

HOUSE No. 4002

By Mr. Cabral of New Bedford, for the committee on Bonding, Capital Expenditures and State Assets, that the Bill financing improvements to the Commonwealth's transportation system (House, No. 4000) ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4002). March 26, 2012.

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 forthwith to 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 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
2 sums set forth in section2, for the several purposes and subject to the conditions specified in this
3 act, are hereby made available, subject to the laws regulating the disbursement of public funds.
4 The sums appropriated in this act shall be in addition to any amounts previously appropriated
5 and made available for these purposes.

6 SECTION 2.

7 MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

8 Highway Division

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

25 SECTION 3. To meet the expenditures necessary in carrying out section 2, the state treasurer
26 shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to
27 be specified by the governor from time to time but not exceeding, in the aggregate, the sum of
28 \$200,000,000. All the bonds issued by the commonwealth as aforesaid shall be designated on

29 their face, Town and County Ways and Economic Development Loan, Act of 2012, and shall be
30 issued for a maximum terms of years, not exceeding 30 years, as the governor may recommend
31 to the general court under Section 3 of Article LXII of the Amendments to the Constitution of
32 the Commonwealth; provided, however, that all these bonds shall be payable not later than June
33 30, 2047. All interest and payments on account of principal of these obligations shall be payable
34 from the General Fund. Notwithstanding any other general or special law to the contrary, bonds
35 and interest thereon issued under this section shall be general obligations of the commonwealth.

36 SECTION 4. Notwithstanding any general or special law to the contrary, in carrying out section
37 2 and all other provisions of this Act, the department of transportation may enter into contracts,
38 agreements, or transactions that may be appropriate with other federal, state, local or regional
39 public agencies or authorities. The contracts, agreements, or transactions may relate to such
40 matters as the department shall determine including, without limitation, the research, design,
41 layout, construction, reconstruction or management of construction of all or a portion of these
42 projects. In relation to any such contracts, agreements, or transactions the department may
43 advance monies to these agencies or authorities, without prior expenditure by the agencies or
44 authorities, and the agencies and authorities may accept monies necessary to carry out these
45 agreements; provided, however, that the department shall certify to the comptroller the amounts
46 so advanced; provided further, that these agreements shall contain provisions satisfactory to the
47 department for the accounting of monies expended by any other agency or authority; and
48 provided, further, that all monies not expended under any such agreement shall be credited to the
49 account of the department from which they were advanced. The department shall report to the
50 house and senate committees on ways and means on any transfers completed under this section.

51 SECTION 5. (a) Notwithstanding any other general or special law to the contrary, the
52 department of transportation shall expend the sums authorized in section 2 for the following
53 purposes: projects for the laying out, construction, reconstruction, resurfacing, relocation or
54 necessary or beneficial improvement of highways, bridges, bicycle paths or facilities, on- and
55 off-street bicycle projects, sidewalks, telecommunications, parking facilities, auto-restricted
56 zones, scenic easements, grade crossing eliminations and alterations of other crossings, traffic
57 safety devices on state highways and on roads constructed under section 4(b) of chapter 6C of
58 the General Laws, highway or mass transportation studies, including, but not limited to, traffic,
59 environmental or parking studies, the establishment of school zones in accordance with section 2
60 of chapter 85 of the General Laws, improvements on routes not designated as state highways
61 without assumption of maintenance responsibilities and, notwithstanding any general or special
62 law to the contrary, projects to alleviate contamination of public and private water supplies cause
63 by the department's storage and use of snow removal chemicals which are necessary for the
64 purposes of highway safety and for the relocation of persons or businesses or for the replacement
65 of dwellings or structures including, but not limited to, providing last resort housing under
66 federal law and such functional replacement of structures in public ownership as may be
67 necessary for the foregoing purposes and for relocation benefits to the extent necessary to satisfy
68 the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies
69 Act of 1970, 42 U.S.C. 4601 et seq., Pub. L. 97-646, 84 Stat. 1864 (1971), and to sell any
70 structure the title to which has been acquired for highway purposes. When dwellings or other
71 structures are removed in furtherance of any of the foregoing projects, the excavations or cellar
72 holes remaining shall be filled in and brought to grade within 1 month after the removal. In
73 planning projects funded by said section 2, consideration shall be made, to the extent feasible, to

74 accommodate and incorporate provisions to facilitate the use of bicycles and walking as a means
75 of transportation; provided, however, that nothing in this section shall be construed to give rise to
76 enforceable legal rights in any party or a cause of action or an enforceable entitlement as to the
77 projects described in this section.

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

83 (c) In addition to the foregoing, the department of transportation may expend funds made
84 available by this act to acquire from a person by lease, purchase, eminent domain under chapter
85 79 of the General Laws or otherwise, land or rights in land for parking facilities adjacent to a
86 public way to be operated by the department or under contract with an individual; expend funds
87 made available by this act for the acquisition of van-type vehicles used for multi-passenger,
88 commuter-driven carpools and high-occupancy vehicles including, but not limited to, water
89 shuttles and water taxis; and, in accordance with all applicable state and federal laws and
90 regulations, exercise all powers and do all things necessary and convenient to carry out the
91 purposes of this act.

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

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

106 (e) In addition to the foregoing, the department may expend funds made available by this
107 Act for matching funds to obtain federal funds for costs associated with the design, acquisition,
108 renovation, construction, reconstruction and other improvements for transit projects.

109 SECTION 6: Notwithstanding any other general or specific law to the contrary, all construction
110 contracts funded in whole or in part by the funds authorized by this act shall include a price
111 adjustment clause for each of the following: fuel, both diesel and gasoline, asphalt, concrete and
112 steel. A base price for each material shall be set by the awarding authority or agency and
113 included in the bid document at the time a project is advertised. The awarding authority or
114 agency shall also identify in the bid documents the price index to be used for each material or
115 supply. The adjustment clause shall provide for a contract adjustment to be made on a monthly
116 basis when monthly cost change exceeds +/-5 percent.