

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

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**The Commonwealth of Massachusetts**

PRESENTED BY:

**Antonio F.D. Cabral**

*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

**An Act creating the Mass Rail Transit Fund.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Antonio F.D. Cabral	13th Bristol

# The Commonwealth of Massachusetts

\_\_\_\_\_  
In the Year Two Thousand and Nine  
\_\_\_\_\_

## AN ACT CREATING THE MASS RAIL TRANSIT FUND.

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

1 Chapter 90 of the General Laws, as appearing in the 2004 Official Edition, is hereby

2 amended by adding the following subsections:—

Section 34S. Vehicle Classification.

For purposes of section 34T and 34U only, the registrar shall issue rules and regulations to classify all

5 vehicles required to be registered by this chapter into the following categories: zero emission

6 vehicle, motorcycle, automobile, hybrid automobile, light truck, heavy truck, hybrid truck, sports

7 utility vehicle, hybrid sports utility vehicle, van, luxury vehicle, motor home, trailer, other

8 vehicle and rental vehicle, which shall include all vehicles intended as of the date of registration

9 to be used as a rental vehicle, which shall be known collectively as registration classes. When

10 any such vehicle is first registered pursuant to this chapter, the registrar shall identify said

11 vehicle as a member of one registration class.

Section 34T. Green Fee.

(a) The registrar or his authorized agents shall collect the following fees, to be called a green fee, each

14 time a vehicle is registered or the vehicle registration is renewed for any reason:

~~(1)~~5 For every automobile and hybrid trucks and hybrid sports utility vehicles the fee shall be \$30 for a  
16 new or transfer registration and two year renewals, \$15 for vehicles renewing annually.

~~(2)~~7 For hybrid automobiles and motorcycles the fee shall be \$15 for a new or transfer registration and for  
18 two year renewals, \$7.50 for vehicles renewing annually.

~~(3)~~9 For light trucks, vans, luxury vehicles as defined by the registrar and sports utility vehicles the fee  
20 shall be \$60 for a new or transfer registration and for two year renewals, \$30 for vehicles  
21 renewing annually.

~~(4)~~2 For heavy trucks, motor homes and buses the fee shall be \$85 for a new or transfer registration and  
23 for two year renewals, \$42.50 for vehicles renewing annually.

~~(5)~~4 For all other vehicles required to register pursuant to section 33 of chapter 90 the fee shall be \$60 for  
25 a new or transfer registration and for two year renewals, \$30 for vehicles renewing annually.

~~(6)~~6 Zero emission vehicles, as defined by the United States Department of Environmental Protection,  
27 and those vehicles without a motor shall be exempt from the green fee.

~~(7)~~8 Any vehicle owned by any subdivision of the commonwealth and used solely for official business  
29 and any vehicle identified in subsections 29, 30 and 33 of section 33 of chapter 90 shall be  
30 exempt from the green fee.

~~S~~ection 34U. Luxury Registration Fee.

32 For all vehicles required to register pursuant to chapter 90 whose value, as determined pursuant  
33 to chapter 60A, exceeds \$35,000, the registrar shall collect a fee at the time of registration equal  
34 to one tenth of one percent of the purchase price for a new or transfer registration and for two  
35 year renewals, and equal to one five hundredth of one percent for vehicles renewing annually.

~~S~~ection 34V. Car Rental Fee.

37 There shall be a surcharge of 5 percent of the total cost of each vehicular rental transaction contract in  
38 the commonwealth.

39 **SECTION 2.** The general laws are hereby amended by creating the following new chapter.

Chapter 161E. Massachusetts Rail Transit Fund

Section 1. As used in this chapter 161E, the following words shall have the following meanings:

“~~A~~uthority”, the Massachusetts Bay Transportation Authority, established by section 2 of chapter 161A,  
43 or its successor.

“~~C~~ost”, as applied to a project and the site thereof, all costs, whenever incurred, of acquiring land and of  
45 acquiring, developing, constructing, improving, furnishing, equipping, finishing and carrying out  
46 a project and placing the same in operation, including without limiting the generality of the  
47 foregoing, the cost of all lands, property, rights, easements and interests acquired pursuant hereto  
48 and all labor, materials, machinery and equipment necessary to carry out a project and place the  
49 same in operation, financing charges, interest prior to and during construction and for a period  
50 not exceeding two years after completion of construction, the cost of environmental  
51 investigation, analyses and remediation, the cost of demolition and removal of any buildings or  
52 structures on lands acquired and removal or relocation of any public utilities and other facilities,  
53 relocation payments as defined in, and any other costs of relocation assistance required under  
54 chapter 79A of the General Laws and this act, the costs of architectural, engineering and legal  
55 services, plans, specifications, surveys, estimates of cost and of revenues, other expenses  
56 necessary or incident to determining the feasibility or practicability of the project, administrative,  
57 marketing and promotion expenses, reserves for debt service, and other capital and current  
58 expenses and such other expenses as may be necessary or incident to the construction of a project  
59 and the acquisition of land therefore.

~~60~~ "Green Fee", an amount collected by the registrar pursuant to section 35T of chapter 90.

~~61~~ "Local Project Receipts," receipts described in section 11 of this chapter.

~~62~~ "Operating costs," all direct costs, whenever incurred, of operating a rail project that received funding  
63 from the Massachusetts Rail Transit Fund.

~~64~~ "Rail Project", the planning, design, acquisition, development, construction, expansion, rehabilitation,  
65 improvement, furnishing, equipping and finishing or any combination of the foregoing,  
66 necessary to provide subway or commuter rail service to a municipality which does not have  
67 such service or to increase the frequency or speed of such service to a community that the  
68 secretary determines is underserved by its existing subway or commuter rail service, together  
69 with all necessary and related furnishings, machinery, equipment, facilities, approaches,  
70 driveways, walkways, parking facilities, roadways, public transportation and landscaping, and  
71 including without limitation the acquisition of lands or other property, or rights, easements, and  
72 interests acquired for or in respect of any such lands or property for a project, the demolition or  
73 removal of any buildings or structures on lands so acquired or in or with respect to which  
74 interests are so acquired, relocation payments and other assistance therefore, and site preparation  
75 and environmental remediation. Notwithstanding the foregoing, rail project may not include  
76 funds for routine maintenance to existing subway or commuter rail facilities or for capital  
77 projects to improve the accessibility of existing infrastructure for passengers with disabilities or  
78 to improve access to existing service, such as parking expansion, installation of bicycle racks or  
79 improvements to pedestrian approaches.

~~80~~ "Registrar", the registrar of motor vehicles, established pursuant to chapter 90.

~~81~~ "Secretary", the secretary of the executive office of transportation and public works, established  
82 pursuant to chapter 6A.

83 Section 2. There shall be established and set up on the books of the commonwealth a separate  
84 fund, to be known as the Massachusetts Rail Transit Fund, consisting of amounts credited to the  
85 fund in accordance with section 3. The fund shall be administered in accordance with the  
86 provisions of this act by the state treasurer and shall be held in trust exclusively for the purposes  
87 and the beneficiaries described herein. The state treasurer shall be treasurer-custodian of the fund  
88 and shall have the custody of its monies and securities.

~~Section~~ Section 3. Commencing on the first day of the first full calendar month following 30 days after the  
90 effective date of this act, the following receipts shall be credited to, and deposited by the state  
91 treasurer in, the Massachusetts Rail Transit Fund and used in accordance with this section: (i)  
92 three cents of the commonwealth's excise tax on motor fuels, levied pursuant to chapter 64E, if  
93 the commonwealth's per gallon tax, surcharge or levy on motor fuels is increased by more than  
94 three cents after January 1, 2009; (ii) the green fee, created by section 36T of chapter 90; (iii) the  
95 luxury fee, created by section 36U of chapter 90; and (iv) and the car rental fee created by  
96 section 36V of chapter 90. In addition, in accordance with section 12, the local project receipts  
97 shall be credited to, and deposited by the state treasurer in the Massachusetts Rail Transit Fund  
98 and shall be kept in segregated accounts for each rail project to be used in accordance with this  
99 chapter.

~~Section~~ Section 4. Notwithstanding any general or special law to the contrary, the secretary shall annually rank  
101 all of the rail projects contained in the capital investment program required by section 5 of  
102 chapter 161A. The secretary shall group said rail projects into two groups. Group 1 will include  
103 all of said rail projects that would provide new rail service to a city or town in the  
104 commonwealth that does not have a commuter rail or rapid transit stop within its borders or, if a  
105 rail project would establish new stations in more than one city or town, those rail projects that

106 would provide new rail service to cities or towns in the commonwealth half or more of whom do  
107 not have a commuter rail or rapid transit stop within their borders. Group 2 shall include all rail  
108 projects contained in the capital investment program required by section 5 of chapter 161A that  
109 are not included in Group 1. The secretary shall rank the rail projects within each group based  
110 on each rail project's performance relative to the other rail projects in that group on the following  
111 evaluation criteria: the cost effectiveness of air quality improvements which the capital  
112 investment program predicts a rail project would achieve, the rail project's projected cost per  
113 rider and cost per new mass transit rider, whether a rail project constitutes a transit commitment  
114 made in connection to the central artery project or is otherwise required by law, the likely  
115 economic benefits of a rail project, the likelihood that a rail project will result in sprawl or smart  
116 growth development and whether a rail project would serve any environmental justice target, all  
117 as defined and described in the capital investment program. The secretary shall report said  
118 ranking of rail projects along with his reasons therefore to the clerk of the senate and the clerk of  
119 the house and the house and senate chairmen of the Joint Committee on Transportation no more  
120 than ninety days after the issuance of the capital investment program required by section 5 of  
121 chapter 161A.

~~Section~~ 5. No funds from the Massachusetts Rail Transit Fund shall be used for any purpose other than  
123 paying the cost or operating costs of a rail project and only that portion of a rail project's cost or  
124 operating costs not available from other sources.

~~Section~~ 6. (a) The Authority shall notify the secretary, the state treasurer and the clerks of the senate and  
126 of the house in writing when it determines: 1) that the Massachusetts Rail Transit Fund contains  
127 and is likely to continue to contain funds, minus those funds already committed to other rail  
128 projects but including those local project revenues dedicated to a rail project pursuant to this

129 chapter, necessary to cover: a) the cost of the rail project ranked first in group 1 by the secretary  
130 pursuant to section 4 minus all other funds available to the authority to cover such cost,  
131 calculated based on not less than 105 per cent of the debt service on all special obligation bonds  
132 to be issued pursuant to section XX that are required to cover the cost of such rail project and b)  
133 the amount of any projected annual operating deficit determined by the Authority, calculated as  
134 the average of the projected operating deficits of the first ten years of the rail project's operation;  
135 and 2) that all plans, approvals, licenses and permits necessary to begin construction of said rail  
136 project are in the Authority's possession. Upon the sale of bonds by the state treasurer for a rail  
137 project pursuant to section 17 hereof, that rail project shall be removed from the secretary's  
138 group rankings made pursuant to section 5.

~~(b)~~ Subsequent to the first rail project having been removed from the secretary's group rankings

140 pursuant to subsection (a), the Authority shall notify the secretary, the state treasurer and the  
141 clerks of the senate and of the house in writing when it determines: 1) that the Massachusetts  
142 Rail Transit Fund contains and is likely to continue to contain funds, minus those funds already  
143 committed to other rail projects but including those local project revenues dedicated to a rail  
144 project pursuant to this chapter, necessary to cover: a) the cost of either or both, if available  
145 funds exist, of the rail projects ranked first in either group 1 or group 2 by the secretary pursuant  
146 to section 4 minus all other funds available to the authority to cover such cost, calculated based  
147 on not less than 105 per cent of the debt service on all special obligation bonds to be issued  
148 pursuant to section 17 that are required to cover the cost of such rail project and b) the amount of  
149 any projected annual operating deficit determined by the Authority, calculated as the average of  
150 the projected operating deficits of the first ten years of the rail project's operation; and 2) that all  
151 plans, approvals, licenses and permits necessary to begin construction of said rail project are in



152 the Authority's possession. Upon the sale of bonds by the state treasurer for a rail project  
153 pursuant to section 17 hereof, that rail project shall be removed from the secretary's group  
154 rankings made pursuant to section 5. No later than ninety days after receiving said  
155 determination, the secretary shall certify to the state treasurer that he has received said  
156 determination and that said determination meets the requirements of this chapter and shall name  
157 the next project to be funded pursuant to section 17. In making his choice, the secretary shall  
158 continue to give preference, in his discretion, to projects listed in group 1.

~~(15)~~ Determinations described in subsections (a) and (b), shall include: (1) project plans sufficiently  
160 complete to indicate the project's boundaries, such land acquisition, demolition and removal of  
161 structures, and such redevelopment and general public improvements, as may be proposed to be  
162 carried out and proposed land uses including preliminary project designs and a description of the  
163 project programs; (2) the proposed method for relocation of persons and organizations to be  
164 displaced by the project, if any; (3) cost estimates of the project, including acquisition, and  
165 identification of parcels to be acquired and the estimated cost thereof; (4) proposals for  
166 informing and communicating with the affected communities; and (5) a description of measures  
167 to mitigate environmental and neighborhood impacts of the project and such other planning and  
168 urban design issues as the Authority shall determine are presented by the project.

~~(16)~~ In connection with the preparation of the plans described in subsection (c) and the exercise by the  
170 Authority of its powers under this act, the Authority and its authorized agents and contractors are  
171 hereby authorized, whenever the Authority deems it necessary or convenient, to enter onto any  
172 properties and the improvements thereon and to undertake appraisals, surveys, environmental  
173 analyses and investigations, including subsurface investigations, permitting analyses and  
174 investigations, and other investigations and analyses, for the purpose of determining the value

175 and condition of such properties. The Authority shall provide 20 days written notice by certified  
176 mail to the owners of properties, as such owners are recorded in the office of the city assessor,  
177 prior to any such entry. Such entry, appraisals, surveys, analyses and investigations shall not be  
178 deemed a trespass, a taking by eminent domain or an entry under any eminent domain or  
179 condemnation proceedings. The Authority shall make reimbursement for any actual injury or  
180 actual damage resulting to such properties and any improvements thereon from the entry,  
181 appraisals, surveys, analyses and investigations authorized hereunder, and the Authority shall, as  
182 far as possible, restore such properties and the improvements thereon to their condition prior to  
183 such entry, appraisals, surveys, analyses and investigations. Without derogating from the  
184 foregoing, the Authority is hereby authorized to exercise the power of eminent domain as  
185 provided in clause (d) of section 11 of chapter 121B of the General Laws in order to temporarily  
186 obtain access to properties and the improvements thereon for the Authority and its agents and  
187 contractors for the purpose of conducting the appraisals, surveys, analyses and investigations  
188 authorized by this act. If the Authority restores the properties and improvements as required  
189 hereunder, the damages for the temporary taking hereby authorized shall be nominal in the  
190 absence of extraordinary circumstances unique to particular properties.

**Section 7.** (a) In order to provide for a portion of the costs of each rail project and the payment of the  
192 principal of and interest on special obligation bonds of the commonwealth issued pursuant to  
193 section 17, there is hereby imposed, in addition to the excises levied under chapter 64G of the  
194 General Laws and section 22 of chapter 546 of the acts of 1969, a transportation financing fee  
195 upon the transfer or occupancy of any room or rooms in any hotel, motel or other lodging  
196 establishment which could be subject to such excises in any city or town that will receive one or  
197 more new stations or enhanced service as part of said rail project and any portion of any other

198 city or town designated by the governor that is adjacent to a city or town that will receive one or  
199 more new stations or enhanced service as part of said rail project at the rate of 2.75 per cent of  
200 the total amount of rent for each such occupancy. The transportation financing fee shall take  
201 effect on the first day of the calendar quarter following 30 days after the effective date of hereof.  
202 All receipts from the transportation financing fee shall be applied solely as provided in this  
203 chapter.

~~204~~ All terms used in this section shall have the same meaning given such terms in chapter 64G of the  
205 General Laws and all provisions of said chapter 64G relative to the assessment, collection,  
206 payment, abatement, verification and administration of the excises imposed therein, including  
207 penalties, shall, so far as pertinent, be applicable to the fees imposed by this section. The  
208 transportation financing fee imposed under the provisions of this section shall be paid by the  
209 operator at the same time and in the same manner as the excises due the commonwealth under  
210 said chapter 64G.

~~211~~ For the purpose of adding and collecting the transportation financing fee imposed by this section and  
212 the excises imposed by said chapter 64G, the commissioner of the department of revenue shall  
213 issue a schedule showing the total of the excises due for each bracket of taxable charges or rent,  
214 as defined in said chapter 64G, plus the transportation financing fee imposed under this section.  
215 Such schedule shall be in such form, including the number and size of the brackets, as said  
216 commissioner may determine.

~~Section 8.~~ For each rail project there shall be a surcharge of 5 per cent of the purchase price imposed on  
218 the price of any ticket purchased for any water-based sightseeing, tourist venue or entertainment  
219 cruise or tour and for any land-based sightseeing, tourist venue or trolley tour, originating or  
220 located in the commonwealth and conducted partly or entirely within any city or town or portion

221 thereof described in section 7; provided, however, that no such surcharge shall be imposed on  
222 children's tickets, so-called, if said ticket is \$6 or less; and provided, further, that no such  
223 surcharge shall be imposed for such tours or cruises on tickets sold to an organized school or  
224 youth group and adults accompanying such group.

~~Section~~ 9. For each rail project there shall be a surcharge of \$5 imposed upon each commercial airline  
226 ticket for any flight landing in or taking off from any city or town or portion thereof described in  
227 section 7.

~~Section~~ 10. For each rail project there are hereby established district improvement financing districts in  
229 the any city or town or portion thereof described in section 7, which shall operate in accordance  
230 with the provisions of section 1 of chapter 40Q.

~~Section~~ 11. The levies described in section 7, 8, 9 and 10 shall commence on the first day of the first full  
232 calendar year following the receipt by the secretary of the determination of the Authority  
233 described in section 6.

~~Section~~ 12. Commencing on the first day of the first full calendar year following the receipt by the  
235 secretary of the determination of the Authority described in section 6, the following receipts,  
236 hereinafter referred to, together with investment earnings thereon, as local project receipts, shall  
237 be credited to, and deposited by the state treasurer in the segregated account within the  
238 Massachusetts Rail Transit Fund created by the state treasurer for each rail project pursuant to  
239 section 3: (i) all receipts from the transportation financing fee imposed by section 7; (ii) all  
240 receipts from the excise imposed by section 8; (iii) all receipts from the excise imposed by  
241 section 9; (iv) all receipts collected pursuant to section 10; and (v) any funds received by the  
242 Authority from the sale, lease or other disposition of land or rights therein adjacent to stations  
243 which shall be a part of each rail project. Notwithstanding anything in section 35J of chapter 10

244 of the General Laws to the contrary, amounts described in this section shall not be included in  
245 the computation of the amount to be deposited in the Massachusetts Tourism Fund pursuant to  
246 said section 35J.

~~Section~~ 13. For all rail projects constructed pursuant to this chapter all construction employees  
248 employed in the construction of said project shall be paid no less than the wage rate established  
249 for such work pursuant to a project labor agreement with the appropriate labor organization or  
250 labor organizations, which includes (1) a uniform grievance and arbitration procedure for the  
251 resolution of work-related disputes on job sites; (2) mutually agreeable uniform work rules and  
252 schedules for the project; and (3) an obligation for any such labor organization and its constituent  
253 members not to strike with respect to work on such project, provided that it shall not be a  
254 precondition to the award of a contract that a bidder have previously entered into a collective  
255 bargaining agreement with a labor organization, but only that the bidder be willing to execute  
256 and comply with said project labor agreement for the project if it is awarded a contract.

~~Section~~ 14. Expenditures from Massachusetts Rail Transit Fund funds not segregated pursuant to section  
258 3 shall be made for the following purposes only if and when the amounts available in each rail  
259 project's segregated fund, created pursuant to section 3, are inadequate to the meet the cost or  
260 operating costs of that rail project: (i) for the payment of the principal, including sinking fund  
261 payments and premium, if any, and interest on special obligation bonds of the commonwealth  
262 issued pursuant to section 17 and on notes issued in anticipation of such bonds for the relevant  
263 project; (ii) for the maintenance of, or provision for, any reserves for debt service and other  
264 capital and current expenses, including without limitation any capital reserve fund created for  
265 such purpose, and for any additional security, insurance or other form of credit enhancement  
266 required or provided for in any trust or other security agreement entered into pursuant to this

267 chapter to secure such bonds; and (iii) for direct expenditure for any cost of the rail project and  
268 for the operation, promotion and marketing thereof incurred by the Authority.

Section 15. (a) The Authority is hereby authorized and directed to acquire all lands, properties, rights, air  
270 rights, sub-surface rights, easements and other interests necessary to complete the projects. To  
271 carry out and effectuate the foregoing purposes, the Authority may take by eminent domain  
272 under chapter 79 or chapter 80A of the General Laws, or acquire by purchase, lease, gift,  
273 bequest, grant or otherwise from any party, public or private, and hold, clear, repair, operate and,  
274 after having taken or acquired the same, convey as provided in this chapter, any lands and other  
275 property, real or personal, improved or unimproved, tangible or intangible, and any interest  
276 therein, including, to the extent not inconsistent with federal law, railroad properties, necessary  
277 to complete the projects, as stipulated in the reports to be produced pursuant to section 6, after a  
278 public hearing of which the land owners of record have been notified by certified mail and of  
279 which at least 20 days' notice has been given by publication in a newspaper having general  
280 circulation in the city in which the land is located; provided, however, that no such taking or  
281 acquisition shall be effected until 30 days after the Authority has notified the land owner of  
282 record by certified mail and has caused a notice of such determination to be published in a  
283 newspaper having general circulation in the city in which the land is located. The value of any  
284 lands or real property acquired by the Authority by eminent domain shall be reduced by the costs  
285 necessary to remediate the environment of said site. To the extent not inconsistent with federal  
286 law, the taking or other acquisition by the Authority of railroad rights of way or related facilities  
287 from any department, authority, agency or political subdivision of the commonwealth, from any  
288 railroad company, or from any other party, shall be exempt from the procedures, findings and  
289 requirements of section 7 of chapter 161C of the General Laws.

~~290~~ hereby declared that, for purposes of any constitutional entitlement to damages in the event of a  
291 taking, all properties and interests taken by the Authority by eminent domain by any subdivision  
292 of the commonwealth are being held by the Authority in a governmental and not a proprietary  
293 capacity and it is not the intent of this act to confer on the Authority any rights to damages for  
294 such taking. Any such taking of property shall be effective notwithstanding any inconsistent  
295 prior public use. The Authority may make relocation payments to persons and businesses  
296 displaced as a result of carrying out a project and shall otherwise provide relocation assistance as  
297 provided in chapter 79A and chapter 121B of the General Laws.

~~298~~ The extent not inconsistent with federal law, if there is a taking or other acquisition of railroad lines,  
299 rights of way, easements or related facilities from any party, the Authority is hereby authorized  
300 and directed to relocate such railroad lines.

~~301~~ The Authority shall have all the powers necessary and convenient to carry out the purposes of this  
302 act. Without limiting the generality of the foregoing, the Authority may exercise with respect to  
303 the projects and any property acquired in accordance with this section all powers, and shall have  
304 all immunities, consistent with this chapter, granted to operating agencies, as defined in chapter  
305 121B of the General Laws or otherwise granted to the Authority under any general or special  
306 law.

~~307~~ The Authority is hereby authorized and directed to prepare or cause to be prepared a report in  
308 accordance with section 62B of chapter 30 of the General Laws for those of the projects for  
309 which such a report has not yet been prepared or is no longer valid at the time required by law.  
310 Notwithstanding the provisions of sections 62 to 62H, inclusive, of said chapter 30, the Authority  
311 may commence and undertake research, planning, design and other work necessary for the  
312 projects and may engage an owner's representative, architects and engineers and a construction

313 manager therefore for each rail project individually, and the Authority may take all actions  
314 necessary or appropriate or required for acquisition of lands, air rights, sub-surface rights or  
315 other property interests prior to the publication of a final environmental impact report pursuant to  
316 this section and section 62C of said chapter 30; provided, however, that the Authority shall not  
317 record a notice of taking with respect to any lands or other property by eminent domain as  
318 provided in this section until the secretary of energy and environmental affairs has issued a  
319 notice of availability of a report submitted to said secretary in accordance with said section 62C  
320 which demonstrates to the satisfaction of said secretary that a project may be carried out with  
321 appropriate mitigation measures as may be necessary to minimize and prevent damage to the  
322 environment.

~~(d)~~ 323 The Authority shall be excluded from the definition of an owner or operator of a project with respect  
324 to releases of hazardous materials that occur before the Authority acquires ownership of any  
325 portion of a site pursuant to this act upon or from which such a release may occur as if the  
326 Authority were a city or town that has purchased or taken such land for the nonpayment of taxes,  
327 in accordance with paragraph (d) of the definition of "Owner" or "Operator" of section 2 of  
328 chapter 21E of the General Laws; provided, however, that the Authority complies with all of the  
329 requirements set forth in subparagraphs (2) and (3) of said paragraph (d), except that the  
330 Authority shall have no obligation to comply with clause (F) of subparagraph (3) of said  
331 subsection (d).

~~Section~~ 16. (a) No person shall be precluded by chapter 7 or chapter 268A of the General Laws from  
333 participating by contract or otherwise in the activities of the commonwealth or the Authority  
334 with regard to the planning, acquisition, construction and operation of a rail project contained in  
335 this act solely by reason of a financial interest, direct or indirect, in any contract or extension



336 thereof for services with respect to the project report or otherwise with respect to the  
337 development of the rail project executed by such person with the commonwealth or the Authority  
338 prior to the effective date hereof. For purposes of the foregoing, the Authority shall have all of  
339 the powers granted to it by general or special law not inconsistent with this chapter. Each rail  
340 project shall be exempt from compliance with applicable zoning codes and any regulations  
341 promulgated thereunder.

~~§ 17~~ The Authority shall prepare quarterly reports for each rail project described by this chapter which  
343 shall include, but not be limited to: (i) the total dollars expended on the project to date, (ii) the  
344 number of contracts entered into to date; (iii) the number of contracts entered into with minority  
345 businesses; (iv) the number of contracts entered into with women-owned businesses; (v) the  
346 dollar value of contracts entered into with minority businesses; (vi) the dollar value of contracts  
347 entered into with women-owned businesses; (vii) the total number of employees working on the  
348 project; and (viii) the total number of employees working on the project, broken down by race,  
349 ethnicity and gender. Said quarterly reports shall be submitted to the secretary of the executive  
350 office for administration and finance, the house ways and means committee, the senate ways and  
351 means committee, the clerk of the house and the clerk of the senate.

~~§ 17~~ Upon the certification by the secretary of his receipt of a determination made pursuant to  
353 section 6, the state treasurer shall issue bonds in such amounts and at such time as he determines,  
354 after consultation with the secretary and the Authority, necessary to meet the expenditures  
355 required for the rail project which is the subject of said determination. Any such bonds shall be  
356 special obligations of the commonwealth payable first from the local project receipts defined in  
357 sections (7), (8), (9) and (10) to the extent available and second from the unsegregated funds  
358 described in section 3.

~~Section~~ 18 (a) The administration of the fees imposed under sections (7), (8), (9) and (10) of chapter 161E is hereby vested in the commissioner of revenue. Said fees shall be collected by the vendor or operator of the service or facility and remitted to the department of revenue on a quarterly basis. Amounts collected pursuant to section 10 shall be collected by the city or town and remitted to the department of revenue. All provisions of this act relative to assessment, collection, payment, abatement, verification and administration, including penalties and interest, shall, so far as pertinent, be applicable to the fees imposed by this act as though they were taxes enumerated in section 2 of chapter 62C.

~~Section~~ 19. The Massachusetts Bay Transportation Authority or its successor is hereby authorized and directed to take whatever actions are necessary to pursue any federal funds for which the projects or any portions thereof are eligible and to seek or coordinate with partners where warranted.

~~Section~~ 20. The Executive Office of Transportation and Public Works or its successor shall choose a regional planning agency or agencies established pursuant to Chapter 40B to conduct corridor land use planning for the projects. Each regional planning agency or agencies shall work with municipalities, state agencies and other stakeholders to complete the land use corridor plan prior to November 1, 2010. Each land use corridor plan shall include the necessary actions to be taken by municipal or state government, including zoning and other bylaw changes, in order to maximize the long term benefit of the expansion, preserve capacity added by the project, promote sustainable economic and residential development, protect critical open space and other natural resources, and mitigate environmental and neighborhood impacts, including sprawl and gentrification.

~~The~~ Massachusetts Bay Transportation Authority or its successor shall not begin construction on new rail stations to be completed pursuant to chapter 161E until the secretary finds that the

382 municipality in which the station would be located has taken substantial actions to implement the  
383 applicable provisions and requirements of the corridor land use plan and have taken actions to  
384 reasonably ensure ongoing implementation of the plan after construction is complete.

~~385~~ tenth of one percent of the cost of each rail project shall be used for corridor land use planning  
386 pursuant to this section, and shall be allocated from the Massachusetts Rail Transit Fund to the  
387 regional planning agencies identified by the Executive Office of Transportation and Public  
388 Works or its successor for the purposes of corridor land use planning pursuant to this section.  
389 Each regional planning agency receiving funds shall file a report with the Executive Office of  
390 Transportation and Public Works or its successor and the House and Senate Committees on  
391 Ways and Means detailing their activities.

~~392~~tion 21. The provisions of this act shall be deemed to provide an exclusive, additional, alternative  
393 and complete method for the doing of the things authorized hereby and shall be deemed and  
394 construed to be supplemental and additional to, and not in derogation of, powers conferred upon  
395 the Massachusetts Bay Transportation Authority or its successor; provided, however, that insofar  
396 as the provisions of this act are inconsistent with the provisions of any general or special law,  
397 administrative order or regulation or any limitation imposed by a corporate or municipal charter,  
398 the provisions of this act shall be controlling.

~~399~~tion 22. This act, being necessary for the welfare of the commonwealth and its inhabitants, shall be  
400 liberally construed to affect its purposes.

~~401~~**SECTION 3.** (a) To meet the expenditures necessary to carry out the provisions of section 2, the state  
402 treasurer may issue and sell bonds of the commonwealth in any amount. Any such bonds shall  
403 be special obligations of the commonwealth payable first from the local project receipts

404 described in section 12 of chapter 161E to the extent available and second from the receipts  
405 described in section 3 of chapter 161E to the extent available.

~~(406)~~Bonds of the commonwealth may be issued under authority of this section in such manner and on  
407 such terms and conditions as the state treasurer, with the concurrence of the secretary of  
408 administration and finance, may determine in accordance with the provisions of this subsection  
409 and, to the extent not inconsistent with the provisions hereof, provisions of General Law for the  
410 issuance of bonds of the commonwealth. Bonds may be secured by a trust agreement or other  
411 security agreement entered into by the state treasurer, with the concurrence of the secretary of  
412 administration and finance, on behalf of the commonwealth, which trust agreement or other  
413 security agreement may pledge or assign all or any part of the local project receipts credited to  
414 the fund pursuant to sections 3 and 12 of chapter 161E, and any other pledged funds as  
415 hereinafter provided, and rights to receive the same, whether existing or coming into existence  
416 and whether held or thereafter acquired, and the proceeds thereof. The state treasurer is also  
417 authorized, with the concurrence of the secretary of administration and finance, to enter into  
418 additional security, insurance or other forms of credit enhancement which may be secured on a  
419 parity or subordinate basis with the bonds. A pledge in any such trust or other security agreement  
420 or credit enhancement agreement shall be valid and binding from the time such pledge shall be  
421 made without any physical delivery or further act, and the lien of such pledge shall be valid and  
422 binding as against all parties having claims of any kind in tort, contract or otherwise, irrespective  
423 of whether such parties have notice thereof. Any such pledge shall be perfected by filing of the  
424 trust or other security agreement or credit enhancement agreement in the records of the state  
425 treasurer, and no filing need be made under chapter 106 of the General Laws. Any such trust  
426 agreement, security agreement or credit enhancement agreement may establish provisions

427 defining defaults and establishing remedies and other matters relating to the rights and security  
428 of the holders of the bonds or other secured parties as determined by the state treasurer, including  
429 provisions relating to the establishment of reserves, the issuance of additional or refunding  
430 bonds, whether or not secured on a parity basis, the application of the moneys and funds pledged  
431 pursuant to such agreement, in this act referred to as pledged funds, and other matters deemed  
432 necessary or desirable by the state treasurer for the security of such bonds, and may also regulate  
433 the custody, investment and application of moneys.

~~(434)~~As additional security for bonds of the commonwealth issued under authority of this section, the state  
435 treasurer, with the concurrence of the secretary of administration and finance, shall create and  
436 establish a special fund for each rail project, herein referred to as the Capital Reserve Funds,  
437 within the Massachusetts Rail Transit Fund established under section 3 of chapter 161E or  
438 otherwise under a trust or other security agreement securing such bonds, and shall pay into the  
439 capital reserve funds any receipts available for such purpose as provided in chapter 161E and  
440 section 3(a) of this act and any other moneys appropriated and made available for the purposes of  
441 such fund, any proceeds of such bonds to the extent determined by the state treasurer, with the  
442 concurrence of the secretary of administration and finance, or as may be provided in any such  
443 trust or other security agreement, and any other moneys available for purposes of such fund as  
444 provided in this section, all of which shall be pledged funds for purposes of this act.

~~(445)~~All moneys held in the Capital Reserve Funds, except as hereinafter provided, shall be used solely  
446 for the payment of the principal of bonds of the commonwealth issued under authority of this  
447 section as the same mature, the purchase of such bonds, the payment of interest on such bonds or  
448 the payment of any redemption premium required to be paid when such bonds are redeemed  
449 prior to maturity; provided, however, that, moneys in the capital reserve funds shall not be

450 withdrawn therefrom at any time in such amount as would reduce the amount of any such fund to  
451 less than the maximum amount of principal and interest maturing and becoming due in any  
452 succeeding fiscal year on all such bonds outstanding or such lesser amount as shall be  
453 established by the state treasurer, with the concurrence of the secretary of administration and  
454 finance, as necessary or appropriate to secure such bonds, in this act referred to as the capital  
455 reserve fund requirements, except for the purpose of paying the principal of and interest on such  
456 bonds maturing and becoming due and for the payment of which other receipts held in the funds  
457 are not available.

~~458~~ Notwithstanding any provision of this act to the contrary, the state treasurer shall not issue bonds of  
459 the commonwealth under authority of this section at any time if following such issuance the  
460 balance on deposit in the Capital Reserve Funds would be less than the capital reserve fund  
461 requirements with respect to all such bonds then outstanding.

~~462~~ If on the last day of any fiscal year during which any bonds of the commonwealth issued under  
463 authority of this section are outstanding, the balance on deposit in the Capital Reserve Funds  
464 shall be less than the capital reserve fund requirements as then calculated, after deposit therein of  
465 all amounts available therefore in the funds or otherwise under the trust or other security  
466 agreement securing such bonds, the motor fuel excise tax shall be increased and all newly  
467 created revenue directed into the Massachusetts Rail Transit Fund until the balance of said  
468 capital reserve fund shall again equal the capital reserve fund requirement as so certified by the  
469 secretary of administration and finance but in no event shall the total amount of the excise  
470 imposed pursuant to sections 3 and 3A of chapter 64G of the General Laws and section 22 of  
471 chapter 546 of the acts of 1969 exceed 14 per cent.

~~472~~In order to increase the marketability of any bonds issued by the commonwealth under authority of  
473 this section, and in consideration of the acceptance of payment for any such bonds, the  
474 commonwealth covenants with the purchasers and all subsequent holders and transferees of any  
475 such bonds that until all such bonds, including all bonds issued to refund such bonds, and the  
476 interest thereon, shall be paid or, if earlier, shall be deemed paid within the meaning of any trust  
477 or other security agreement or credit enhancement agreement securing the same, (i) receipts shall  
478 not be diverted from the purposes identified in this act; (ii) no pledged funds shall be diverted  
479 from the funds established by section 3 of chapter 161E or the capital reserve funds except as  
480 provided in this act; (iii) in any fiscal year of the commonwealth, unless and until an  
481 appropriation has been made which is sufficient to pay the principal, including sinking fund  
482 payments, of and interest on all such bonds and to provide for or maintain any reserves,  
483 additional security, insurance or other form of credit enhancement required or provided for in  
484 any trust or other security agreement or credit enhancement agreement securing any such bonds  
485 or notes, no pledged funds shall be applied to any other use; and (iv) so long as such revenues are  
486 necessary, as determined by the state treasurer in accordance with any applicable trust or other  
487 security agreement or credit enhancement agreement, for the purposes for which they have been  
488 pledged, the rate of any fees imposed by chapter 161E or which may constitute pledged funds  
489 under this section shall not be reduced below the amount in effect at the time of issuance of any  
490 such bond.

~~491~~Any bonds issued under authority of this section, and any notes of the commonwealth issued in  
492 anticipation thereof as hereinafter provided, shall be deemed to be investment securities under  
493 chapter 106 of the General Laws, shall be securities in which any public officer, fiduciary,  
494 insurance company, financial institution or investment company may properly invest funds and

495 shall be securities which may be deposited with any public custodian for any purpose for which  
496 the deposit of bonds is authorized by law. Any such bonds and notes, their transfer and the  
497 income therefrom, including profit on the sale thereof, shall at all times be exempt from taxation  
498 by and within the commonwealth.

**SECTION 4.** The state treasurer may borrow, from time to time, on the credit of the commonwealth  
500 such sums of money as may be necessary for the purposes of meeting payments as authorized by  
501 chapter 161E in anticipation of the receipt of proceeds of special obligation bonds of the  
502 commonwealth issued under authority of section XX15, and may issue and renew, from time to  
503 time, notes of the commonwealth therefore, bearing interest payable at such time and at such rate  
504 as shall be fixed by the state treasurer. Such notes shall be issued and may be renewed one or  
505 more times for such maximum term of years, not exceeding seven years, as the governor may  
506 recommend to the general court in accordance with Section 3 of Article LXII of the  
507 Amendments to the Constitution; provided, however, that all such notes shall be payable no later  
508 than seven years after issuance. Notes and the interest thereon issued under the authority of this  
509 section, notwithstanding any other provisions of this act, shall be general obligations of the  
510 commonwealth.

**SECTION 5.** This act shall be construed in all respects so as to meet all constitutional requirements. In  
512 carrying out the purposes and provisions of this act, all steps shall be taken which are necessary  
513 to meet constitutional requirements whether or not such steps are required by statute.

**SECTION 6.** Section 1 of chapter 161C of the General Laws is hereby amended by adding after the last  
515 sentence the following sentence:—

Furthermore, to carry out the purposes of this section, the Commonwealth of Massachusetts shall  
517 preserve intact the right of way for the proposed North South Rail Link. This right of way is



518 extremely vulnerable to the impact of development and redevelopment around the existing rail  
519 tracks and terminals. In addition, rail projects already in planning and construction phases will  
520 exceed the capacity of the South Station terminal. Preservation of the right of way for the North  
521 South Rail Link will assure that rail transportation can be enhanced or expanded in our region.

**SECTION 7.** Chapter 161C of the General Laws is hereby amended by inserting after section 7 the

523 following section:–

**Section 8.** This section requires the Commonwealth of Massachusetts through its executive office of  
525 transportation and construction, in consultation with the Massachusetts turnpike authority and the  
526 Massachusetts Bay Transportation Authority or their successors to perform a study to  
527 specifically identify and map the necessary right of way to allow for the construction of the  
528 proposed North South Rail Link connecting North Station to South Station. This study must  
529 include particular reference to the Major Investment Study/Draft Environmental Impact Report  
530 (EOEA#10270), prepared under the aegis of the executive office of environmental affairs which  
531 was concluded on March 31, 2003. A plan to preserve said right of way, once identified, shall be  
532 determined and implemented immediately.

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