

**HOUSE . . . . . No. 4125**

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The Commonwealth of Massachusetts

Mr. Murphy of Burlington, for the committee on Ways and Means, on House, No. 4109, reported in part, a Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4125) [Cost: \$29, 911,117.00]. June 3, 2009.

An Act making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects.

FOR THE COMMITTEE:

NAME:	DISTRICT/ADDRESS:
Charles Murphy	21st Middlesex

# The Commonwealth of Massachusetts

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**In the Year Two Thousand and Nine**  
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An Act making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects.

*Whereas*, The deferred operation of this act would tend to defeat its purposes, which are forthwith to make supplemental appropriations for fiscal year 2009 and to make certain changes in law, each of which is immediately necessary to carry out those appropriations or to accomplish other important public purposes, 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 supplementing certain items in the general appropriation act and other appropriation acts for fiscal year 2009, the sums set forth in section 2 are hereby appropriated from the General Fund unless specifically designated otherwise in this act or in those appropriation acts, for the several purposes and subject to the conditions specified in this act or in those appropriation acts, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2009. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

SECTION 2.

JUDICIARY

*Committee for Public Counsel Services*

0321-1510 .....\$9,384,188

0321-1520 .....\$2,075,987

SECRETARY OF THE COMMONWEALTH

*Office of the Secretary of the Commonwealth*

0521-0000 .....\$44,684

OFFICE OF THE STATE COMPTROLLER

*Office of the State Comptroller*

1599-3384 .....\$4,090,226

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

*Human Resources Division*

1750-0100 .....\$250,000

EXECUTIVE OFFICE OF TRANSPORTATION AND PUBLIC WORKS

*Highway Department*

6010-0002 .....\$579,894

6030-7201 .....\$4,490,922

SECTION 2A. To provide for certain unanticipated obligations of the commonwealth, to provide for an alteration of purpose for current appropriations, and to meet certain requirements of law, the sums set forth in this section are hereby appropriated from the General Fund unless specifically designated otherwise in this section, for the several purposes and subject to the conditions specified in this section, and subject to the laws regulating the disbursement of public funds for the fiscal year ending June 30, 2009. These sums shall be in addition to any amounts previously appropriated and made available for the purposes of those items.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

*Office of the Secretary of Administration and Finance*

1599-1031 For a reserve to meet costs identified by the department of public health associated with responding to an outbreak of the H1N1 virus; provided, that funds may be expended on staffing costs within the state laboratory, dissemination of public information, antiviral medication for the treatment or prevention of the H1N1 virus and the purchase of laboratory equipment specific for the testing for the H1N1 virus; provided further, that the secretary of health and human services shall submit a spending plan to the executive office for administration and finance before the disbursement of funds from this reserve; and provided further, that the department of public health and the executive office for health and human services shall seek federal reimbursement for any eligible expenditures from this reserve .....\$2,845,216

1599-1701 For a reserve for the state share of costs identified by the Federal Emergency Management Agency for Emergency Declaration 3296 relating to the December 2008 severe winter storm, for the counties of Berkshire, Bristol, Essex, Franklin, Hampden, Hampshire, Middlesex, Suffolk and Worcester; provided, that not less than \$150,000 shall be expended for an emergency assistance safety grant as appearing in item 7007-0900 of section 2 of chapter 182 of the acts of 2008 .....\$6,150,000

SECTION 3. Chapter 6 of the General Laws is hereby amended by striking out section 116E, as appearing in section 1 of chapter 525 of the acts of 2008, and inserting in place thereof the following section:-

Section 116E. (a) The municipal police training committee shall develop and establish within the recruit basic training curriculum a course for regional and municipal police training schools for the training of law enforcement officers in bicycle safety enforcement and develop guidelines for traffic enforcement for bicyclist safety. As used in this section, "law enforcement officer" shall mean an officer of a municipal police department.

(b) The course in bicycle safety enforcement shall include, but not be limited to, instruction in the procedures and techniques described below:

- (1) the rights and duties of bicyclists set forth in chapter 85;
- (2) patterns and sources of injuries to bicyclists, both those involving and those not involving motor vehicles and the percentage of crashes involving cyclists riding against traffic, riding at night and riding on sidewalks;
- (3) the most dangerous actions by bicyclists and procedures for citing bicyclists, including minors;

- (4) common motorist actions causing bicycle crashes;
- (5) reporting bicyclist crashes; and
- (6) motorists intentionally endangering bicyclists.
- (c) All law enforcement recruits shall receive the course in bicycle safety enforcement as part of their required training program.
- (d) The course of instruction, the learning and performance objectives, the standards for training and the guidelines shall be developed by the municipal police training committee in consultation with the Massachusetts Bicycle Advisory Board and appropriate groups and individuals having an interest and expertise in bicycle safety.
- (e) The municipal police training committee may include this course of instruction within its in-service training curriculum available to in-service trainees and any other public safety officers.

SECTION 4. Section 1 of chapter 62 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after the numeral 72, in line 8, the following numeral:- 139C.

SECTION 5. Paragraph (1) of subsection (d) of section 2 of said chapter 62, as so appearing, is hereby amended by adding the following clause:-

(P) The deduction described in section 163(e)(5) of the Code to the extent increased by amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by section 1232 of the American Recovery and Reinvestment Act of 2009.

SECTION 6. The definition of “gross income” in section 1 of chapter 63 of the General Laws, as so appearing, is hereby amended by adding the following sentence:- Gross income shall be determined without regard to section 108(i) of the Code.

SECTION 7. The definition of “net income” in said section 1 of said chapter 63, as so appearing, is hereby amended by adding the following clause:-

(f) the deduction described in section 163(e)(5) of the Code to the extent increased by amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by section 1232 of the American Recovery and Reinvestment Act of 2009.

SECTION 8. Paragraph 3 of section 30 of said chapter 63, as so appearing, is hereby amended by adding the following sentence:- Gross income shall be determined without regard to section 108(i) of the Code.

SECTION 9. Paragraph 4 of said section 30 of said chapter 63, as so appearing, is hereby amended by adding the following clause:-

(vii) the deduction described in section 163(e)(5) of the Code to the extent increased by amendments to section 163(e)(5)(F) and section 163(i)(1) inserted by section 1232 of the American Recovery and Reinvestment Act of 2009.

SECTION 10. Section 52A of said chapter 63, as so appearing, is hereby amended by inserting after the word “exclusion”, in line 28, the following words:- and without regard to section 108(i) of the Code.

SECTION 11. Paragraph (b) of subsection (1) of said section 52A of said chapter 63, as so appearing, is hereby amended by adding the following clause:-

(vi) the deduction described in section 163(e)(5) of the Code to the extent increased by amendments to section 163(e)(5)(F) and section 163(i)(1), inserted by section 1232 of the American Recovery and Reinvestment Act of 2009.

SECTION 12. Section 11C of chapter 85 of the General Laws is hereby repealed.

SECTION 13. Chapter 85 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by inserting after section 11B the following section:-

Section 11C. A police officer who observes a traffic law violation committed by a bicyclist may request the offender to state his true name and address. Whoever, upon such request, refuses to state his name and address or whoever states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not less than \$20 nor more than \$50. An offender who refuses to state his true name and address may be arrested without a warrant for such refusal but no person shall be arrested without a warrant for any other traffic law violation committed while operating a bicycle. A police officer shall use the ticketing procedure described in chapter 90C to cite a bicyclist for a traffic law violation but the violation shall not affect the status of the bicyclist's license to operate a motor vehicle nor shall it affect the bicyclist's status in the safe driver insurance plan. When a citation is issued to a bicyclist, it shall be clearly indicated on the ticket that the violator is a bicyclist, and failure to do so shall be a defense to the violation.

The parent or guardian of a person under 18 years of age shall not authorize or knowingly permit that person to violate this section. A violation of this section by a person under 18 years of age shall not affect any civil right or liability nor shall the violation be a criminal offense. If the offender is under 16 years of age, the officer may give the notice to the parent or guardian of the offender.

All fines collected by a city or town pursuant to this section shall be used by the city or town for the development and implementation of bicycle safety programs.

SECTION 14. Section 55 of chapter 61 of the acts of 2007, as amended by section 26 of chapter 302 of the acts of 2008, is hereby amended by striking out the figure "\$1,045,863,158" and inserting in place thereof the following figure:- \$981,863,158.

SECTION 15. Said section 55 of said chapter 61, as amended by section 27 of said chapter 302, is hereby further amended by striking out the figure "\$113,600,000" and inserting in place thereof the following figure:- \$49,600,000.

SECTION 16. Said section 55 of said chapter 61, as amended by section 28 of said chapter 302, is hereby amended by striking out, in the second sentence, the words "provided, that \$64,000,000 shall be paid for a certain public-service hospital operated by the Boston Medical Center Corporation; and".

SECTION 17. Item 4000-0320 of section 2 of chapter 182 of the acts of 2008 is hereby amended by inserting after the words "rendered in the current fiscal year" the following words:- ; provided further, that for the purpose of accommodating discrepancies between the receipt of retained revenues and related expenditures, the department may incur expenses, and the comptroller may certify for payment, amounts not to exceed the lower of this authorization or the most recent revenue estimate as reported in the state accounting system.

SECTION 18. Section 86 of said chapter 182 is hereby amended by striking out the figure "\$372,000,000" and inserting in place thereof the following figure:- \$352,000,000.

SECTION 19. Section 61 of chapter 302 of the acts of 2008 is hereby amended by striking out the figure "\$100,000,000" and inserting in place thereof the following figure:- \$34,000,000

SECTION 20. Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the secretary of administration and finance and the secretary of health and human services, transfer \$64,000,000 from the Commonwealth Care Trust Fund, established in section 2000 of chapter 29 of the General Laws, to the General Fund.

SECTION 21. Notwithstanding federal income tax treatment to the contrary, for purposes of chapters 62 and 63 of the General Laws, the rules of section 382 of the Internal Revenue Code shall be applied without regard to the treatment of a change in ownership of a bank or other corporation provided in Internal Revenue Service Notice 2008-83 or in any federal statutory or administrative codification, supplement or implementation of such Notice. For purposes of said chapters 62 and 63, Internal Revenue Service Notice 2008-83 and any such codification, supplement or implementation shall have no force or effect in any taxable year.

SECTION 22. Notwithstanding federal income tax treatment to the contrary, for purposes of chapters 62 and 63 of the General Laws, section 382(n) of the Internal Revenue Code, inserted by the American Recovery and Reinvestment Act of 2009, shall have no force or effect in any taxable year.

SECTION 23. Notwithstanding any general or special law to the contrary, the comptroller shall, in consultation with the secretary of administration and finance, transfer not more than \$2,681,250 from the General Fund to the Department of Energy Resources Credit Trust Fund, established by subsection (b) of section 13 of chapter 25A of the General Laws.

SECTION 24. Notwithstanding any general or special law to the contrary, the comptroller shall reduce the chapter 70 portion of the final local aid payment for fiscal year 2009 to be made in June 2009 by \$412,000,000 if the secretary of administration and finance certifies in writing to the comptroller, and has provided 10 days written notice to the house and senate committees on ways and means, that federal grant funds in the amount of \$412,000,000 have been obligated or expended so that all school districts will receive the full amount appropriated in section 3 of chapter 182 of the acts of 2008.

SECTION 25. Notwithstanding subsection (c) of section 10 of chapter 152 of the acts of 1997, \$65,000,000 of the balance in the Convention Center Fund, which the state treasurer and the secretary of administration and finance have determined to exceed the amount necessary to satisfy the requirement of sufficiency under said subsection (c), shall be transferred to the General Fund of the commonwealth, not later than June 30, 2009.

SECTION 26. Section 4 shall be effective for taxable years ending on or after January 1, 2009.

SECTION 27. Sections 6, 8 and 10 shall be effective for discharges in taxable years ending after December 31, 2008.

SECTION 28. Sections 5, 7, 9 and 11 shall apply to obligations issued after August 31, 2008 in taxable years ending after that date.

SECTION 29. Section 13 shall take effect on January 1, 2011.