

AN ACT REORGANIZING THE GOVERNOR'S CABINET AND CERTAIN
AGENCIES OF THE EXECUTIVE DEPARTMENT

Be it approved by the Senate and the House of Representatives in General Court assembled, pursuant to Article LXXXVII of the Amendments to the Constitution, and by the authority of the same, as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section 17A and inserting in place thereof the following section:-

Section 17A. There shall be a cabinet, which shall serve under the governor. The cabinet shall consist of the secretary of administration and finance, the secretary of elder affairs, the secretary of energy and environmental affairs, the secretary of health and human services, the secretary of housing and economic development, the secretary of labor and workforce development, the secretary of public safety and security, the secretary of transportation and public works, and other officers of the executive department that the governor may from time to time designate.

SECTION 2. Section 56 of chapter 6, as appearing in the 2004 Official Edition, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:-

There shall be in the executive office of labor and workforce development a commission to be known as the Massachusetts Commission Against Discrimination.

SECTION 3. Chapter 6A of the General Laws is hereby amended by striking out section 2 and inserting in place thereof the following section:-

Section 2. There shall be the following executive offices, each of which shall serve under the governor: administration and finance, energy and environmental affairs, health and human services, housing and economic development, labor and workforce development, public safety and security, transportation and public works.

SECTION 4. Section 3 of chapter 6A of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:- Each secretary may, notwithstanding section 45 of chapter 30 and chapter 31, subject to the approval of the governor and subject to appropriation, appoint 1 or more undersecretaries for the executive office, each of whom shall serve at the pleasure of her appointing secretary.

SECTION 5. Section 8B of chapter 6A is hereby repealed.

SECTION 6. Subsection (a) of section 16G of chapter 6A, as appearing in the

2004 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- In the executive office of housing and economic development, there shall be a department of business and technology, a department of consumer affairs and business regulation, and a department of housing and community development.

SECTION 7. Section 16G of chapter 6A, as so appearing, is hereby further amended by striking out, in lines 19 to 21, the words “, the department of telecommunications and energy, the division of professional licensure and the division of energy resources” and inserting in place thereof the following words:- and the division of professional licensure.

SECTION 8. Section 16G of chapter 6A, as so appearing, is hereby further amended by striking out subsections (d) and (e).

SECTION 9. Subsection (f) of section 16G of chapter 6A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The secretary of housing and economic development shall be appointed by the governor and shall be a person of skill and experience in the fields of housing and economic development.

SECTION 10. Section 4G of chapter 7 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “; the Massachusetts

commission against discrimination”.

SECTION 11. The title of chapter 21A of the General Laws is hereby amended by inserting after the word “OF” the following words:- ENERGY AND.

SECTION 12. Section 1 of chapter 21A, as appearing in the 2004 Official Edition, is hereby amended by inserting after the word “of”, in line 1 and line 3, in each instance, the following words:- energy and.

SECTION 13. Section 7 of chapter 21A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- In the executive office shall be an office of the secretary, a department of environmental protection, a department of conservation and recreation, a department of agricultural resources, a department of fish and game, a department of public utilities, and a division of energy resources.

SECTION 14. The title of chapter 23 of the General Laws is hereby amended by striking out the word “DEPARTMENT” and inserting in place thereof the following words:- “EXECUTIVE OFFICE”.

SECTION 15. Chapter 23 is hereby further amended by striking out section 1 and inserting in place thereof the following 2 sections:-

Section 1. There shall be an executive office of labor and workforce

development, which shall be under the supervision and control of a secretary of labor and workforce development, appointed by the governor. The secretary of labor and workforce development may, pursuant to chapter 30A, adopt regulations for the implementation or interpretation of any law enforced or administered by any department, office, agency, or other entity in the executive office of labor and workforce development. In the executive office shall be the department of labor, the department of workforce development, and the Massachusetts Commission Against Discrimination.

Section 1A. (a) In the executive office of labor and workforce development, there shall be a department of labor, in this chapter called the department.

(b) Subject to appropriation, the department shall be provided with such offices in Boston and elsewhere in the commonwealth as may be approved by the governor and may expend sums for other necessary expenses of the department. The department may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the department in the discharge of its duties.

(c) The following state agencies shall be in the department of labor: the division of industrial accidents, the division of conciliation and arbitration, the labor relations commission, the joint labor-management committee, and the division of occupational safety.

SECTION 16. The first paragraph of section 1 of chapter 23B of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out the first and second sentences and inserting in place thereof the following 2 sentences:- In the

executive office of housing and economic development, there shall be a department of housing and community development, in this chapter called the department, which shall be under the supervision and control of an undersecretary for housing and community development, in this chapter called the undersecretary or the director. The undersecretary shall be appointed by the secretary of housing and economic development, with the approval of the governor, for a term coterminous with that of the governor, shall serve at the pleasure of the secretary, and shall not be subject to section 9A of chapter 30 or chapter 31.

SECTION 17. Section 1 of chapter 23H of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word “economic” and inserting in place thereof the following words:- labor and workforce.

SECTION 18. Section 1 of chapter 23H, as so appearing, is hereby further amended by adding the following subsection:-

(d) The following state agencies and funds shall be in the department of workforce development: the one stop career centers, the state workforce investment board, the division of apprentice training, the commonwealth corporation, the workforce training fund, and the division of unemployment assistance. The division of unemployment assistance shall include the medical security trust fund and the unemployment insurance trust fund.

SECTION 19. Subsection (a) of section 1 of chapter 24A of the General Laws, as

so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- Within the executive office of housing and economic development, there shall be an office of consumer affairs and business regulation, in this chapter called the office.

SECTION 20. Subsection (b) of section 1 of chapter 24A, as so appearing, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be within the office the following divisions containing the following state agencies or functions: (1) the division of business regulation, including the department of telecommunications and cable and all other state agencies within that department; the department of banking and insurance and all other state agencies within that department, including the small loans regulatory board and the trustees of the General Insurance Guaranty Fund; and the state racing commission; (2) the division of consumer affairs, including the division of registration established by section 8 of chapter 13, including the several boards of registration serving in that division; and (3) the division of standards, established by section 5.

SECTION 21. Section 1 of chapter 25 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

SECTION 22. Section 2 of chapter 25, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following paragraph:

The department shall be under the supervision and control of the commonwealth utilities commission, in this chapter called the commission, which shall consist of 3 members, 2 of whom shall be appointed and may be removed by the secretary of energy and environmental affairs for a term coterminous with that of the governor. The third member shall be appointed and may be removed by the secretary for a term of 4 years. The secretary shall designate one commissioner as chairman, who shall serve as chairman for 2 years, and may be reappointed, unless removed as chairman by the secretary, with the approval of the governor. Commission members shall have background or expertise in electricity or natural gas matters. Any appointment or removal by the secretary under this section shall require the approval of the governor. The commissioners shall devote their full time to the duties of their office. Not more than 2 members of the commission shall be members of the same political party. Any decision made or order issued by the commission may be made by majority vote of a quorum of 2 members.

SECTION 23. Section 2A of chapter 25, as so appearing, is hereby amended by striking out, in line 2, the words “consumer affairs and business regulation” and inserting in place thereof the following words:- energy and environmental affairs.

SECTION 24. Section 4 of chapter 25, as so appearing, is hereby amended by striking out, in lines 16 to 18, the words “two or more commissioners shall participate and in the decision of all such matters at least three of the commissioners shall participate” and inserting in place thereof the following words:- at least 2 commissioners

shall participate and in the decision of all such matters at least 2 commissioners shall participate.

SECTION 25. Section 12E 1/2 of chapter 25 is hereby repealed.

SECTION 26. The first paragraph of section 18 of chapter 25, as appearing in the 2004 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The commission may make an assessment against each electric and gas company under the jurisdictional control of the department and each generation company and supplier licensed by the department to do business in the commonwealth, based upon the intrastate operating revenues subject to the jurisdiction of the department of each such company derived from sales within the commonwealth of electric and gas service, respectively, as shown in the annual report of each such company to the department.

SECTION 27. Section 18 of chapter 25, as so appearing, is hereby further amended by striking out the words “by a telephone or telegraph company under the provisions of said chapter 159 or” in lines 68 and 69.

SECTION 28. Section 1 of chapter 25A of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “office of consumer affairs and business regulation” and inserting in place thereof the following words:- executive office of energy and environmental affairs.

SECTION 29. The General Laws are hereby amended by inserting after chapter 25B the following chapter:

CHAPTER 25C.
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Section 1. There shall be in the office of consumer affairs and business regulation a department of telecommunications and cable, in this chapter called the department, for the general supervision of telephone and telegraph companies subject to chapter 166 and community antenna television systems as defined in section 1 of chapter 166A.

Section 2. The department shall be under the supervision and control of a commissioner who shall be appointed by the governor for a term coterminous with that of the governor, and who shall serve at the pleasure of the governor. The commissioner shall devote his full time to the duties of his office. The position of commissioner shall be classified in accordance with sections 45 and 46C of chapter 30.

Section 3. The commissioner shall be sworn to the faithful performance of his official duties. The commissioner shall not own, or be in the employ of, or own any stock in any regulated industry company, nor shall he be in any way directly or indirectly pecuniarily interested in or connected with any such regulated industry company or in the employ or connected with any person financing any regulated industry company. The commissioner shall not personally or through any partner or agent render any professional service or make or perform any business contract with or for any regulated industry company, nor shall he directly or indirectly receive any commission, bonus, discount, present, or reward from any regulated industry company. For the purposes of

this section, a regulated industry company shall be defined as any corporation, city, town or other governmental subdivision, partnership or other organization, or any individual engaged within the commonwealth in any business which is, or the persons engaged in which are, in any respect made subject to the supervision or regulation of the department by any provision of law except chapter 110A and chapter 651 of the acts of 1910, as amended.

Section 4. The commissioner shall have and exercise supervision and control over all the affairs of the department. He shall preside at all hearings at which he is present, and shall designate an employee of the department to act as presiding officer in his absence.

Section 5. Notwithstanding clause Twenty-sixth of section 7 of chapter 4 and section 10 of chapter 66, the department may protect from public disclosure trade secrets, confidential, competitively sensitive or other proprietary information provided in the course of proceedings conducted pursuant to this chapter. There shall be a presumption that the information for which such protection is sought is public information and the burden shall be upon the proponent of such protection to prove the need for such protection. Where such a need has been found to exist, the department shall protect only so much of the information as is necessary to meet such need. The commissioner shall adopt procedural regulations consistent with this section to implement this section.

Section 6. There shall be in the department and under the supervision and control of the commissioner a division of telecommunications. The division, subject to such supervision and control, shall perform functions that the commissioner may determine in relation to the administration, implementation, and enforcement of the department's

authority over the telecommunications industry, including, but not limited to, the authority granted by chapters 25, 30A, 159 and 166. The commissioner shall annually prepare and submit to the governor and the general court, on or before the first Wednesday of November, a report of the division's activity and of the condition of the telecommunications industry within the commonwealth during the preceding fiscal year, together with recommendations which the commissioner considers necessary or desirable.

Section 7. The commissioner may make an assessment against each cable television, telephone and telegraph company under the jurisdictional control of the department, based upon the intrastate operating revenues subject to the jurisdiction of the department of each such company derived from sales within the commonwealth of cable television, telephone and telegraph service, respectively, as shown in the annual report of each company to the department. These assessments shall be made at a rate not exceeding 0.2 per cent of such intrastate operating revenues, as shall be determined and certified annually by the commissioner as sufficient to reimburse the commonwealth for funds appropriated by the general court for the operation and general administration of the department, exclusive of the cost of fringe benefits as established by the secretary of administration and finance pursuant to section 5D of chapter 29, including group life and health insurance, retirement benefits, paid vacations, holidays and sick leave. The funds may be used to compensate consultants in hearings on petitions filed by companies subject to assessment under this section. Assessments made under this section may be credited to the normal operating cost of each company. Each company shall pay the amount assessed against it within 30 days after the date of the notice of assessment from

the department. Such assessments shall be collected by the department and credited to the General Fund. Any funds unexpended in any fiscal year for the purposes for which such assessments were made shall be credited against the assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be reduced by any such unexpended amount.

SECTION 30. Section 10 of chapter 159 of the General Laws, as appearing in the 2004 Official Edition, is hereby amended by striking out, in line 1, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

SECTION 31. Section 3 of chapter 159A of the General Laws, as so appearing, is hereby amended by striking out, in line 6, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

SECTION 32. Section 1 of chapter 160 of the General Laws, as so appearing, is hereby amended by striking out the definition of “Department” and inserting in place thereof the following definition:-

“Department”, the department of public utilities.

SECTION 33. Section 1 of chapter 161 of the General Laws, as so appearing, is hereby amended by striking out the definition of “Department” and inserting in place thereof the following definition:-

“Department”, the department of public utilities.

SECTION 34. Section 1 of chapter 162 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

SECTION 35. Section 1 of chapter 163 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

SECTION 36. Section 1 of chapter 164 of the General Laws, as so appearing, is hereby amended by striking out the definition of “Department” and inserting in place thereof the following definition:-

“Department”, the department of public utilities.

SECTION 37. The second paragraph of section 69H of chapter 164, as so appearing, is hereby amended by striking out the first, second, and third sentences and inserting in place thereof the following sentences:- The board shall be composed of the secretary of energy and environmental affairs, who shall serve as chairman, the secretary of housing and economic development, the commissioner of the department of environmental protection, the commissioner of the division of energy resources, 2 commissioners of the commonwealth utilities commission, or the designees of any of the foregoing, and 3 public members to be appointed by the governor for a term coterminous

with that of the governor, 1 of whom shall be experienced in environmental issues, 1 of whom shall be experienced in labor issues, and 1 of whom shall be experienced in energy issues.

SECTION 38. The third paragraph of section 69H of chapter 164, as so appearing, is hereby amended by striking out the first sentence.

SECTION 39. Section 69H of chapter 164, as so appearing, is hereby further amended by striking out, in line 45, the words “director of consumer affairs and business regulation” and inserting in place thereof the following words:- commissioner of energy resources.

SECTION 40. Section 1 of chapter 164A of the General Laws, as so appearing, is hereby amended by striking out the definition of “Department” and inserting in place thereof the following definition:-

“Department”, the department of public utilities.

SECTION 41. Section 1 of chapter 165 of the General Laws, as so appearing, is hereby amended by striking out the definition of “Department” and inserting in place thereof the following definition:-

“Department”, the department of public utilities.

SECTION 42. Section 4 of chapter 166 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3 and 4, the words “telecommunications and energy” and inserting in place thereof the following words:- telecommunications and cable.

SECTION 43. Section 5 of chapter 166, as so appearing, is hereby amended by adding the following sentence:- In this chapter, “department” or “department of telecommunications and energy” means the department of telecommunications and cable.

SECTION 44. Section 7 of chapter 166, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “telecommunications and energy” and inserting in place thereof the following words:- telecommunications and cable.

SECTION 45. Section 8 of chapter 166, as so appearing, is hereby amended by striking out, in line 9, the words “telecommunications and energy” and inserting in place thereof the following words:- telecommunications and cable.

SECTION 46. Section 11 of chapter 166, as so appearing, is hereby amended by striking out, in line 3, the words “telecommunications and energy” and inserting in place thereof the following words:- telecommunications and cable.

SECTION 47. Section 15E of chapter 166, as so appearing, is hereby amended by striking out, in lines 64, 67, 68, 74, 128 and 134, the words “telecommunications and

energy” and inserting in place thereof in each instance the following words:-
telecommunications and cable.

SECTION 48. Section 44 of chapter 166, as so appearing, is hereby amended by striking out, in lines 11 and 25, the words “telecommunications and energy” and inserting in each instance thereof the following words:- telecommunications and cable.

SECTION 49. Section 1 of chapter 166A of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words “department of telecommunications and energy established pursuant to chapter 25” and inserting in place thereof the following words:- department of telecommunications and cable established by chapter 25C.

SECTION 50. Section 2 of chapter 166A, as so appearing, is hereby amended by striking out the first paragraph, and inserting in place thereof the following paragraph:

There shall be in the department of telecommunications and cable a division of community antenna television. Subject to section 4 of chapter 25C, the commissioner of the department shall have all the powers and duties of the division and the director under this chapter, including, but not limited to, presiding at hearings pursuant to section 2A; the right to maintain or intervene in an action pursuant to section 12; the authority to hear appeals and issue enforcement orders pursuant to section 14; the authority to regulate rates pursuant to section 15; the authority to adopt regulations pursuant to section 16; its enforcement powers pursuant to section 17; and all other authority to carry out the duties

and responsibilities of this chapter. Appeals of any decision, order, or ruling of the department may be brought within 14 days of the issuance of the decision to the commissioner of the department. When so requested by any party interested, the department shall rule upon any question of substantive law properly arising in the course of any proceeding before the division within 14 days. Except as otherwise provided in this chapter, appeals taken from the orders of the department shall be taken in the same manner and according to the same procedure as set forth with respect to the department of public utilities in section 5 of chapter 25.

SECTION 51. Notwithstanding section 2 of chapter 25 of the General Laws, upon the effective date of this act, the secretary of energy and environmental affairs shall appoint to a two-year term the commissioner of the commonwealth utilities commission whose term is not coterminous with that of the governor.

SECTION 52. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations and functions of state government from the department of telecommunications and energy, solely to the extent that they relate to telecommunications and cable television including but not limited to the divisions of telecommunications and of community antenna television, as transferor agency, to the department of telecommunications and cable, as transferee agency.

(b) Subject to appropriation, the employees of the transferor agency, including those who immediately before the effective date of this act held permanent appointment

in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or did not hold such tenure, or held confidential positions, are hereby transferred to the transferee agency, without interruption of service within the meaning of section 9A of chapter 30, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either held a permanent appointment in a position classified under chapter 31 of the General Laws or had tenure in a position by reason of section 9A of chapter 30 of the General Laws.

(c) Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to bargain collectively pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of chapter 150E.

Nothing in this section shall confer upon any employee any right not held immediately before the date of the transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge or layoff not prohibited before such date; nor shall anything in this section prohibit the abolition of any management position

within the divisions of telecommunications or community antenna television after transfer to the department.

(d) All petitions, requests, investigations, filings and other proceedings appropriately and duly brought before the transferor agency, or pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

(e) All orders, advisories, findings, rules and regulations duly made and all approvals duly granted by the transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(f) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of the transferor agency, shall be transferred to the transferee agency.

(g) All duly existing contracts, leases and obligations of the transferor agency, shall continue in effect but shall be assumed by the transferee agency. No such existing right or remedy of any character shall be lost, impaired or affected by this act.

(h) Whenever the term “department of telecommunications and energy” appears in any statute, regulation, contract or other document, it shall be taken to mean the department of telecommunications and cable to the extent that it relates to telecommunications or cable television or calls upon the department of

telecommunications and energy to take actions relating to telecommunications or cable television. Otherwise, it shall be taken to mean the department of public utilities.

SECTION 53. Whenever the following former names of agencies appear in any general or special law, regulation, contract or other document, they shall be taken to mean the following new names of agencies, respectively:

(a) the executive office of environmental affairs, the executive office of energy and environmental affairs;

(b) the executive office of transportation, the executive office of transportation and public works;

(c) the executive office of public safety and homeland security, the executive office of public safety and security;

(d) the executive office of economic development, the executive office of housing and economic development.

SECTION 54. This act shall take effect as soon as it has the force of law under subsection (c) of section 2 of Article LXXXVII of the Amendments to the Constitution.