

HOUSE No. 3979

Message from His Excellency the Governor recommending legislation relative to financing improvements to the Commonwealth's transportation system. March 6, 2012.

The Commonwealth of Massachusetts



DEVAL L. PATRICK
GOVERNOR

TIMOTHY P. MURRAY
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EXECUTIVE DEPARTMENT
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March 6, 2012.

To the Honorable Senate and House of Representatives:

I am filing for your consideration a bill entitled "An Act Financing Improvements to the Commonwealth's Transportation System."

State capital investments are necessary to maintain and develop a high quality transportation system in Massachusetts. In the fourth year of our five-year capital program, this bill authorizes the state to borrow \$885 million to supplement existing programs, thereby ensuring that state dollars are available to leverage federal funding for transportation improvement projects. This state funding commitment of \$885 million leverages significant federal funding, resulting in a total investment of approximately \$1.5 billion in transportation system improvements across the Commonwealth. This bill includes:

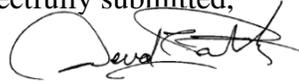
- \$1 billion including state match to federal funds for improvements to statewide roads and bridges.
- \$200 million for Chapter 90 grants to municipalities for road projects.
- \$311 million including state match to federal funds for improvements to rail and transit infrastructure.
- Establishment of a State Infrastructure Bank, a new program to provide additional transportation project financing options.

Approximately one year from now, the Administration intends to file a new five-year bond bill to provide long term, sustainable financing for our roads, bridges, highways, subways, buses and airports. This bill, submitted for your immediate

consideration, will provide sufficient funding for the next year in anticipation of our working together to address the Commonwealth's long-term infrastructure needs.

In light of the urgent need to continue the work we have started together, and to provide much-needed Chapter 90 aid to cities and town, I urge prompt action to enact this bill.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a horizontal line.

DEVAL L. PATRICK,
Governor.

The Commonwealth of Massachusetts

In the Year Two Thousand Twelve.

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 forthwith finance improvements to the Commonwealth's transportation system, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

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

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

6 SECTION 2.

MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

Highway Division

9 6121-1215 For projects on the interstate federal aid highway system; provided, that funds may be
10 expended for the costs of these projects including, but not limited to, the nonparticipating
11 portions of these projects and the costs of engineering and other services essential to these
12 projects, rendered by department of transportation employees or by consultants; provided
13 further, that amounts expended for department employees may include the salary and
14 salary-related expenses of these employees to the extent that they work on or in support of
15 these projects; provided further, that notwithstanding this act or any other general or
16 special law to the contrary, the department shall not enter into any obligations for projects
17 which are eligible to receive federal funds under this act unless state matching funds exist
18 which have been specifically authorized and are sufficient to fully fund the corresponding
19 state portion of the federal commitment to fund these obligations; and provided further,

20 that the department shall only enter into obligations for projects under this act based upon
 21 a prior or anticipated future commitment of federal funds and the availability of
 22 corresponding state funding authorized and appropriated for this use by the general court
 23 for the class and category of project for which this obligation
 24 applies.....25,000,000

25 6121-1216 For federal aid projects on the non-interstate federal highway system; provided, that funds
 26 may be expended for the costs of these projects including, but not limited to, the
 27 nonparticipating portions of these projects and the costs of engineering and other services
 28 essential to these projects rendered by department of transportation employees or by
 29 consultants; provided further, that amounts expended for department employees may
 30 include the salary and salary-related expenses of these employees to the extent that they
 31 work on or in support of these projects; provided further, that notwithstanding this act or
 32 any other general or special law to the contrary, the department shall not enter into any
 33 obligations for projects which are eligible to receive federal funds under this act unless
 34 state matching funds exist which have been specifically authorized and are sufficient to
 35 fully fund the corresponding state portion of the federal commitment to fund these
 36 obligations; and provided further, that the department shall only enter into obligations for
 37 projects under this act based upon a prior or anticipated future commitment of federal
 38 funds and the availability of corresponding state funding authorized and appropriated for
 39 this use by the general court for the class and category of project for which this obligation
 40 applies.....\$525,000,000

41 SECTION 2A.

42 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

43 *Highway Division*

44 6121-1217 For the design, construction, and repair of, or improvements to, non-federally-aided
 45 roadway and bridge projects and for the nonparticipating portion of federally-aided
 46 projects; provided, that the costs of professional personnel directly and exclusively
 47 involved in the construction, planning, engineering and design of the projects funded
 48 herein may be charged to this item, and any other associated costs; provided further, that
 49 those costs shall not be classified as administrative costs; and provided further, that the
 50 amounts specified in this item or for a particular project may be adjusted in order to
 51 facilitate other needs of the
 52 department.....\$325,000,000

53 SECTION 2B.

54 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

55 *Highway Division*

56 6122-1223 For the construction and reconstruction of town and county ways as described in clause (b)
57 of section 4 of chapter 6C of the General Laws, the “chapter 90 program”; provided that a
58 city or town shall comply with the procedures established by the department of
59 transportation; provided further, that any city or town may appropriate for these projects
60 amounts not in excess of the amount provided to the city or town under this item,
61 preliminary notice of which shall be provided by the department to the city or town not
62 later than April 1 of each year; provided further, that the appropriation shall be considered
63 as an available fund upon approval of the commissioner of revenue under section 23 of
64 chapter 59 of the General Laws; and provided further, that the commonwealth shall
65 reimburse a city or town under this item, subject to the availability of funds as provided in
66 section 9B of chapter 29 of the General Laws, within 30 days after receipt by the
67 department of a request for reimbursement from the city or town, which request shall
68 include certification by the city or town that actual expenses have been incurred on projects
69 eligible for reimbursement under this item, and that the work has been completed to the
70 satisfaction of the city or town according to the specifications of the project and in
71 compliance with applicable laws and procedures established by the
72 department.....\$200,000,000

73 SECTION 2C.

74 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

75 *Rail and Transit Division*

76 6622-1205 For the purposes of chapter 161B of the General Laws, including the purchase and
77 rehabilitation of rolling stock, related assets and support equipment necessary to safely
78 serve transit passengers, construction and rehabilitation of regional transit authority
79 operations and passenger facilities, and purchase of related appurtenances and
80 tools.....\$11,000,000

81 SECTION 2D.

82 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

83 *Rail and Transit Division*

84 6622-1280 For the purpose of implementing rail improvements under chapter 161C of the General
85 Laws; provided, that funds may also be used for transportation planning, design,

86 permitting, acquisition of interests in land, and engineering for heavy rail, light rail, bus,
87 and other transit projects, including the industrial rail access program; provided, however,
88 the department shall adopt regulations within 180 days of the effective date of this act
89 implementing the industrial rail access program, which shall increase access to rail freight
90 service and preserve or stimulate economic development through the generation of new or
91 expanded rail service. The secretary of transportation shall have the responsibility for
92 evaluating and selecting eligible projects, in consultation with the secretary of housing and
93 economic development, where the public benefit will be gained through improved use of
94 the rail transportation network or that will facilitate economic growth through access to the
95 rail assets within the commonwealth. The program shall be available to any political
96 subdivision, railroad or shipper operating within the commonwealth; and, provided
97 further, that the amounts specified in this item or for a particular project may be adjusted
98 in order to facilitate other needs of the department or other
99 projects.....\$300,000,000

100 SECTION 3. To meet the expenditures necessary in carrying out section 2, the state treasurer shall,
101 upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by
102 the governor from time to time but not exceeding, in the aggregate, \$171,750,000. All these bonds
103 issued by the commonwealth shall be designated on their face, Transportation Improvement Loan Act of
104 2012, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may
105 recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution.
106 All these bonds shall be payable not later than June 30, 2047. All interest and payments on account of
107 principal on these obligations shall be payable from the Commonwealth Transportation Fund. Bonds and
108 interest thereon issued under this section shall, notwithstanding any other provisions of this act, be
109 general obligations of the commonwealth.

110 SECTION 4. To meet the expenditures necessary in carrying out section 2A, the state treasurer shall,
111 upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by
112 the governor from time to time but not exceeding, in the aggregate, \$325,000,000. All these bonds
113 issued by the commonwealth shall be designated on their face, Transportation Improvement Loan Act of
114 2012, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may
115 recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution.
116 All these bonds shall be payable not later than June 30, 2047. All interest and payments on account of
117 principal on these obligations shall be payable from the Commonwealth Transportation Fund. Bonds and

118 interest thereon issued under this section shall, notwithstanding any other provisions of this act, be
119 general obligations of the commonwealth.

120 SECTION 5. To meet the expenditures necessary in carrying out section 2B, the state treasurer shall,
121 upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by
122 the governor from time to time but not exceeding, in the aggregate, the sum of \$200,000,000. All the
123 bonds issued by the commonwealth as aforesaid shall be designated on their face, Town and County
124 Ways and Economic Development Loan, Act of 2012, and shall be issued for a maximum terms of
125 years, not exceeding 30 years, as the governor may recommend to the general court under Section 3 of
126 Article LXII of the Amendments to the Constitution of the Commonwealth; provided, however, that all
127 these bonds shall be payable not later than June 30, 2047. All interest and payments on account of
128 principal of these obligations shall be payable from the General Fund. Notwithstanding any other general
129 or special law to the contrary, bonds and interest thereon issued under this section shall be general
130 obligations of the commonwealth.

131 SECTION 6. To meet the expenditures necessary in carrying out section 2C, the state treasurer shall,
132 upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by
133 the governor from time to time but not exceeding, in the aggregate, \$11,000,000 which shall be in
134 addition to those bonds previously authorized for projects and programs which are eligible to receive
135 federal funding and which authorizations remain uncommitted or unobligated on the effective date of this
136 act. All bonds issued by the commonwealth as aforesaid shall be designated on their face,
137 Transportation Improvement Loan Act of 2012, and shall be issued for a maximum term of years, not
138 exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII
139 of the Amendments to the Constitution; provided, however, that all these bonds shall be payable not later
140 than June 30, 2047. All interest and payments on account of principal on these obligations shall be
141 payable from the Commonwealth Transportation Fund. Bonds and interest thereon issued under this
142 section shall be general obligations of the commonwealth.

143 SECTION 7. To meet the expenditures necessary in carrying out section 2D, the state treasurer shall,
144 upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by
145 the governor from time to time but not exceeding, in the aggregate, \$177,500,000 which shall be in
146 addition to those bonds previously authorized for projects and programs which are eligible to receive
147 federal funding and which authorizations remain uncommitted or unobligated on the effective date of this
148 act. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Transportation

149 Improvement Loan Act of 2012, and shall be issued for a maximum term of years, not exceeding 30
150 years, as the governor may recommend to the general court under section 3 of Article LXII of the
151 Amendments to the Constitution; provided, however, that all these bonds shall be payable not later than
152 June 30, 2047. All interest and payments on account of principal on these obligations shall be payable
153 from the Commonwealth Transportation Fund. Bonds and interest thereon issued under this section shall
154 be general obligations of the commonwealth.

155 SECTION 8. Notwithstanding any general or special law to the contrary, in carrying out sections 2 to
156 2D, inclusive, and all other provisions of this Act, the department of transportation may enter into
157 contracts, agreements, or transactions that may be appropriate with other federal, state, local or regional
158 public agencies or authorities. The contracts, agreements, or transactions may relate to such matters as
159 the department shall determine including, without limitation, the research, design, layout, construction,
160 reconstruction or management of construction of all or a portion of these projects. In relation to any such
161 contracts, agreements, or transactions the department may advance monies to these agencies or
162 authorities, without prior expenditure by the agencies or authorities, and the agencies and authorities
163 may accept monies necessary to carry out these agreements; provided, however, that the department
164 shall certify to the comptroller the amounts so advanced; provided further, that these agreements shall
165 contain provisions satisfactory to the department for the accounting of monies expended by any other
166 agency or authority; and provided, further, that all monies not expended under any such agreement shall
167 be credited to the account of the department from which they were advanced. The department shall
168 report to the house and senate committees on ways and means on any transfers completed under this
169 section.

170

171 SECTION 9. (a) Notwithstanding any other general or special law to the contrary, the department of
172 transportation shall expend the sums authorized in sections 2A and 2B for the following purposes:
173 projects for the laying out, construction, reconstruction, resurfacing, relocation or necessary or
174 beneficial improvement of highways, bridges, bicycle paths or facilities, on- and off-street bicycle
175 projects, sidewalks, telecommunications, parking facilities, auto-restricted zones, scenic easements,
176 grade crossing eliminations and alterations of other crossings, traffic safety devices on state highways
177 and on roads constructed under section 4(b) of chapter 6C of the General Laws, highway or mass
178 transportation studies, including, but not limited to, traffic, environmental or parking studies, the
179 establishment of school zones in accordance with section 2 of chapter 85 of the General Laws,
180 improvements on routes not designated as state highways without assumption of maintenance

181 responsibilities and, notwithstanding any general or special law to the contrary, projects to alleviate
182 contamination of public and private water supplies cause by the department's storage and use of snow
183 removal chemicals which are necessary for the purposes of highway safety and for the relocation of
184 persons or businesses or for the replacement of dwellings or structures including, but not limited to,
185 providing last resort housing under federal law and such functional replacement of structures in public
186 ownership as may be necessary for the foregoing purposes and for relocation benefits to the extent
187 necessary to satisfy the requirements of the Uniform Relocation Assistance and Real Property
188 Acquisition Policies Act of 1970, 42 U.S.C. 4601 et seq., Pub. L. 97-646, 84 Stat. 1864 (1971), and to
189 sell any structure the title to which has been acquired for highway purposes. When dwellings or other
190 structures are removed in furtherance of any of the foregoing projects, the excavations or cellar holes
191 remaining shall be filled in and brought to grade within 1 month after the removal. In planning projects
192 funded by said sections 2A and 2B, consideration shall be made, to the extent feasible, to accommodate
193 and incorporate provisions to facilitate the use of bicycles and walking as a means of transportation;
194 provided, however, that nothing in this section shall be construed to give rise to enforceable legal rights
195 in any party or a cause of action or an enforceable entitlement as to the projects described in this section.

196 (b) Funds authorized in sections 2A and 2B shall, except as otherwise specifically provided in
197 this act, be subject to the first paragraph of section 6 and sections 7 and 9 of chapter 718 of the acts of
198 1956, if applicable, and, notwithstanding any general or special law to the contrary, may be used for the
199 purposes stated in this act in conjunction with funds of cities, towns and political subdivisions.

200 (c) In addition to the foregoing, the department of transportation may expend funds made
201 available by this act to acquire from a person by lease, purchase, eminent domain under chapter 79 of
202 the General Laws or otherwise, land or rights in land for parking facilities adjacent to a public way to be
203 operated by the department or under contract with an individual; expend funds made available by this act
204 for the acquisition of van-type vehicles used for multi-passenger, commuter-driven carpools and high-
205 occupancy vehicles including, but not limited to, water shuttles and water taxis; and, in accordance with
206 all applicable state and federal laws and regulations, exercise all powers and do all things necessary and
207 convenient to carry out the purposes of this act.

208 (d) In carrying out this section, the department of transportation may enter into contracts or
209 agreements with cities to mitigate the effects of projects undertaken under this act and to undertake
210 additional transportation measures within the city and may enter into contracts, agreements, or
211 transactions with other federal, state, local or regional public agencies, authorities, nonprofit

212 organizations or political subdivisions that may be necessary to implement these contracts or agreements
213 with cities. Cities and other state, local or regional public agencies, authorities, nonprofit organizations
214 or political subdivisions may enter into these contracts, agreements, or transactions with the department.
215 In relation to these agreements, the department may advance to these agencies, organizations or
216 authorities, without prior expenditure by the agencies, organizations or authorities, monies necessary to
217 carry out these agreements; provided, however, that the department shall certify to the comptroller the
218 amount so advanced; provided further, that all monies not expended under these agreements shall be
219 credited to the account of the department from which they were advanced. The department shall report to
220 the house and senate committees on ways and means on any transfers completed under this subsection.

221 SECTION 10. Notwithstanding any other general or special law to the contrary, the department of
222 transportation shall take all necessary actions to secure federal highway or transportation assistance
223 which is or may become available to the department including, but not limited to, actions authorized
224 under or in compliance with Title 23 of the United States Code, the Surface Transportation Act of 1987,
225 Pub. L. 100-17, the Intermodal Surface Transportation Efficiency Act of 1991, Pub. L. 102-240, the
226 Transportation Equity Act for the 21st Century, Pub. L. 105-178, the Safe, Accountable, Flexible,
227 Efficient Transportation Equity Act: A Legacy for Users, Pub. L. 109-59, Implementing
228 Recommendations of the 9/11 Commission Act of 2007, Pub. Law 110-53 and any successor acts or
229 reauthorizations of those acts, and actions such as filing applications for federal assistance, supervising
230 the expenditure of funds under federal grants or other assistance agreements and making any
231 determinations and certifications necessary or appropriate to the foregoing. If a federal law,
232 administrative regulation or practice requires an action relating to federal assistance to be taken by a
233 department, agency or other instrumentality of the commonwealth other than the department of
234 transportation, the other department, agency or instrumentality shall take such action.

235 SECTION 11. Chapter 6C of the General Laws is hereby amended by adding the following section:-

236

237 Section 74 (a) There is hereby established a body politic and corporate to be known as the
238 commonwealth infrastructure bank, in this section called the Bank. The Bank is hereby constituted a
239 public instrumentality of the commonwealth, and the exercise by the Bank and by the board of the
240 powers conferred by this section shall be considered to be the performance of an essential public
241 function. The secretary of transportation may appoint an executive director and staff members who shall
242 be employees of the department of transportation.

243 (b) The Bank shall be governed and its corporate powers exercised by a 10 member board of
244 directors, in this section called the board. The board shall consist of the secretary of transportation or a
245 designee who shall serve as the co-chairperson, the secretary of administration and finance or a designee,
246 the state treasurer or a designee, 2 members appointed by the state treasurer who shall have finance
247 expertise, and 5 members appointed by the governor, who shall have experience in transportation
248 infrastructure, finance, or development. Each of the members appointed by the governor or treasurer
249 shall serve for a term of 4 years. The board shall annually elect one of its members as co-chairman.
250 Each ex officio member of the board may appoint a designee under section 6A of chapter 30. Upon the
251 expiration of the term of office of an appointive member, the member's successor shall be appointed in
252 the same manner as the original appointment, for a term of 4 years and until the qualification of the
253 successor. A member of the board may be removed from his appointment by the governor or treasurer,
254 respectively, for cause. A member appointed to fill a vacancy in the office of an appointed member of
255 the board shall be appointed in a like manner not later than 60 days after a vacancy occurs and shall
256 serve for only the unexpired term of the member. The board shall adopt bylaws to govern its affairs and
257 shall meet at least once a month, and at such other times as it shall determine by its rules, or when
258 requested by a co-chairperson. Five members of the board shall constitute a quorum, and the affirmative
259 vote of 5 members at a duly-called meeting where a quorum is present shall be necessary for any action
260 taken by the board. Any action of the board may take effect immediately and need not be published or
261 posted unless otherwise provided by law. No vacancy in the membership of the board shall impair the
262 right of a quorum to exercise the powers of the board.

263 Meetings of the board shall be subject to section 18 to 25 of chapter 30A. The Bank shall be
264 subject to all other provisions of said chapter 30A, and records pertaining to the administration of the
265 Bank shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All funds of the Bank
266 shall be considered public funds for purposes of chapter 12A. Chapters 268A and 268B shall apply to
267 the operations of the Bank and to all directors and their designees, and each director shall make full
268 disclosure of the director's financial interest, if any, in matters before the board by notifying the state
269 ethics commission, in writing, and shall abstain from voting on any matter before the board in which the
270 director has a financial interest.

271 (c) Any documentary materials or data made or received by a member or employee of the Bank
272 and consisting of, or to the extent that such materials or data consist of, trade secrets or commercial or
273 financial information regarding the operation of any business conducted by an applicant for any form of
274 assistance which the Bank is empowered to render or regarding the competitive position of such

275 applicant in a particular field of endeavor, shall not be considered public records of the Bank and shall
276 not be subject to section 10 of chapter 66. Any discussion or consideration of such trade secrets or
277 commercial or financial information may be held by the board in executive sessions closed to the public,
278 notwithstanding sections 18 to 25 of chapter 30A, but the purpose of any such executive session shall be
279 set forth in the official minutes of the Bank, and no business which is not directly related to such purpose
280 shall be transacted nor shall any vote be taken during such executive session.

281 (d) Notwithstanding any general or special law to the contrary, the secretary of transportation,
282 with the approval of the secretary of administration and finance, may use any funds appropriated to the
283 department of transportation to capitalize the Bank, but these funds shall be transferred to the Bank only
284 to the extent that the Bank receives matching funds from the private sector. The Bank may be used to
285 finance energy, transportation, and municipal development projects encouraging the greatest level of
286 economic development. In implementing this program, the department shall, in consultation with the
287 executive office for administration and finance, the executive office of housing and economic
288 development, and the executive office of energy and environmental affairs, adopt regulations within 180
289 days after the effective date of this act establishing the rules and guidelines for the implementation of the
290 Bank. These regulations shall provide: (1) the criteria for determining both project eligibility and
291 borrower qualifications for use of the Bank funds; (2) the form and condition of agreements financed
292 through the Bank with qualified borrowers, (3) the terms and conditions for loan repayment, including
293 fees, rates, rents, and other forms of security interest in project revenue, (4) the terms of loans and
294 guarantees, including the policies and procedures for administering financial assistance, (5) the terms for
295 the issuance and sale of debt security, bonds, and other forms of indebtedness, (6) the requirements for
296 monitoring and overseeing projects financed in whole or in part by the Bank, (7) the terms for federal,
297 state, and private revenue and funds allocated to the Bank, (8) the process for approval of infrastructure
298 project proposals, (9) designation of the Bank as the recipient for any federal dollars made available to
299 state infrastructure banks, (10) for a written policy establishing participation goals to promote and ensure
300 the inclusion of minority business enterprises, women business enterprises and disadvantaged business
301 enterprises on construction projects financed by the Bank; provided, however, that such participation
302 goals shall equal the participation goals for the inclusion of minority business enterprise, women business
303 enterprise and/or disadvantaged business enterprise for construction projects overseen by the
304 Massachusetts department of transportation, (11) for a written policy establishing participation goals to
305 promote and ensure the utilization of minorities, women and veterans on construction projects financed
306 by the Bank; provided, however, that such goals shall be equal to or greater than the goals contained in

307 the executive office for administration and finance administration bulletin number 14, and (12) such
308 other requirements and conditions as are necessary to not only encourage economic growth and
309 development but also protect the commonwealth's investment in the infrastructure project.

310 SECTION 12. Notwithstanding any other general or special law to the contrary, all construction
311 contracts funded in whole or in part by the funds authorized by this act shall include a price adjustment
312 clause for each of the following: fuel, both diesel and gasoline, asphalt, concrete and steel. A base price
313 for each material shall be set by the awarding authority or agency and included in the bid documents at
314 the time a project is advertised. The awarding authority or agency shall also identify in the bid
315 documents the price index to be used for each material or supply. The adjustment clause shall provide
316 for a contract adjustment to be made on a monthly basis when the monthly cost change exceeds +/- 5
317 per cent.

318 SECTION 13. Notwithstanding any other general or special law to the contrary, section 61 and sections
319 62A to 62I, inclusive, of chapter 30 of the General Laws, chapter 91 of the General Laws and section 40
320 of chapter 131 of the General Laws shall not apply to bridge projects of the department of transportation
321 and the Massachusetts Bay Transportation Authority for the repair, reconstruction, replacement or
322 demolition of existing state highway, authority and municipally-owned bridges, including the immediate
323 approaches necessary to connect the bridges to the existing adjacent highway and rail system, in which
324 the design is substantially the functional equivalent of, and in similar alignment to, the structure to be
325 reconstructed or replaced; provided, however, that said section 61 and said sections 62A to 62I,
326 inclusive, of said chapter 30 shall apply to the repair, reconstruction, replacement or demolition project
327 where the project requires a mandatory environmental impact report under 301 CMR 11.00; provided
328 further, that all such work shall be subject to the requirements of the then current edition of the
329 department of transportation's Stormwater Handbook as approved by the department of environmental
330 protection in accordance with applicable law, that notice shall be published in the Environmental Monitor
331 of any application to the department of environmental protection for a water quality certification, and
332 that the work shall be subject to performance standards prescribed by the department of environmental
333 protection under section 401 of the Federal Clean Water Act if applicable to the project; provided
334 further, that notwithstanding the foregoing, said section 61 and said sections 62A to 62I, inclusive, of
335 said chapter 30, said chapter 91, and said section 40 of said chapter 131 shall apply to any portions of
336 the bridge and roadway approaches to the crossing of the Charles river for the Central Artery/Tunnel
337 Project. If any state highway, authority, or municipal bridge crosses over a railroad right-of-way or
338 railroad tracks, the department or authority, as applicable, shall seek the opinion of a railroad company,

339 railway company or its assigns operating on the track of a necessary clearance between the track and the
340 bridge, but the department and the authority and their agents or contractors may enter upon any right-of-
341 way, land or premises of a railroad company or railway company or its assigns for purposes that the
342 department or authority may consider necessary or convenient to carry out this section. If a flagman is
343 needed to carry out this section, the railroad company, railway company or its assigns shall provide the
344 flagman. For the purposes of this section, “bridge” shall include any structure spanning and providing
345 passage over water, railroad right-of-way, public or private way, other vehicular facility or other area.
346 Any project exempted from any provision of law under this section shall be subject to the public
347 consultation process required by the then current version of the department of transportation’s Project
348 Development and Design Guidebook.

349 SECTION 14. Notwithstanding any general or special law to the contrary, the unexpended balances of
350 all capital accounts which otherwise would revert on June 30, 2012, but which are necessary to fund
351 obligations during fiscal year 2013, are hereby re-authorized; but this re-authorization shall terminate
352 upon enactment of capital account extension legislation. The comptroller, with the approval of the
353 secretary of transportation and the secretary of administration and finance, may eliminate appropriation
354 accounts created under the former executive office of transportation and construction before the effective
355 date of chapter 25 of the acts of 2009.