 2015 and 2016; (ii)
375 the total cost of employee salaries charged to the capital budget in fiscal years 2015 and 2016;
376 and (iii) the number of employees and the total cost of employee salaries that the authority
377 estimates will be moved from capital expenditures to operating expenditures in each future fiscal
378 year until such time as no employee salaries are funded through the capital budget. The plan
379 shall facilitate the transfer of employee salaries to the operating budget not later than July 1,
380 2018. The plan shall further analyze the extra bonding capacity created by the removal of
381 personnel costs from the capital budget and detail capital projects that may be funded as a result.
382 The plan shall be filed with the clerks of the house of representatives and senate, the chairs of the
383 joint committee on transportation, the chairs of the house and senate committees on bonding,

384 capital expenditures and state assets, and the chairs of the house and senate committees on ways
385 and means not later than December 15, 2015.

386 SECTION 25. (a) The secretary shall prepare a report that includes an analysis of: (i) the
387 consolidation of core administrative functions of the department as required by section 5 of
388 chapter 6C of the General Laws; (ii) the achievement of goals identified by the healthy
389 transportation compact in section 33 of said chapter 6C; (iii) the progress or achievements of the
390 performance and asset management advisory council; (iv) the development of a long-term
391 statewide transportation plan pursuant to subsection (d) of section 30 of said chapter 6C; (v) the
392 work of the internal project controls unit required by subsection (c) of section 39 of said chapter
393 6C; (vi) the amount of taxes assessed pursuant to section 24 of chapter 161A of the General
394 Laws; (vii) the department's and the authority's progress in achieving the benchmarks in sections
395 60 and 61 of chapter 46 of the acts of 2013; (viii) the department's removal of employee salaries
396 from capital expenditures, including an update of the number, if any, of employee salaries
397 funded by capital expenditures and the cost of the salaries; (ix) the parking pilot program
398 required by section 80 of said chapter 46; and (x) obtaining mitigation payments from private
399 entities to cover capital and operating costs generated by the impacts of nearby developments.

400 (b) The report shall further include an analysis and assessment of current capacity
401 constraints, safety conditions and the state of good repair of the commonwealth's transportation
402 system, including all modes of surface transportation. The assessment shall analyze the current
403 planned operating and capital expenditures of the department, the authority and the regional
404 transit authorities, and shall consider and state the baseline of the surface transportation revenues
405 currently available and projected to be available from all sources in all modes of surface
406 transportation, regardless of the fund in which they are kept, from fiscal year 2016 through fiscal

407 year 2027. The baseline assessment shall: (i) project spending for the maintenance of the existing
408 system, the completion of all expansion projects the commonwealth is legally bound to complete
409 and capital improvements and projects included in the fiscally-constrained, long-range
410 transportation plans mandated by federal law; and (ii) consider and incorporate any additional
411 expenditures necessary to implement the most recent capital plans of the authority and the
412 department. The report shall recommend specific and quantified potential new revenue sources
413 pertaining to both operating and capital funds in fiscal year 2016 through fiscal year 2027 in
414 order to fully address any deficiencies in capacity, safety or state of good repair identified in its
415 assessment; provided, that the report's revenue recommendations shall consider the needs of
416 both the authority and the statewide transportation system; and provided further, that said report
417 shall include recommendations beyond own-source revenues and shall remain consistent with the
418 authority's fare policy set forth in section 61 of chapter 46 of the acts of 2013.

419 (c) The secretary shall provide status updates of department and authority actions relative
420 to the items identified in this section to the house and senate chairs of the joint committee on
421 transportation not later than October 15, 2015 and shall file its final report with the clerks of the
422 house of representatives and senate, the chairs of the joint committee on transportation, and the
423 chairs of the house and senate committees on ways and means not later than December 15, 2015.
424 Thereafter, the Fiscal and Management Control Board shall provide monthly updates to the
425 chairs of the joint committee on transportation.

426 SECTION 26. The department and the authority are hereby authorized and directed to
427 promote administrative savings and improvement initiatives aimed at reducing duplication,
428 enhancing coordination, and sharing resources, personnel and procedures to the maximum extent
429 possible. In connection with such direction, the department is authorized to use its own corporate

430 powers with respect to matters concerning the authority, to act on the authority's behalf with
431 respect to any such matter, including, but not limited to, the purchase of goods and supplies and
432 the procurement of design and construction services to the same extent and subject to the same
433 procedures as are applicable to the department, and to do all things for the authority as if it were
434 acting on its own behalf. The department's authority as set forth in this section shall be subject
435 to a procedure or regulation approved or promulgated by the board.

436 Not later than December 15 of each year, the department and the authority shall jointly
437 submit a report to the secretary, the chairs of the house and senate committees on ways and
438 means, the chairs of the joint committee on transportation, and the clerks of the house of
439 representatives and senate detailing the steps taken with respect to the authority pursuant to this
440 section and the results of such initiatives.

441 SECTION 27. The authority and Massachusetts Port Authority ("Massport"), in
442 consultation with the Massachusetts Ferry Compact, are hereby authorized to enter into the
443 following agreements related to the commuter boat service and inner harbor ferry service
444 currently operated by the authority and any planned or prospective ferry service serving
445 waterways or waterborne routes that connect to the City of Boston (collectively, the "ferry
446 services"): (i) agreements providing for the transfer of any or all assets of the authority related to
447 ferry services to Massport for fair market value, the assignment of all agreements related to
448 operation and maintenance of the ferry services by the authority to Massport, the assumption by
449 Massport of all obligations related to capital projects related to ferry service assets, and the
450 assumption by Massport of responsibility for operation and maintenance of the ferry services; or
451 (ii) agreements by and between the authority and Massport providing for payment by Massport
452 to the authority of funds for operating assistance and/or capital projects related to ferry services.

453 SECTION 28. There shall be a special commission to conduct a study of best
454 practices in transportation governance. The commission shall consist of the following 5
455 members: the secretary, or a designee, who shall serve as chair; 1 member to be appointed by the
456 president of the senate, who shall be a representative of a business association; 1 member to be
457 appointed by the speaker of the house, who shall be an expert in transportation policy and
458 governance who is employed at a private or public Massachusetts institution for higher
459 education; and 2 members appointed by the governor, 1 of whom shall be an expert in
460 transportation policy and governance and 1 of whom shall be selected from a list of five
461 nominees submitted by the Massachusetts Association of Regional Planning Agencies. The study
462 shall include, but not be limited to, an analysis of: (i) best practices concerning governance of
463 state transportation agencies; (ii) potential ways to improve and streamline the governance of the
464 department of transportation with the goals of improving operations, multi-modal coordination,
465 efficiency and accountability; and (iii) whether a board of directors is legally required, necessary
466 and conducive for the department to effectively carry out its mission and be accountable to its
467 customers and all of the citizens of the Commonwealth. The commission shall conduct its first
468 meeting not more than 60 days after the effective date of the act. The commission shall consult
469 with relevant staff of the United States Department of Transportation as well as peer state
470 transportation agencies and other experts as needed. The commission shall report the results of
471 its study, together with drafts of legislation, if any, necessary to carry its recommendations into
472 effect, by filing the report with the clerks of the house of representatives and senate, the chairs of
473 the joint committee on transportation, and the chairs of the house and senate committees on
474 bonding, capital expenditures and state assets not later than July 1, 2016. The report shall be
475 made available to the public on the website of the department.

476 SECTION 29. There is hereby established a special commission to investigate and report
477 on retirement benefits provided to employees of the authority consisting of the following
478 members: the secretary, or a designee; the treasurer, or a designee; the executive director of the
479 Public Employee Retirement Administration Commission, or a designee; the secretary of
480 administration and finance, or a designee; and the president of Massachusetts AFL-CIO, or a
481 designee. The executive director of the MBTA Retirement Fund shall serve on the commission
482 ex officio as a non-voting member. The report shall analyze the feasibility of providing
483 retirement benefits to future employees of the authority solely and exclusively under chapter 32
484 of the General Laws as opposed to any other statutory or contractual plan or system under which
485 current authority employees are eligible to receive retirement benefits, and shall examine and
486 report on, without limitation: (i) all retirement benefits currently received by retirees of the
487 authority and retirement benefits for which current employees of the authority are eligible; (ii)
488 relevant contractual provisions and applicable federal and state laws and the legal effects
489 thereof; (iii) transition costs and implementation and logistical considerations; (iv) the relative
490 impact on pension benefits; and (v) the advisability of so providing retirement benefits to future
491 employees of the authority pursuant to chapter 32 of the General Laws, and if so, a proposed
492 effective date; provided, that any recommendations contained in the report shall have considered
493 the need for the continued sustainability of the statutory and contractual retirement benefits
494 provided for existing employees of the authority. Not later than July 1, 2016, the commission
495 shall file the report with the chairs of the house and senate committees on ways and means, the
496 chairs of the joint committee on transportation, and the clerks of the house of representatives and
497 senate.

498 SECTION 30. This act shall take effect upon its enactment, except as otherwise
499 provided.