

SENATE No. 2455

The Commonwealth of Massachusetts

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In the One Hundred and Eighty-Ninth General Court
(2015-2016)
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SENATE, Thursday, July 21, 2016

The committee on Ways and Means, to whom was referred the House Bill financing improvements to municipal roads and bridges (House, No. 4424) (the committee on Bonding, Capital Expenditures and State Assets having recommended that the bill be amended by substituting a new text (Senate, No. 2447); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2455.

For the committee,
Karen E. Spilka

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

6 SECTION 2.

7 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

8 Highway Division

9 6121-1714. For projects on the interstate and noninterstate federal highway system;
10 provided, that funds may be expended for the costs of these projects including, but not limited to,
11 the nonparticipating portions of these projects and the costs of engineering and other services
12 essential to these projects; provided further, that notwithstanding this act or any other general or
13 special law to the contrary, the department shall not enter into any obligations for projects which
14 are eligible to receive federal funds under this act unless state matching funds exist which have

15 been specifically authorized and are sufficient to fully fund the corresponding state portion of the
16 federal commitment to fund these obligations; and provided further, that the department shall
17 only enter into obligations for projects under this act based upon a prior or anticipated future
18 commitment of federal funds and the availability of corresponding state funding authorized and
19 appropriated for this use by the general court for the class and category of project for which this
20 obligation applies..... \$750,000,000

21 SECTION 2A.

22 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

23 Highway Division

24 6121-1718. For the design, construction, preservation, reconstruction and repair of or
25 improvements to nonfederally-aided bridges and approaches with span lengths of not more than
26 20 feet; provided, that expenditures from this item may include the costs of engineering, design,
27 permitting and other services essential to these projects; provided further, that a city or town
28 shall comply with the procedures established by the department with respect to the small bridge
29 program; provided further, that the department shall only enter into obligations for projects under
30 this item based upon a prior or anticipated future commitment of funds or equivalent services
31 from cities and towns in which a such project is located or which are otherwise served by such
32 project and the availability of corresponding municipal funding authorized or equivalent services
33 provided for use in connection with the project for which the obligation applies; provided
34 further, that the department shall develop a plan for project selection that takes into account
35 need-based criteria and geographic distribution to be filed with the joint committee on

36 transportation not later than September 1, 2016; and provided further, that no amounts
37 appropriated under this item shall be expended for bridges or approaches owned by or under the
38 control of the department or the Massachusetts Bay Transportation Authority.....\$50,000,000

39 SECTION 3. The General Laws are hereby amended by striking out chapter 90I in its
40 entirety and inserting in place thereof the following chapter:-

41 Chapter 90I

42 Complete Streets Program

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

45 “Complete streets”, streets that provide safe and accessible options for multiple travel
46 modes for people of all ages and abilities including, but not limited to, walking, cycling, public
47 transportation, automobiles and freight.

48 “Department”, the Massachusetts Department of Transportation.

49 “Program”, the complete streets program established in this chapter.

50 Section 2. There shall be within the department a complete streets program to provide
51 grants to municipalities to encourage them to regularly and routinely include complete streets
52 design elements and infrastructure during the construction on new or existing locally-funded
53 roads.

54 Section 3. To be eligible for funding under the program, a municipality shall: (i) apply to
55 the department in a form and manner prescribed by the department; (ii) adopt a complete streets
56 by-law, ordinance or administrative policy which shall be approved by the department and which
57 shall include at least 1 public meeting; provided, however, that the by-law, ordinance or
58 administrative policy shall identify the body, individual or entity responsible for implementing
59 the complete streets program; (iii) ensure that the municipal employees responsible for the
60 program participate in a training administered by the department; (iv) develop a complete streets
61 prioritization plan; and (v) comply with other requirements of the department relative to the
62 program.

63 Section 4. The department may adopt rules, regulations and guidelines for the
64 administration of this chapter including, but not limited to, criteria for awarding grants under the
65 program, application procedures and other requirements. The department shall consult with the
66 bicycle and pedestrian advisory board established in section 11A of chapter 21A and the healthy
67 transportation compact established in section 33 of chapter 6C on the development and
68 management of the program.

69 SECTION 4. Chapter 79 of the acts of 2014 is hereby amended by inserting after section
70 41 the following section:-

71 Section 41A. Notwithstanding any general or special law to the contrary, bonds or notes
72 issued under section 20 as special obligation bonds pursuant to section 20 of chapter 29 of the
73 General Laws shall not be included in the computation of outstanding bonds for purposes of the
74 limit imposed by the second paragraph of section 60A of said chapter 29 and no debt service

75 with respect to these bonds and notes shall be included in the computation of the limit imposed
76 by section 60B of said chapter 29.

77 SECTION 5. Section 6 of chapter 257 of the acts of 2014 is hereby amended by striking
78 out subsection (b) and inserting in place thereof the following subsection:-

79 (b) All interest and payments on account of principal of these obligations shall be payable
80 solely from the State Lottery and Gaming Fund. Bonds and interest thereon issued under this
81 section shall be general obligations of the commonwealth; provided, however, that any bonds
82 issued by the state treasurer under this section, upon the request of the governor, may be issued
83 as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws; provided
84 further, that in deciding whether to request the issuance of particular bonds as special
85 obligations, the governor shall take into account: (i) generally prevailing financial market
86 conditions; (ii) the impact of each approach on the overall capital financing plans and needs of
87 the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any
88 ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds
89 proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit
90 enhancement agreement entered into pursuant to said section 20 of said chapter 29. Bonds
91 issued under the authority of this section shall be excluded from the debt limit established in
92 section 60A of said chapter 29.

93 SECTION 6. Item 1100-2511 of section 2A of said section 286 is hereby amended by
94 inserting after the word “provided”, in line 4, the following words:- , that \$330,000 shall be
95 expended for port security projects eligible for financing through grants from the Federal
96 Emergency Management Agency when such projects are undertaken in collaboration with the

97 commissioner of fisheries, wildlife and environmental law enforcement and when such projects
98 are based upon prior or anticipated future commitments of federal funds; provided further.

99 SECTION 7. (a) The Massachusetts Department of Transportation shall submit an
100 application to the United States Department of Transportation for funding in federal fiscal year
101 2017 for the Surface Transportation System Funding Alternatives Program established in the
102 Fixing America's Surface Transportation Act, or FAST Act, to be used for a vehicle miles
103 traveled pilot program. If the application is not successful, the Massachusetts Department of
104 Transportation shall thereafter apply in each federal fiscal year until 2020 or until the application
105 results in funding for a vehicle miles traveled pilot program, whichever first occurs.

106 (b) There shall be a vehicle miles traveled pilot program advisory task force to guide the
107 development and evaluation of the program if funds are received under subsection (a). The task
108 force shall promote best practices in the creation, implementation and review of the pilot
109 program. The duties of the task force shall include, but not be limited to, (i) gathering public
110 comment on issues and concerns related to the pilot program; (ii) making recommendations to
111 the Massachusetts Department of Transportation on the design and criteria used to evaluate a
112 pilot program; and (iii) evaluating the potential results of a pilot program, The task force shall
113 consist of: the secretary of transportation or the secretary's designee who shall serve as chair; 1
114 person who shall be appointed by the president of the senate who shall be a representative of a
115 transportation consumer organization or other public interest organization; 1 person to be
116 appointed by the minority leader of the senate who shall have knowledge and experience in the
117 field of transportation finance; 1 person who shall be appointed by the speaker of the house of
118 representatives who shall be a member of a regional planning agency; 1 person who shall be

119 appointed by the minority leader of the house of representatives who shall be a member of a
120 business association; and 3 persons who shall be appointed by the governor, of whom 1 shall
121 have knowledge and experience in transportation data security, 1 shall be a registered civil
122 engineer with at least 10 years of experience and 1 shall be a representative of a privacy rights
123 advocacy organization.

124 SECTION 8. (a) The secretary of transportation shall prepare a report that includes an
125 analysis and assessment of current capacity constraints, safety conditions and the state of good
126 repair of the commonwealth's transportation system, including all modes of surface
127 transportation. The assessment shall analyze the current planned operating and capital
128 expenditures of the department, including the Massachusetts Bay Transportation Authority and
129 the regional transit authorities, and shall consider and state the baseline of the surface
130 transportation revenues currently available and projected to be available from all sources in all
131 modes of surface transportation, regardless of the fund in which they are kept, from fiscal year
132 2017 to fiscal year 2028, inclusive. The baseline assessment shall: (i) project spending necessary
133 for the maintenance of the existing system, the completion of all expansion projects the
134 commonwealth is legally bound to complete, and capital improvements and projects included in
135 the fiscally-constrained, long-range transportation plans mandated by federal law; (ii) consider
136 and incorporate any additional expenditures necessary to implement the most recent capital plans
137 of the Massachusetts Bay Transportation Authority and the Massachusetts Department of
138 Transportation to achieve a state of good repair before fiscal year 2029; (iii) identify the capital
139 budget needs for the regional transit authorities from fiscal year 2017 to fiscal year 2028,
140 inclusive; (iv) identify the transportation infrastructure needs of municipally-owned
141 transportation assets regularly funded through the chapter 90 program through fiscal year 2028;

142 (v) identify areas of the commonwealth where current transportation services are failing to meet
143 the future economic and mobility needs due to projected job growth through fiscal year 2028 and
144 the costs of infrastructure improvements necessary to meet the future economic and mobility
145 needs due to such projected job growth; and (vi) for each year from fiscal year 2017 to 2028,
146 inclusive, identify the gap between projected spending and overall system need in order to meet
147 the conditions in the report; provided, however, that the report shall be consistent with the
148 Massachusetts Bay Transportation Authority fare policy set forth in section 61 of chapter 46 of
149 the acts of 2013.

150 (b) The secretary shall provide status updates of department and authority actions relative
151 to the items identified in this section with the joint committee on transportation not later than
152 October 15, 2016 and shall file its final report with the clerks of the senate and house of
153 representatives, the joint committee on transportation and the house and senate committees on
154 ways and means not later than December 15, 2016.

155 SECTION 9. To meet a portion of the expenditures necessary in carrying out section 2,
156 the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth
157 in an amount to be specified by the governor from time to time but not exceeding, in the
158 aggregate, \$135,000,000. All bonds issued by the commonwealth as aforesaid shall be
159 designated on their face, Transportation Improvement Loan Act of 2016, and shall be issued for
160 a maximum term of years not exceeding 30 years as the governor may recommend to the general
161 court pursuant to section 3 of Article LXII of the Amendments to the Constitution; provided,
162 however, that all such bonds shall be payable not later than June 30, 2051. All interest and
163 payments on account of principal on such obligations shall be payable from the Commonwealth

164 Transportation Fund. Bonds and interest thereon issued under this section shall be general
165 obligations of the commonwealth.

166 SECTION 10. To meet the expenditures necessary in carrying out section 2A, the state
167 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an
168 amount to be specified by the governor from time to time but not exceeding, in the aggregate,
169 \$50,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their
170 face, Small Bridge Preservation and Improvement Act of 2016, and shall be issued for a
171 maximum term of years not exceeding 30 years as the governor may recommend to the general
172 court pursuant to section 3 of Article LXII of the Amendments to the Constitution; provided,
173 however, that all such bonds shall be payable not later than June 30, 2051. All interest and
174 payments on account of principal on such obligations shall be payable from the Commonwealth
175 Transportation Fund. Bonds and interest thereon issued under this section shall be general
176 obligations of the commonwealth.

177 SECTION 11. Notwithstanding any general or special law to the contrary, all
178 construction contracts funded in whole or in part by the funds authorized in item 6121-1714 of
179 section 2 shall include a price adjustment clause for each of the following: (i) fuel, including
180 both diesel and gasoline; (ii) asphalt; (iii) concrete; and (iv) steel. A base price for each material
181 shall be set by the awarding authority or agency and included in the bid documents at the time a
182 project is advertised. The awarding authority or agency shall also identify in the bid documents
183 the price index to be used for each material and supply. The adjustment clause shall provide for a
184 contract adjustment to be made on a monthly basis when the monthly cost change exceeds plus
185 or minus 5 per cent.

186 SECTION 12. Notwithstanding any general or special law to the contrary, the bonds that
187 the state treasurer may issue pursuant to sections 9 and 10 shall be issued for a term not to
188 exceed 30 years. All such bonds shall be payable not later than June 30, 2051 as recommended
189 by the governor in a message to the general court dated March 31, 2016 under section 3 of
190 Article LXII of the Amendments to the Constitution.

191 SECTION 13. Notwithstanding any general or special law to the contrary, in carrying out
192 this act, the Massachusetts Department of Transportation may enter into contracts, agreements or
193 transactions that may be appropriate with other federal, state, local or regional public agencies or
194 authorities. The contracts, agreements or transactions may relate to such matters as the
195 department shall determine including, without limitation, the research, design, layout,
196 construction, reconstruction or management of construction of all or a portion of these projects.
197 In relation to any such contracts, agreements or transactions, the department may advance
198 monies to such agencies or authorities, without prior expenditure by the agencies or authorities,
199 and the agencies and authorities may accept monies necessary to carry out these contracts,
200 agreements or transactions; provided, however, the department shall certify to the comptroller
201 the amounts so advanced and any such contract, agreement or transaction shall contain
202 provisions satisfactory to the department for the accounting of money expended by any other
203 agency or authority. Any money not expended under these contracts, agreements or transactions
204 shall be credited to the account of the department from which they were advanced.