



Acts
2008

CHAPTER 86 AN ACT FINANCING IMPROVEMENTS TO THE COMMONWEALTH'S TRANSPORTATION SYSTEM.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to immediately provide for an accelerated transportation development and improvement program for the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

SECTION 1. To provide for a program of transportation development and improvements, the sums set forth in sections 2 to 2D, inclusive, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the provisions of law regulating the disbursement of public funds and approval thereof.

SECTION 2.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Department of Highways

6033-0815.. For projects on the interstate federal aid highway system; provided, that funds may be expended for the costs of those projects including, but not limited to, the nonparticipating portions of such projects and the costs of engineering and other services essential to such projects, rendered by department of highways' employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary-related expenses of such employees to the extent that they work on or in support of such projects; provided further, that notwithstanding this act or any general or special law to the contrary, the department shall not enter into any obligations for projects which are eligible to receive federal funds under this act unless state matching funds exist which have been specifically authorized and are sufficient to fully fund the corresponding state portion of the federal commitment to fund such obligations; and provided further, that the department shall only enter into obligations for projects pursuant to this act based upon a prior or anticipated future commitment of federal funds and the availability of corresponding state funding authorized and appropriated for such use by the general court for the class and category of project for which such obligation applies..... \$200,000,000

6033-0816.. For federal aid projects on the non interstate federal highway system; provided, that funds may be expended for the costs of those projects including, but not limited to, the nonparticipating

portions of such projects and the costs of engineering and other services essential to such projects rendered by department of highways employees or by consultants; provided further, that amounts expended for department employees may include the salary and salary-related expenses of such employees to the extent that they work on or in support of such projects; provided further, that notwithstanding this act or any general or special law to the contrary, the department shall not enter into any obligations for projects which are eligible to receive federal funds under this act unless state matching funds exist which have been specifically authorized and are sufficient to fully fund the corresponding state portion of the federal commitment to fund such obligations; and provided further, that the department shall only enter into obligations for projects under this act based upon a prior or anticipated future commitment of federal funds and the availability of corresponding state funding authorized and appropriated for such use by the general court for the class and category of project for which such obligation applies..... \$2,200,000,000

SECTION 2A.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Department of Highways.

6033-0817.. For the design, construction and repair of or improvements to nonfederally-aided roadway and bridge projects and for the nonparticipating portion of federally- aided projects; provided, that the costs of professional personnel directly and exclusively involved in the construction, planning, engineering and design of the projects funded herein may be charged to this item; provided further, that those costs shall not be classified as administrative costs; and provided further, that an amount not to exceed 2 per cent of the amount authorized herein may be expended for the administrative costs directly attributable to the programs funded herein..... \$225,000,000

6033-0837.. For the purposes of remediating environmental contamination at facilities and on lands under the care, custody and control of the department, including the costs for auditing and assessing the existence and extent of environmental contamination..... \$1,400,000

SECTION 2B.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

Department of Highways.

6033-0867.. For the construction and reconstruction of town and county ways as described in paragraph (a) of clause (2) of the first paragraph of section 34 of chapter 90 of the General Laws; provided that a city or town shall comply with the procedures established by the department of highways; provided further, that any such city or town may appropriate for such projects amounts not in excess of the amount provided to the city or town under this item, preliminary notice of which shall be provided by the department to the city or town not later than April 1 of each year; provided further, that the appropriation shall be considered as an available fund upon approval of the commissioner of

revenue pursuant to section 23 of chapter 59 of the General Laws; and provided further, that the commonwealth shall reimburse a city or town under this item within 30 days after receipt by the department of a request for reimbursement from the city or town, which request shall include certification by the city or town that actual expenses have been incurred on projects eligible for reimbursement under this item, and that the work has been completed to the satisfaction of the city or town according to the specifications of the project and in compliance with applicable laws and procedures established by the department \$150,000,000

6033-0887.. For the purpose of implementing section 32 of chapter 637 of the acts of 1983 which authorizes the commissioner of highways to establish a program to assist towns with populations of 7,000 or less undertaking projects to design, construct, reconstruct, widen, resurface, rehabilitate and otherwise improve roads and bridges... \$5,000,000

SECTION 2C.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS
Office of the Secretary

6001-0801.. For the purposes of chapter 161B of the General Laws, including the purchase and rehabilitation of rolling stock, and implementation of networking and intelligent transportation systems to provide for interoperability communications and the construction, reconstruction and rehabilitation of regional transit authority facilities and related appurtenances..... \$8,000,000

6001-0802.. For the purpose of implementing the mobility assistance program pursuant to section 13 of chapter 637 of the acts of 1983; provided, that any grant funds awarded under this item shall be for not more than 80 per cent of the total purchase cost of the vehicles or equipment purchased under said program; and provided further, that the secretary of transportation and public works may waive the foregoing limitation on a determination that a recipient is in critical financial need \$3,000,000

6001-0804.. For the purpose of implementing rail improvements pursuant to chapter 161C of the General Laws; provided, that funds may be used for transportation planning, design, permitting and engineering for heavy rail, light rail and bus projects, which projects shall include the Urban Ring, Blue Line extension to Lynn, and south coast initiatives; and provided further, that funds may be used for the acquisition of interests in land..... \$10,000,000

6001-0805.. For the purpose of improving and expanding marine transportation services, for the purpose of enhanced passenger water transportation capacity and intermodal access to the waterfront or for other public transportation purposes including, but not limited to, service feasibility studies, demonstration projects, the acquisition of boats for passenger marine transportation services, the planning, design, construction or acquisition of docking, dredging and other landside facilities, such as parking or shelter facilities, improved landside access to such facilities, the purchase of other equipment in connection with those operations and the disposal of same when their use has been

substantially diminished, including all equipment or boats purchased for marine transportation service before the effective date of this act; provided, that in carrying out this item, the secretary of transportation and public works may enter into contracts or agreements that are appropriate with other state and local agencies, authorities or political subdivisions of the commonwealth, including, but not limited to, the Massachusetts Port Authority, the Massachusetts Bay Transportation Authority or the executive office of housing and economic development, the executive office of energy and environmental affairs, or with other quasi-public agencies, which may enter into contracts or agreements with the secretary; and provided further, that grants funded by this item shall be subject to a 25 per cent match from eligible applicants..... \$5,000,000

SECTION 2D.

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS
Office of the Secretary

- 6001-0812.. For the Fairmount Line project, the commuter transit facility parking project, the Red Line/Blue Line connector design project and the Green Line to Medford Hillside and Union Square spur project, all as further described in 310 CMR 7.36..... \$700,000,000
- 6001-0813.. For design and construction of the Massachusetts Bay Transportation Authority Fitchburg Line Speed Improvement project..... \$8,000,000

SECTION 3. The first paragraph of section 32 of chapter 637 of the acts of 1983, as appearing in section 31 of chapter 205 of the acts of 1996, is hereby further amended by striking out, in line 3, the words “three thousand five hundred” and inserting in place thereof the following figure:- 7,000.

SECTION 4. The third paragraph of said section 32 of said chapter 637 , as amended by section 33 of said chapter 205 , is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- Any town with a population of 7,000 or less may by vote of an annual town meeting or at a special town meeting called for that purpose or in a municipality having a town council form of government by the town council, make application to the commissioner for financial assistance in undertaking a project described in this section

SECTION 5. Subsection (e) of section 19 of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the first sentence the following 11 sentences:- Performance measurements shall include, for at least the then current fiscal year and the previous 5 fiscal years, all modes of transportation. Performance measurements shall include the number of projects completed, the percentage of projects completed early or on time, the percentage of projects completed under budget or on-budget, the number of projects in construction phase and the percentage of projects advertised early or on time. Performance measurements shall include usage information for all modes of transportation, including measures of throughput, utilization and ridership. This information shall be presented with measurements of congestion, on-time performance, where

appropriate, and incidents that have caused delays or closures. Performance measurements shall include assessments of maintenance performance by asset class, mode and region, including a breakdown of highway pavement, bridge and Massachusetts Bay Transportation Authority and track, for subway, commuter and commonwealth-owned freight rail, by condition level, with an explanation of current year and future year planned maintenance expenditures and their expected result. Reporting on planned maintenance programming shall include an assessment of the categories of maintenance-related activity as described in the American Association of Highway and Transportation Officials' Maintenance Manual for Roadways and Bridges. The department of highways shall expand and enhance its project information system and shall develop additional means to establish a centralized system, available on the internet, to document performance measurements and the progress and status of all planning, design, construction and maintenance projects of the executive office of transportation and the department of highways, and all road and bridge projects of any city or town that are funded, in whole or in part, by the commonwealth. A municipality shall have access to the system at no cost, shall enter such information into the system as may be required by the department of highways and shall otherwise fully participate in the system as a condition of receiving financial assistance from the commonwealth. All information in the project information system shall be a public record unless otherwise exempted by law. A report of the project information system and performance measurements shall be published annually and made available to the public not later than December 31. The report shall also be filed annually with the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation.

SECTION 6. Said chapter 6A is hereby further amended by inserting after section 19 the following section:-

Section 19½. (a) The executive office of transportation and public works shall utilize life-cycle cost modeling for all projects. Life-cycle costs shall mean all relevant costs of a transportation asset's lifespan including, but not limited to, planning, study, design, purchase or lease, operation, maintenance, repair, replacement and disposal. The executive office shall utilize life-cycle cost modeling during the project planning and selection process for all of its constituent agencies, as defined in subsection (b) of section 19.

(b) Life-cycle cost information shall be presented as part of the public disclosure process in all project planning documents in equal proportion to initial delivery cost estimates. Project planning shall include the identification of funding to minimize life-cycle costs throughout the life of each asset.

SECTION 7. Chapter 10 of the General Laws is hereby amended by inserting after section 69 the following section:-

Section 69A. (a) There shall be established and set up on the books of the commonwealth a separate fund, to be known as the Transportation Deferred Maintenance Trust Fund, in this section called the

fund. The fund shall consist of all monies credited or transferred to the fund from any other fund or source pursuant to law.

(b) The secretary of administration and finance shall be the trustee of the fund and shall expend monies in the fund or, as appropriate, allocate monies in the fund to other agencies, without further appropriation, to design or construct maintenance and repairs to the commonwealth's roads and bridges. The secretary shall use the funds to maintain the roads and bridges in good repair, working order and condition, in an efficient manner and at a reasonable cost.

SECTION 8. Chapter 81A of the General Laws is hereby amended by adding the following section:-

Section 32. Notwithstanding any general or special law to the contrary, a retiree under the age of 65 in a plan for group, general or blanket hospital, medical, dental or other health insurance, either by purchase of a policy from an insurance company, or nonprofit hospital, medical, dental or other service corporation, including a health maintenance organization, or by means of a self-insurance plan or preferred provider arrangement plan of the authority, shall contribute to the total monthly premium or rate applicable to the coverage the greater of the retiree share of the monthly premium or rate then being paid by an authority retiree or the share of the monthly premium or rate established as a percentage for commonwealth retirees.

SECTION 9. Section 35 of chapter 161A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following paragraph:-

Notwithstanding any general or special law to the contrary, a retiree under the age of 65, in a plan for group, general or blanket hospital, medical, dental or other health insurance, either by purchase of a policy from an insurance company, or nonprofit hospital, medical, dental or other service corporation, including a health maintenance organization, or by means of a self-insurance plan or preferred provider arrangement plan of the authority, shall contribute to the total monthly premium or rate applicable to that coverage an amount which shall be not less than the current retiree share of the monthly premium or rate established as a percentage for retirees from the service of the commonwealth.

SECTION 10. Notwithstanding any general or special law or rule or regulation to the contrary, the secretary of transportation and public works, in consultation with the secretary of public safety may promulgate regulations and recommend guidelines for the use of police details at public works sites. The regulations and guidelines shall consider categorizing public works projects, including roadways, bridges, intersections, railroads and any other similar project components, into tiers and recommend which tiers shall require the utilization of police details during work hours. The regulations shall also take into account traffic patterns, roadway design, criminal and civil offenses committed in the area and proximity to schools, playgrounds and other youth activity locations. The secretaries may also make recommendations on the use of alternative personnel is appropriate for various tiers of public

works projects. In promulgating the rules and regulations hereunder, the secretary shall examine the actual costs savings from the utilization of alternative personnel.

Notwithstanding any provision of this section to the contrary, the regulations and guidelines promulgated hereunder shall ensure that the awarding authority of the public works contract has the authority to determine the appropriate traffic control measures; provided, however, that when a municipality is the awarding authority, the traffic control measures shall be consistent with the ordinances or by laws of the municipality wherein the public works project is being undertaken and the measures shall not affect any applicable provisions of a collective bargaining agreement under chapter 150E of the General Laws.

The regulations and guidelines shall require the inclusion of a "construction zone safety plan" in each public works contract which shall require the use of personnel to ensure the safety of workers on construction sites. The plan shall include the number of construction zone safety personnel required to be on site daily and the procedures to be followed in the case the designated personnel who fail to arrive at the work site as agreed.

These regulations shall be promulgated and forwarded to the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation within 90 days after the effective date of this act .

SECTION 11. Notwithstanding any general or special law or rule or regulation to the contrary, the secretary of transportation and public works shall submit to the clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation a report detailing the amount paid for traffic details for each public transportation construction project which was started and completed during the past 5 years and which was paid in whole or in part with state funds. The report shall distinguish, for each year, the traffic details performed by municipal police versus traffic details performed by state police. It shall also identify the percentage of the total cost of the project that the traffic detail work represented. The report shall be submitted not later than December 31, 2008.

SECTION 12. The secretary of transportation and public works and the commissioner of highways shall develop a reporting system wherein the executive office and the department shall track periodic and substantial completion estimates submitted pursuant to section 39G of chapter 30 of the General Laws. The reporting system shall include the date the work included on the estimate was performed, the date the resident engineer provided the estimate to the contractor for his signature, the date the contractor submitted the signed estimate, the date the estimate was signed by the department and the date payment was sent to the contractor. The executive office and the department shall submit the reports pursuant to this section to the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation on a quarterly basis and shall submit a fiscal year end report not later

than November 1 of each year.

SECTION 13 . The executive office of transportation and public works and the department of highways shall advertise, award and issue notices to proceed within 120 days from the original date of advertisement for projects to be funded, in whole or in part, in federal fiscal years 2008 and 2009 from funds authorized in this act. The executive office and the department shall submit quarterly reports detailing the date the projects were originally advertised, the date the bid was opened for each project, the date each contract was awarded and the date the notice to proceed was issued for each project. The reports shall be submitted to clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation.

SECTION 14. Notwithstanding any general or special law to the contrary, the executive office of transportation and public works and the department of highways shall conduct an investigation and study to identify the best practices for the procurement, design, construction and oversight of transportation-related construction projects. In identifying the best practices, the department shall review the protocols and standards, with respect to each stage of a project, of states or regulatory agencies or independent authorities which have a demonstrated and documented record of delivering transportation projects on time and on budget, or better, on a regular basis. In addition, the department shall compare practices from those states or regulatory agencies or independent authorities to the formal practices of the department, as documented in the Design Guidebook, as well as any informal practices followed by the department. The department shall evaluate those best practices and make recommendations as to their application to, and potential for use on, transportation-related construction projects. The department shall submit a report, together with any recommendations, with the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation not later than December 31, 2008.

SECTION 15. The department of highways shall undertake not less than 5 design build projects, each of which shall be completed not later than June 30, 2011. The projects shall be procured pursuant to sections 14 to 21, inclusive, of chapter 149A of the General Laws. At least 1 of the projects shall be a roadway reconstruction project with a value of not less than \$10,000,000 and at least 1 of the projects shall be a bridge reconstruction project with a value of not less than \$10,000,000. Of those projects, significant economic development impact shall be a project selection criterion. Not more than 2 projects shall be located in the same department of highways district.

The department shall prepare a report summarizing each project, including the timeline from advertisement through contract award and from the start of actual design and construction by the design build team to project completion; the time saved, if any, by employing the design build procurement method; the cost savings, if any, as a result of employing the design build procurement method; and whether, in the opinion of the department, design build was an effective procurement

method for each project. The report shall be submitted to the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation not later than August 31, 2011.

SECTION 16. The department of highways shall undertake at least 10 projects which shall be procured pursuant to public bidding laws including, but not limited to, section 39M of chapter 30 , sections 44A to 44J, inclusive, of chapter 149 and sections 14 to 21, inclusive, of chapter 149A of the General Laws which shall be advertised for construction, awarded and completed within 1 year after the original bid date of each individual project. During the project selection process, the department of highways shall consider significant economic development impact as a project criterion and shall not select more than 3 projects in the same department of highways district. In completing such projects, the department may utilize performance-based design, extended work hours, bonus payments and penalties for performance and other measures aimed at accelerating project delivery. The projects shall be completed not later than June 30, 2009. The department shall submit a report to the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means and the senate and house chairs of the joint committee on transportation detailing each project, including the advertisement date, the award date, the date construction began and the date work was completed, as well as the original office estimate for the project, the contract award amount and the final cost for the project. The report shall be submitted not later than July 31, 2009.

SECTION 17. The secretary of administration and finance shall submit a report on the progress and all expenditures related to the projects specified in this act and any other projects funded through the authorizations in this act to the clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation. The report shall include, but not be limited to: the total amount appropriated for each project, the total estimated cost of each project, the amount expended for the planning and design of each project up to the time the report is filed, the amount expended on construction of each project up to the time the report is filed, the total amount currently expended on each project, the estimated lifetime maintenance schedule and cost of each project, the original estimated completion date of each project, the current anticipated completion date of each project and, if the project has been de-authorized, the reason for and date of de-authorization. The report shall be submitted on June 30 and December 31 of each year for a period of 6 years from the effective date of this act.

SECTION 18. The executive director of the Massachusetts Turnpike Authority shall submit a report to the clerks of the senate and house of representatives, the chairs of the senate and house committees on ways and means and the senate and house chairs of the joint committee on transportation not later than January 31, 2009 on the feasibility of automating fare collection on the turnpike and the metropolitan highway system. The report shall include estimates on cost savings for converting 90 per cent of the manually-operated toll lanes to automated fare-collection lanes, the estimated initial cost to implement these conversions, the estimated savings per year once these conversions are

implemented and other recommendations for modernizing technology at the authority to increase efficiency. The report shall include a complete inventory of all authority assets including, but not limited to: information technology assets, vehicle assets, building and infrastructure assets and land assets, as well as the total current value of those assets; the current physical state of those assets and the maintenance and replacement schedules for those assets.

SECTION 19. There shall be a study commission to study the feasibility of establishing a uniform contractor prequalification process and organization for horizontal, public construction work. The commission shall be chaired by the secretary of transportation and public works or his designee, and shall consist of the following persons or their designees: the commissioner of highways; the commissioner of conservation and recreation; the general manager of the Massachusetts Bay Transportation Authority; the chief executive officer of the Massachusetts Port Authority; the executive director of the Massachusetts Turnpike Authority; 1 member to be appointed by the governor who shall be a representative of the insurance and bonding community; 2 members to be appointed by the president of the senate, 1 of whom shall be a representative of the construction industry; 2 members to be appointed by the speaker of the house, 1 of whom shall be a representative of the construction industry; 1 member to be appointed by the minority leader of the senate; and 1 member to be appointed by the minority leader of the house of representatives. The members of the commission shall be appointed not later than June 30, 2008.

The commission shall examine the current contractor prequalification, suspension and debarment requirements, standards and procedures, if any, of each represented awarding authority, including identifying common information required by each authority; unique information required by each authority; classes of work; formulas for determining single and aggregate bonding limits; and such other information as the members of the commission deem appropriate in complying with this section. The commission shall also examine the feasibility and cost of creating an electronic prequalification filing system.

The commission shall examine the establishment of a centralized office for prequalification, suspension and debarment standards on any horizontal construction work funded in whole or in part with local, state or federal funds and shall recommend uniform regulations for the prequalification of contractors and proposed statutory changes necessary to adopt and implement those regulations. The commission shall identify any additional information to be required by a specific authority necessary to meet unique needs of that authority; provided, however, that every effort shall be made to limit the submission of duplicative information. The commission shall also develop a formula for establishing single project and aggregate limits, which shall include an inflationary factor for adjusting those limits. The commission shall also recommend guidelines for a performance measurement system for executive office to determine the efficiency and effectiveness of the prequalification process.

The commission shall submit its finding and recommendations, together with drafts of legislation necessary to carry those recommendations into effect, by filing the same with the clerk of the house of representatives, the clerk of the senate and house committee on ways and means and the house and

senate chairs of the joint committee on transportation not later than December 31, 2008.

SECTION 20. The secretary of administration and finance, in consultation with the state treasurer and the secretary of transportation and public works, shall conduct an investigation study and make recommendations for the financing of repairs for structurally deficient bridges owned by the commonwealth or a quasi-public agency of the commonwealth. In conducting its investigation and study, the secretary shall make findings relative to the current number of structurally deficient bridges in the commonwealth and the number of bridges anticipated to become structurally deficient within the next 5, 10 and 20 years, respectively. In making those recommendations, the secretary shall consider the impact of any proposals on the commonwealth's debt obligation, its annual appropriations for debt service and its bond rating. The secretary shall also consider the feasibility of funding mechanisms for the Transportation Deferred Maintenance Trust Fund established in section 69A of chapter 10 of the General Laws. The secretary shall report a final report and recommendations, if any, together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the senate and house of representatives, the chairs of the house and senate committees on ways and means, the house and senate chairs of the joint committee on bonding, capital expenditures and state assets and the house and senate chairs of the joint committee on transportation not later than October 1, 2008.

SECTION 21. Notwithstanding any general or special law to the contrary, the Massachusetts Bay Transit Authority shall conduct a fiscal impact analysis of the authority's contribution to current retirement benefits compared to a retirement plan that would require 25 years of Massachusetts Bay Transportation Authority service and an age of not less than 55 years. The analysis shall also compare the fiscal and financial impact of restructuring the authority's retirement plan to a plan that utilizes the same provisions and requirements as the commonwealth's pension system in chapter 32 of the General Laws. The analysis shall also include a study and recommendations relative to phase-in provisions for these studies. The report shall be submitted to the house and senate committee on ways and means not later than 60 days after the effective date of this act.

SECTION 22. Notwithstanding the last paragraph of section 35 of chapter 161A of the General Laws, inserted by section 9, the terms established by a binding arbitration proceeding between the authority and an employee bargaining unit which is pending on the effective date of said section 9 shall remain in full force and effect for so long as those terms remain binding.

SECTION 23. Not later than 1 year after the effective date of this act, the department of highways shall expand and enhance its project information system as required pursuant to subsection (e) of section 19 of chapter 6A of the General Laws and shall develop additional means to develop a centralized system, available on the internet, to document performance measurements and the progress and status of all planning, design, construction and maintenance projects. Funds authorized in this act may be used to fund the project information system. The first report required to be filed and made available to the public pursuant to said subsection (e) of said section 19 of said chapter 6A shall

be submitted not later than December 31, 2008.

SECTION 24. To meet a portion of the expenditures necessary in carrying out section 2, 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, \$508,000,000 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 2008, 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 such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of said chapter 29. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, 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 such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 20 of said chapter 29.¶

SECTION 25. 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, \$226,400,000 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 2008, 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 such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this

section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 20 of said chapter 29. All special obligation revenue bonds issued pursuant to this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, 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 such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 20 of said chapter 29.

SECTION 26. 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, \$155,000,000 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 2008, 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 such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 20 of said chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, 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 such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 2O of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 2O of said chapter 29.

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SECTION 27. 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, \$26,000,000 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 2008, 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 such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer under this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 2O of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 2O of said chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, 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 such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 2O of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 2O of said chapter 29.

SECTION 28. To meet the expenditures necessary in carrying out section 2D, 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, \$708,000,000; provided, however, that any federal grants received by the commonwealth or the Massachusetts Bay Transportation Authority for the Green Line to Medford Hillside and Union Square spur project shall be

applied to reduce the state authorization by that amount. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation Improvement Loan Act of 2008, 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 such bonds shall be payable not later than June 30, 2043. All interest and payments on account of principal on such obligations shall be payable from the Highway Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth; provided, however, that any bonds issued by the state treasurer pursuant to this section shall, upon the request of the governor, be issued as special obligation bonds pursuant to section 20 of chapter 29 of the General Laws; provided further, that in deciding whether to request the issuance of particular bonds as special obligations, the governor shall take into account: (i) generally prevailing financial market conditions; (ii) the impact of each approach on the overall capital financing plans and needs of the commonwealth; (iii) any ratings assigned to outstanding bonds of the commonwealth and any ratings expected to be assigned by any nationally-recognized credit rating agency to the bonds proposed to be issued; and (iv) any applicable provisions of a trust agreement or credit enhancement agreement entered into pursuant to said section 20 of said chapter 29. All special obligation revenue bonds issued under this section shall be designated on their face, Special Obligation Revenue Transportation Improvement Loan Act of 2008, 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 such bonds shall be payable not later than June 30, 2043. All principal on such obligations shall be payable from the Infrastructure Fund established in said section 20 of said chapter 29. Special obligation bonds issued under this section shall be special obligations of the commonwealth payable solely in accordance with said section 20 of said chapter 29.

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SECTION 29. In carrying out sections 2 to 2D, inclusive, all agencies within the executive office of transportation and public works may enter into such contracts or agreements as may be appropriate with other state, local or regional public agencies or authorities. The agreements may relate to such matters as an agency shall determine including, without limitation, the design, layout, construction, reconstruction or management of construction of all or a portion of such projects. In relation to any such agreements between an agency within the executive office and other state agencies or authorities, an agency may advance monies to such agencies or authorities, without prior expenditure by the agencies or authorities, and the agencies and authorities may accept monies necessary to carry out such agreements; provided, however, that said agency shall certify to the comptroller the amounts so advanced; provided further, that such agreements shall contain provisions satisfactory to the agency for the accounting of such monies as expended by any other agency or authority; provided, further, that all monies not expended under any such agreement shall be credited to the account of the agency from which they were advanced. Agencies within the executive office shall report to the house and senate committees on ways and means any transfers completed pursuant to this section.

SECTION 30. (a) The department of highways shall expend the sums authorized in sections 2 to 2B, inclusive, 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 pursuant to section 34 of chapter 90 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 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 for 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 Act, 42 USC 4601 et seq., 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 such removal. In planning projects funded by sections 2 to 2B, inclusive, 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 herein 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 provided herein.

(b) Funds authorized in sections 2 to 2B, inclusive, 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, where 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 of the commonwealth.

(c) Notwithstanding sections 40A and 40B of chapter 7 of the General Laws, the department shall have jurisdiction over the selection of designers performing design services in connection with the ventilation of buildings, utility facilities and toll booths to be constructed as part of the Central Artery/Tunnel Project and shall construct, control, supervise or contract such structures; provided, however, that no such construction or contractual agreement for construction shall begin before the review and approval of the inspector general. The inspector general shall file with the house and senate committees on ways and means and the joint committee on transportation all notices of approval for projects undertaken pursuant to this subsection.

(d) In addition to the foregoing, the department may: expend funds made available by this act to acquire from any person, land or rights in land by lease, purchase or eminent domain under chapter 79 of the General Laws, or otherwise, 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.

(e) In carrying out this section, the department may enter into contracts or agreements with cities to mitigate the effects of projects undertaken pursuant to this act and to undertake additional transportation measures within the city and may enter into such contracts or agreements with other state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions as may be necessary to implement such city agreements. Cities and other state, local or regional public agencies, authorities, nonprofit organizations or political subdivisions may enter into such contracts or agreements with the department. In relation to such agreements, the department may advance to such agencies, organizations or authorities, without prior expenditure by such agencies, organizations or authorities, monies necessary to carry out such agreements; provided, however, that the department shall certify to the comptroller the amount so advanced; provided, further, that all monies not expended under 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 pursuant to this subsection.

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SECTION 31. Notwithstanding any general or special law to the contrary, the executive office of transportation and public works and the department of highways shall take all necessary actions to secure federal highway or mass transportation assistance including, but not limited to, actions authorized pursuant to 23 U.S.C. and section 145 of the Surface Transportation and Uniform Relocation Assistance Act of 1982, PL 97-424, the Surface Transportation and Uniform Relocation Act of 1987, PL 100-17, the Intermodal Surface Transportation Efficiency Act of 1991, PL 102-240, the Transportation Equity Act for the 21st Century, PL 105-178, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users, PL 109-59, and any successor acts or reauthorizations of those acts, and actions such as filing applications for federal assistance, supervising the expenditure of funds under federal grants or other assistance agreements and making any determinations and certifications necessary or appropriate to the foregoing. If any federal law, administrative regulation or practice requires any action relating to such federal assistance to be taken by a department, agency or other instrumentality of the commonwealth, other than the department of highways, such other department, agency or instrumentality shall take such action. In furtherance of the foregoing purposes, the department of highways, as appropriate, shall apply for and may accept any federal funds available for projects authorized in section 2 and the federal funds, when received, shall be credited to the Federal Highway Construction Program Fund.

SECTION 32. Notwithstanding any general or special law to the contrary, section 61 and sections 62A to 62H, inclusive, of chapter 30 of the General Laws, chapter 91 of the General Laws and section 40 of chapter 131 of the General Laws shall not apply to bridge projects of the department of highways and the Massachusetts Bay Transportation Authority for the repair, reconstruction, replacement or demolition of existing state highway bridges and other bridges, including the immediate roadway approaches necessary to connect the bridges to the existing adjacent highway system, in which the design is substantially the functional equivalent of, and in similar alignment to, the structure to be reconstructed or replaced, but said section 61 and said sections 62A to 62H, inclusive of said chapter 30, said chapter 91 and said section 40 of said chapter 131 shall apply to any portions of the bridge and roadway approaches to the crossing of the Charles river for the Central Artery/Tunnel Project. In the case of a state highway or other bridge crossing over a railroad right-of-way or railroad tracks, the department shall seek the opinion of a railroad company, railway company or its assigns operating on the track of a necessary clearance between the track and the state highway bridge, but the department, its agents or contractors may enter upon any right-of-way, land or premises of a railroad company or railway company or its assigns for purposes that the department may consider necessary or convenient to carry out this section. If a flagman is needed to carry out this section, the railroad company or its assigns shall provide the flagman. For the purposes of this section, the word "bridge" shall include any structure spanning and providing passage over water, railroad right-of-way, public or private way, other vehicular facility or other area.

SECTION 33. Sections 8 and 9 shall apply to persons who retire after December 31, 2008 .

Approved April 17 , 2008
