

HOUSE No. 01902

The Commonwealth of Massachusetts

PRESENTED BY:

Patricia A. Haddad

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 establishing the Massachusetts opportunity rebuilding and expansion infrastructure program.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>
<i>John D. Keenan</i>	<i>7th Essex</i>
<i>Stephen R. Canessa</i>	<i>12th Bristol</i>
<i>Kevin Aguiar</i>	<i>7th Bristol</i>
<i>Garrett J. Bradley</i>	<i>3rd Plymouth</i>
<i>Antonio F. D. Cabral</i>	<i>13th Bristol</i>
<i>Viriato Manuel deMacedo</i>	<i>1st Plymouth</i>
<i>John F. Keenan</i>	<i>Norfolk and Plymouth</i>
<i>Richard T. Moore</i>	<i>Worcester and Norfolk</i>
<i>Michael J. Rodrigues</i>	<i>First Bristol and Plymouth</i>
<i>Paul Schmid, III</i>	<i>8th Bristol</i>

HOUSE No. 01902

By Ms. Haddad of Somerset, a petition (accompanied by bill, House, No. 1902) of Schmid and others for legislation to establish the Massachusetts opportunity rebuilding and expansion infrastructure program

Joint Committee on Economic Development and Emerging Technologies.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act establishing the Massachusetts opportunity rebuilding and expansion infrastructure program.

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. The General Laws are hereby amended by inserting after chapter 23J the following

2 chapter: --

3 CHAPTER 23K. MORE INFRASTRUCTURE PROGRAM

4 Section 1. As used in this chapter, the following words shall, unless the context clearly

5 requires otherwise, have the following meanings:-

6 “Agency”, the Massachusetts Development Finance Agency established pursuant to section 2 of

7 chapter 23G of the General Laws, as amended from time to time.

8 “Amended improvement plan” a plan describing any change to the improvement plan with

9 respect to the boundaries of a development zone, or material change to the method of assessing

10 costs, description of improvements, the maximum cost of the improvements, or method of
11 financing the improvements that is approved through the same procedures as the original
12 improvement plan adopted pursuant to this chapter.

13 “Assessing party”, shall mean the municipality, or other public instrumentality, as identified in
14 the improvement plan to assess any infrastructure assessments in the development zone.

15 “Cost”, shall include the cost of: (a) construction, reconstruction, renovation, demolition,
16 maintenance and acquisition of all lands, structures, real or personal property, rights, rights-of-
17 way, utilities, franchises, easements, and interests acquired or to be acquired by the public
18 facilities owner; (b) all labor and materials, machinery and equipment including machinery and
19 equipment needed to expand or enhance services from the municipality, the commonwealth or
20 any other political subdivision thereof to the development zone; (c) financing charges and
21 interest prior to and during construction, and for 1 year after completion of the improvements,
22 interest and reserves for principal and interest, including costs of municipal bond insurance and
23 any other type of credit enhancement or financial guaranty and costs of issuance; (d) extensions,
24 enlargements, additions, and enhancements to improvements; (e) architectural, engineering,
25 financial and legal services; (f) plans, specifications, studies, surveys and estimates of costs and
26 of revenues; (g) administrative expenses necessary or incident to the construction, acquisition,
27 and financing of the improvements; and (h) other expenses as may be necessary or incident to the
28 construction, acquisition, maintenance, and financing of the improvements.

29 “Development zone”, one or more parcels of real estate in the municipality, contiguous or not,
30 described in the improvement plan and to be benefited by the improvements and subject to
31 infrastructure assessments as described in the improvement plan.

32 “Infrastructure assessments”, assessments, betterments, special assessments, charges or fees as
33 described in this chapter and the improvement plan and assessed by the assessing party upon the
34 real estate within the development zone to defray the cost of improvements financed in
35 accordance with this chapter.

36 “Improvement plan”, a plan set forth in the petition for the establishment of a development zone
37 setting forth the proposed improvements, services and programs, revitalization strategy,
38 replacement and maintenance plan, the cost estimates for said improvements, and the
39 replacement and maintenance program, the identity of the public facilities owner or owners and
40 the administrator of the plan, the boundaries of the development zone, the analysis of any costs
41 of financing said improvements, the identification of the assessing party, the method and
42 structure of the infrastructure assessments, the selection of any or all of the assessing powers
43 listed in section 4 that shall be utilized by the assessing party within the development zone, the
44 description of the infrastructure development project within the development zone, the proposed
45 use of any bonds or notes to finance such project by the agency, the participation of the agency,
46 if any, in a district improvement financing program as described in section 7, and if so, a
47 description of any assessing powers to be utilized, and the estimates of the costs and expenses
48 to be levied and assessed on the real estate in the development zone.

49 “Improvements”, the acquiring, laying, constructing, improving and operating of capital
50 improvements to be owned by a public facilities owner, including, but not limited to, storm
51 drainage systems, dams, sewage treatment plants, sewers, water and well systems, roads, bridges,
52 culverts, tunnels, streets, sidewalks, lighting, traffic lights, signage and traffic control systems,
53 parking, including garages, public safety and public works buildings, parks, landscaping of
54 public facilities, cultural and performing arts facilities, recreational facilities, marine facilities

55 such as piers, wharfs, bulkheads and sea walls, transportation stations and related facilities,
56 shuttle transportation equipment, fiber and telecommunication systems, facilities to produce and
57 distribute electricity, including alternate energy sources such as co-generation and solar
58 installations, the investigation and remediation associated with the cleanup of actual or perceived
59 environmental contamination within the development zone in accordance with applicable
60 governmental regulations and provided that no such investigation or remediation shall impair the
61 rights of the public facilities owner or any other person to contribution or reimbursement from
62 any potentially responsible party for the costs thereof, and other improvements; provided that
63 improvements shall not include any improvements located in, or serving gated communities, so
64 called, not including age restricted developments operated by non-profit organizations, that
65 prohibit access to the general public and any type of improvement that is specifically prohibited
66 in the United States internal revenue code from using tax-exempt financing.

67 “Infrastructure development project”, the acquisition, construction, expansion, improvement or
68 equipping of improvements serving any new or existing commercial, retail, industrial, or
69 residential facilities or mixed use project.

70 “Massachusetts opportunity rebuilding and expansion infrastructure program”, or “MORE
71 infrastructure”, a program established under this act, designed to finance infrastructure
72 improvements benefiting existing and new residential, commercial and industrial properties and
73 the citizens and businesses of the commonwealth.

74 “Municipal governing body”, in a city, the city council with the approval of the mayor, and in a
75 city having a Plan D or E form of charter, the city council with the approval of the city manager,

76 the town council in a town with a town council form of government, or otherwise the board of
77 selectmen in a town with a town meeting form of government.

78 “Municipality”, a city or town, or cities and towns, if the development zone, is located in more
79 than 1 municipality.

80 “Person”, any natural or corporate person, including bodies politic and corporate, public
81 departments, offices, agencies, authorities and political subdivisions of the commonwealth,
82 corporations, trusts, limited liability companies, societies, associations, and partnerships and
83 subordinate instrumentalities of any one or more political subdivisions of the commonwealth.

84 “Petition”, the document initiating the creation of a development zone as described in section 2
85 (b).

86 “Project”, an infrastructure development project.

87 “Public facilities owner”, means the municipality, the commonwealth or any other political
88 subdivision or public instrumentality, agency or public authority of the commonwealth, or any
89 instrumentality thereof as defined by the United States internal revenue code and the regulations,
90 rulings and other written determinations of the Internal Revenue Service thereunder, and
91 identified as such, in the improvement plan as the owner of the improvements described in an
92 improvement plan or an amended improvement plan.

93 Section 2. (a) Each municipality in the commonwealth, acting through its municipal governing
94 body, notwithstanding any general or special law, charter provision, by-law or ordinance to the
95 contrary, may adopt this chapter and is authorized to establish 1 or more development zones
96 pursuant to this chapter. In the event that 2 or more municipalities wish to jointly establish or

97 consolidate contiguous development zones, the municipal governing body of each such
98 municipality wherein said development zone shall be located, shall approve by a majority vote
99 the petition for the establishment of such a development zone.

100 (b) The establishment of a development zone shall be initiated by the filing of a petition signed
101 by all persons owning real estate within the proposed development zone in the office of the clerk
102 of the municipality and the office of the agency. The petition, at a minimum, shall contain:

103 (1) a legal description of the boundaries of the development zone;

104 (2) the written consent to the establishment of the development zone or any amended
105 improvement plan, by the persons with the record ownership of 100 percent of the acreage to be
106 included in the development zone; provided that any real estate owned by the commonwealth, or
107 any agency, or any political subdivision thereof, included in the boundaries of the development
108 zone shall not be included in the count of persons owning tax parcels or acreage in the
109 development zone for the purposes of this clause;

110 (3) the name of the development zone;

111 (4) a map of the proposed development zone, showing its boundaries, and any current public
112 improvements as are already in existence which may be added to or modified by any
113 improvements;

114 (5) the estimated timetable for construction of the improvements and the maximum cost of
115 completing said improvements;

116 (6) the improvement plan for the development zone; and

117 (7) the procedure by which the municipality will be reimbursed for any costs incurred by it in
118 establishing the development zone, and for any administrative costs to be incurred in the
119 administration and collection of any infrastructure assessments imposed within the development
120 zone.

121 Section 3. (a) Upon receipt of a petition pursuant to section 2, the city council in the case of
122 cities, the town council in the case of towns with a town council form of government or the
123 board of selectmen in the case of a town with a town meeting form of government shall, within
124 60 days of said receipt, hold a public hearing on said petition. Written notification of such
125 hearing and a summary of the petition and the improvement plan, shall be provided by the clerk
126 of the municipality to the record owner of each tax parcel within the boundaries of the proposed
127 development zone no later than 14 days prior to such hearing, by mailing a notice to the address
128 listed in the municipality's property tax records. Notification of the hearing shall also be
129 published for 2 consecutive weeks in a newspaper of general circulation in the municipality, the
130 first such publication to be at least 14 days prior to the date of such hearing. Such public
131 notice shall state the proposed boundaries of the development zone, the improvements proposed
132 to be provided in the development zone, the proposed basis for determining any infrastructure
133 assessments with respect to such improvements, and the location or locations for viewing and
134 copying the petition including the improvement plan.

135 (b) A public hearing pursuant to subsection (a) shall be held to determine if the petition
136 satisfies the criteria of this chapter for a development zone, and to obtain public comment
137 regarding the improvement plan and the effect that the development zone will have on the
138 owners of real estate, tenants and other persons within said development zone, and on the
139 municipality or adjacent communities. Within 45 days after the conclusion of said public

140 hearing, the city manager with the approval of the city council in the case of a city under Plan D
141 or E forms of government, the mayor with the approval of the city council in the case of all other
142 cities, the town council in the case of towns with a town council form of government or
143 otherwise the board of selectmen in the case of a town with a town meeting form of government
144 shall issue recommendations on the petition; provided, however, that said recommendations shall
145 include, but shall not be limited to, the following findings:-

146 (1) whether the establishment of the development zone is consistent with any applicable
147 element or portion of any master plan of the municipality which shall be confirmed in writing by
148 the municipality's planning board ; and

149 (2) whether the proposed improvements in the development zone will be compatible with the
150 capacity and uses of existing local and regional infrastructure services and facilities.

151 (c) Within 21 days of the receipt of the recommendation required pursuant to subsection (b),
152 the municipal governing body shall vote to approve or not approve the petition to establish the
153 development zone and the improvement plan.

154 (d) Upon the approval of the petition by majority vote of the municipal governing body in
155 accordance with subsection (c), notice of such approval shall be promptly filed with the records
156 of the clerk of the municipality, the agency, and the secretary of the commonwealth. Upon such
157 filing, the development zone shall be deemed established and the improvement plan deemed
158 approved.

159 (e) The public facilities owner shall have all the rights and powers necessary or convenient to
160 carry out and effectuate this chapter that are consistent with the improvement plan as approved

161 by the municipal governing body, including, but without limiting the generality of the foregoing,
162 the following:

163 (1) to make and enter into all manner of contracts and agreements necessary or incidental to
164 the exercise of any power granted by this chapter including agreements with the municipality,
165 the commonwealth, the agency and any other city, town or political entity or utility for the
166 provision of services that are necessary to the acquisition, construction, operation or financing of
167 the improvements within the development zone;

168 (2) to purchase or acquire by lease, lease-purchase, sale and lease-back, gift or devise, or to
169 obtain or grant options for the acquisition of any property, real or personal, tangible or
170 intangible, or any interest therein, in the exercise of its powers and the performance of its duties;
171 to acquire real estate or any interest therein, within the boundaries of the development zone
172 itself, if authorized in the improvement plan, and to acquire real estate or any interest therein
173 outside the boundaries of the development zone, necessary for the acquisition, construction, and
174 operation of the improvements or services relating thereto that are located within the
175 development zone or are related to, or provided by the public facilities owner;

176 (3) to construct, improve, extend, equip, enlarge, repair, maintain, and operate and administer
177 the improvements for the benefit of the development zone within, or without the development
178 zone; to acquire existing improvements or construct new improvements, including those located
179 under or over any roads, public ways or parking areas, and to enter upon and dig up any private
180 land within the development zone for the purpose of constructing said improvements and of
181 repairing the same;

182 (4) to accept gifts or goods of funds, property or services from any source, public or private,
183 and comply, subject to the provisions of this chapter and the terms and conditions hereof;

184 (5) to sell, lease, mortgage, exchange, transfer or otherwise dispose of, or grant options for any
185 such purposes with respect to any of the improvements, real or personal, tangible or intangible,
186 within the development zone, or serving the development zone or any interest therein;

187 (6) to pledge or assign any money, infrastructure assessments or other revenues relating to any
188 improvements within, or related to the development zone, and any proceeds derived there from;

189 (7) to enter into contracts and agreements with the municipality, the agency, the
190 commonwealth or any political subdivisions thereof, the property owners of the development
191 zone and any public or private party with respect to all matters necessary, convenient or desirable
192 for carrying out the purposes of this chapter including, without limiting the generality of the
193 foregoing, the acquisition of existing improvements (including utilities or infrastructure outside
194 the development zone but benefiting the development zone), collection of revenue, data
195 processing, and other matters of management, administration and operation; to make other
196 contracts of every name and nature; and to execute and deliver all instruments necessary or
197 convenient for carrying out any of its purposes;

198 (8) to exercise the powers and privileges of, and to be subject to the limitations upon,
199 municipalities provided in sections 38 to 42K, inclusive, of chapter 40, chapter 80 and
200 chapter 83, in so far as such provisions may be applicable and are consistent with the provisions
201 of this chapter; provided, however, that any requirement in said chapters for a vote by the
202 governing body of a town or city or for a vote by the voters of a town or city, shall be satisfied

203 by a vote or resolution duly adopted by the board of directors, board of selectmen, city council or
204 town council as the case may be;

205 (9) to invest any funds in such manner and to the extent permitted under the General Laws for
206 the investment of such funds by the treasurer of a municipality;

207 (10) to employ such assistants, agents, employees and persons, including consulting experts as
208 may be deemed necessary in the public facilities owner's judgment, and to fix their
209 compensation, according to the terms of the improvement plan;

210 (11) to procure insurance against any loss or liability that may be sustained or incurred in
211 carrying out the purposes of this chapter in such amount as the public facilities owner shall deem
212 necessary and appropriate with 1 or more insurers who shall be licensed to furnish such
213 insurance in the commonwealth;

214 (12) to apply for any loans, grants or other type of assistance from the United States
215 Government, the commonwealth or any political subdivision thereof that are described in the
216 improvement plan or an amended improvement plan;

217 (13) to adopt an annual budget and to raise, appropriate, and assess funds in amounts
218 necessary to carry out the purposes for which development zone is formed as described in this
219 chapter and the improvement plan; and

220 (14) to do all things necessary, convenient or desirable for carrying out the purposes of this
221 chapter or the powers expressly granted or necessarily implied in this chapter.

222 Section 4. (a) Consistent with the improvement plan, the assessing party, is authorized and
223 empowered to fix, revise, charge, collect and abate infrastructure assessments, for the cost,

224 maintenance, operation ,and administration of the improvements imposed on the real estate,
225 leaseholds or other interests therein, located in the development zone. All real estate within a
226 development zone owned by the commonwealth or any political subdivision, political
227 instrumentality, agency or public authority thereof shall be exempt from such charges unless
228 such charges are specifically accepted by the commonwealth or such political subdivision,
229 political instrumentality, agency or public authority. In providing for the payment of the cost of
230 the improvements or for the use of the improvements, the assessing party may avail itself of the
231 provisions of the General Laws relative to the assessment, apportionment, division, fixing,
232 reassessment, revision, abatement and collection of infrastructure assessments by cities and
233 towns, or the establishment of liens therefore and interest thereon, and the procedures set forth in
234 sections 5and 5A of chapter 254 of the General Laws for the foreclosure of liens arising under
235 section 6 of chapter 183A of the General Laws, as it shall deem necessary and appropriate for
236 purposes of the assessment and collection of infrastructure assessments. The assessing party
237 shall file copies of the improvement plan and any amendments thereof, and all schedules of
238 assessments with the appropriate registry of deeds and the municipality's assessors' records so
239 that notice thereof would be reported on a municipal lien certificate for any real estate parcel
240 located in a development zone. Notwithstanding any general or special law to the contrary, the
241 assessing party may pay the entire cost of any improvements, including the acquisition thereof,
242 during construction or after completion, or the debt service of notes or bonds used to fund such
243 costs, from infrastructure assessments, and may establish said infrastructure assessments prior to,
244 during, or within 1 year after completion of construction or acquisition of any improvements.
245 The assessing party may establish a schedule for the payment of infrastructure assessments not to
246 exceed 35 years. The assessing party may determine the circumstances under which the

247 infrastructure assessments may be increased, if at all, as a consequence of delinquency or default
248 by the owner of a parcel within the development zone. To provide for the collection and
249 enforcement of its infrastructure assessments, the assessing party is hereby granted all the powers
250 and privileges with respect thereto held by the municipality on the effective date of this chapter
251 or as otherwise provided in this chapter, to be exercised concurrently with the municipality.

252 The infrastructure assessments of general application authorized by this chapter may only be
253 increased for administrative expenses in excess of the infrastructure assessments described in the
254 improvement plan, and shall be in accordance with the procedures to be established by the
255 assessing party for assuring that interested persons are afforded notice and an opportunity to
256 present data, views and arguments. The assessing party shall hold at least 1 public hearing on
257 its schedule of infrastructure assessments or any revision thereof prior to adoption by the
258 assessing party, notice of which shall be delivered to the municipality and be published in a
259 newspaper of general circulation in the municipality at least 14 days in advance of the hearing.
260 No later than the date of such publication, the assessing party shall make available to the public
261 and deliver to the municipality the proposed schedule of infrastructure assessments.

262 The infrastructure assessments established by the assessing party shall not be subject to
263 supervision or regulation by any department, division, commission, board, bureau, or agency of
264 the commonwealth or any of its political subdivisions, including without limitation, the
265 municipality, if it is not the assessing party, nor shall the assessing party be subject to the
266 provisions of sections 20A and 21C of chapter 59.

267

268 Notwithstanding any general or special law to the contrary, the assessing party may contract with
269 one or more persons for any services required by the assessing party regarding the assessment,
270 apportionment, division, fixing, reassessment, revision, collection and enforcement of
271 infrastructure assessments hereunder, and the fees, costs and other expenses thereof shall be
272 included in the calculation of the infrastructure assessments levied by the assessing party
273 hereunder.

274 The infrastructure assessments established by the assessing party in accordance with this chapter
275 shall be fixed and adjusted in respect of the aggregate thereof so as to provide revenues at least
276 sufficient to: (i) to pay the administrative expenses of the assessing party; (ii) to pay the
277 principal of, premium, if any, and interest on bonds, notes or other evidences of indebtedness of
278 the agency under this chapter as the same becomes due and payable; (iii) to create and maintain
279 such reasonable reserves as may be reasonably required by any trust agreement or resolution
280 securing bonds; (iv) to provide funds for paying the cost of necessary maintenance, repairs,
281 replacements and renewals of the improvements; and (v) to pay or provide for any amounts that
282 the agency may be obligated to pay or provide for by law or contract, including any resolution or
283 contract with or for the benefit of the holders of its bonds and notes, provided that the assessing
284 party shall not be required to increase any infrastructure assessments by virtue of any individual
285 property owner delinquencies.

286 Notwithstanding any general or special law to the contrary, the agency shall not be precluded
287 from carrying out its obligations under this chapter if it has previously provided technical, real
288 estate, lending, financing, or other assistance to: (i) an infrastructure development project
289 including, but not limited to, a project in which the agency may have a economic interest; (ii) a

290 development zone; or (iii) a municipality associated with, or that may benefit from, an
291 infrastructure development project.

292 (b) As an alternative to levying infrastructure assessments under any other provisions of this
293 chapter or the General Laws, the assessing party may levy special assessments on real estate,
294 leaseholds, or other interests therein within the development zone to finance the cost of the
295 improvements and the maintenance, repair, replacement and renewal thereof, and the expense of
296 administration thereof. In determining the basis for and amount of the special assessment, the
297 cost of the improvements and the maintenance, repair, replacement and renewal thereof, and the
298 expense of administration thereof, including the cost of the repayment of the debt issued or to be
299 issued by the agency to finance the improvements, may be calculated and levied using any of the
300 following methods that result in fairly allocating the costs of the improvements to the real estate
301 in the development zone:

302 (1) equally per length of frontage, or by lot, parcel, or dwelling unit, or by the square footage
303 of a lot, parcel or dwelling unit;

304 (2) according to the value of the property as determined by the municipality's board of
305 assessors; or

306 (3) in any other reasonable manner that results in fairly allocating the cost, administration and
307 operation of the improvements, according to the benefit conferred or use received including, but
308 not limited to, by classification of commercial or residential use or distance from the
309 improvements.

310 The assessing party, consistent with the improvement plan, may also provide for the following:

- 311 (1) a maximum amount to be assessed with respect to any parcel;
- 312 (2) a tax year or other date after which no further special assessments under this section shall
313 be levied or collected on a parcel;
- 314 (3) annual collection of the levy without subsequent approval of the assessing party;
- 315 (4) the circumstances under which the special assessment levied against any parcel may be
316 increased, if at all, as a consequence of delinquency or default by the owner of that parcel or any
317 other parcel within the development zone;
- 318 (5) the circumstances under which the special assessments may be reduced or abated; and
- 319 (6) the assessing party may establish procedures allowing for the prepayment of infrastructure
320 assessments under this chapter.
- 321 (c) Infrastructure assessments, levied under this chapter shall be collected and secured in the
322 same manner as property taxes, betterments, and assessments and fees owed to the municipality
323 unless otherwise provided by the assessing party and shall be subject to the same penalties and
324 the same procedure, sale, and lien priority in case of delinquency as is provided for such property
325 taxes, betterments and liens owed to the municipality. Any liens imposed by the municipality
326 for the payment of property taxes, betterments and assessments shall have priority in payment
327 over any liens placed on real estate within the development zone.
- 328 (d) Notwithstanding any general or special act to the contrary, the agency, the municipality, or
329 any other public facilities owner are each authorized to contract with 1 or more owners of real
330 estate within a development zone to acquire or undertake improvements within the development
331 zone. Upon completion, such improvements shall be conveyed to the public facilities owner,

332 provided that the consideration for said conveyance shall be limited to the cost of said
333 improvements.

334 Section 5. (a) In addition to the powers granted pursuant to chapter 23G and chapter 40D of
335 the General Laws, the agency is hereby authorized to borrow money and issue and secure its
336 bonds for the purpose of financing improvements as provided in and subject to, the provisions of
337 this chapter; provided further that the provisions of said chapters 23G and 40D of the General
338 Laws shall apply to bonds issued under this section, except that the provisions of subsection (b)
339 of section 8 of said chapter 23G and section 12 of said chapter 40D shall not apply to bonds
340 issued pursuant to this chapter or the improvements financed thereby; and provided further, that
341 the improvements financed by the agency pursuant to this chapter shall constitute a project
342 within the meaning of section 1 of said chapter 23G and section 1 of said chapter 40D, but shall
343 not be considered facilities to be used in a commercial enterprise. With respect to the issuance of
344 bonds or notes for the purposes of this chapter in the event of a conflict between this chapter and
345 chapter 23G, the provisions of this chapter shall control.

346 Nothing in this chapter shall be construed to limit or otherwise diminish the power of the agency
347 to finance the costs of projects authorized pursuant to said chapter 23G and said chapter 40D
348 within the development zone or the municipality upon compliance with the provisions of said
349 chapter 23G and said chapter 40D.

350 (b) The agency is hereby authorized and empowered to provide by resolution of its board of
351 directors, from time to time, for the issuance of bonds or notes of the agency for any of the
352 purposes set forth in this chapter. Bonds issued hereunder shall be special obligations payable
353 solely from particular funds and revenues generated from infrastructure assessments levied

354 pursuant to this chapter as provided in such resolution. No bonds or notes shall be issued by
355 the agency pursuant to this chapter until the agency's board of directors has determined that the
356 bonds or notes trust agreement and any related financing documents are reasonable and proper
357 and comply with this chapter. The agency may charge a reasonable fee in connection with the
358 review of such documentation by its staff and board of directors. Without limiting the generality
359 of the foregoing, such bonds may be issued to pay or refund notes issued pursuant to this chapter,
360 to pay the cost of acquiring, laying, constructing, and reconstructing the improvements. The
361 bonds of each issue shall be dated, shall bear interest at the rates, including rates variable from
362 time to time, and shall mature at the time or times not exceeding 35 years from their date or
363 dates, as determined by the agency, and may be redeemable before maturity, at the option of the
364 agency or the holder thereof, at the price or prices and under the terms and conditions fixed by
365 the agency before the issuance of the bonds. The agency shall determine the form of the
366 bonds, and the manner of execution of the bonds, and shall fix the denomination or
367 denominations of the bonds and the place or places of payment of principal and interest, which
368 may be at any bank or trust company within or without the commonwealth and such other
369 locations as designated by the agency. In the event an officer whose signature or a facsimile of
370 whose signature shall appear on any bonds shall cease to be an officer before the delivery of the
371 bonds, the signature or facsimile shall nevertheless be valid and sufficient for all purposes the
372 same as if he had remained in office until the delivery. The bonds shall be issued in registered
373 form. The agency may sell the bonds in a manner and for a price, either at public or private
374 sale, as it may determine to be for the best interests of the development zone.

375 Before the preparation of definitive bonds, the agency may, under like restrictions, issue interim
376 receipts or temporary bonds exchangeable for definitive bonds when the bonds have been

377 executed and are available for delivery. The agency may also provide for the replacement of
378 any bonds that shall become mutilated or shall be destroyed or lost. The issuance of the bonds,
379 the maturities, and other details thereof, the rights of the holders thereof, and the agency in
380 respect of the same, shall be governed by this chapter insofar as the same may be applicable.

381 While any bonds or notes of the agency remain outstanding, its powers, duties or existence shall
382 not be diminished or impaired in any way that will affect adversely the interests and rights of the
383 holders of such bonds or notes. Bonds or notes issued under this chapter, unless otherwise
384 authorized by law, shall not be deemed to constitute a debt of the commonwealth or the
385 municipality, or a pledge of the faith and credit of the commonwealth or of the municipality, but
386 the bonds or notes shall be payable solely by the agency as special obligations payable from
387 particular funds collected from infrastructure assessments levied pursuant to this chapter and any
388 revenues derived from the operation of the improvements. Any bonds or notes issued by the
389 agency under this chapter, shall contain on the face thereof a statement to the effect that neither
390 the commonwealth, or the municipality, shall be obliged to pay the same or the interest thereon,
391 and that the faith and credit or taxing power of the commonwealth, the municipality, or the
392 agency is not pledged to the payment of the bonds or notes. All bonds or notes issued under
393 this chapter shall have and are hereby declared to have all the qualities and incidents of
394 negotiable instruments as defined in section 3-104 of chapter 106 of the General Laws.

395 Issuance by the agency of 1 or more series of bonds or notes for 1 or more purposes shall not
396 preclude it from issuing other bonds or notes in connection with the same project or any other
397 project; provided, however, that the resolution or trust indenture wherein any subsequent bonds
398 or notes may be issued shall recognize and protect any prior pledge made for any prior issue of

399 bonds or notes unless in the resolution or trust indenture authorizing such prior issue the right is
400 reserved to issue subsequent bonds on a parity with such prior issue.

401 (c) In the discretion of the agency, bonds issued pursuant to this chapter may be secured by a
402 trust agreement between the agency and the bond owners or a corporate trustee which may be
403 any trust company or bank having the powers of a trust company within or without the
404 commonwealth. A trust agreement may pledge or assign, in whole or in part, the revenues,
405 funds and other assets or property held or to be received by the assessing party, or the agency
406 including without limitation all monies and investments on deposit from time to time in any fund
407 of the assessing party or the agency or any account thereof and any contract or other rights to
408 receive the same, whether then existing or thereafter coming into existence and whether then
409 held or thereafter acquired by the assessing party or the agency, and the proceeds thereof. A
410 trust agreement may pledge or assign, in whole or in part, development zone revenues, funds and
411 other assets or property relating to the development zone held or to be received by the assessing
412 party or the agency. A trust agreement may contain, without limitation, provisions for protecting
413 and enforcing the rights, security and remedies of the bondholders, provisions defining defaults
414 and establishing remedies, which may include acceleration and may also contain restrictions on
415 the remedies by individual bondholders. A trust agreement may also contain covenants of the
416 agency concerning the custody, investment and application of monies, the issue of additional or
417 refunding bonds, the use of any surplus bond proceeds, the establishment of reserves and the
418 regulation of other matters customarily treated in trust agreements. It shall be lawful for any
419 bank or trust company to act as a depository of any fund of the assessing party or the agency or
420 trustee under a trust agreement, provided it furnishes indemnification and reasonable security as
421 the agency may require. Any assignment or pledge of revenues, funds and other assets and

422 property made by the assessing party or the agency shall be valid and binding and shall be
423 deemed continuously perfected for the purposes of chapter 106 and other laws when made.
424 The revenues, funds and other assets and property, rights therein and thereto and proceeds so
425 pledged and then held or thereafter acquired or received by the assessing party or the agency
426 shall immediately be subject to the lien of such pledge without any physical delivery or
427 segregation or further act, and the lien of any such pledge shall be valid and binding against all
428 parties having claims of any kind in tort, contract or otherwise against the trust, whether or not
429 such parties have notice thereof. The trust agreement by which a pledge is created need not be
430 filed or recorded to perfect the pledge except in the records of the agency and no filing need be
431 made pursuant to said chapter 106. Any pledge or assignment made by the agency is an
432 exercise of its political and governmental powers, and revenues, funds, assets, property and
433 contract or other rights to receive the same and the proceeds thereof which are subject to the lien
434 of a pledge or assignment created under this chapter shall not be applied to any purposes not
435 permitted by the pledge or assignment.

436 (d) The agency is hereby authorized and empowered to issue, from time to time, notes of the
437 agency in anticipation of federal, state or local grants for the cost of acquiring, constructing or
438 improving the development zone's improvements or in anticipation of bonds to be issued
439 pursuant to this chapter. Said notes shall be authorized, issued and sold in the same manner as,
440 and shall otherwise be subject to the other provisions of this chapter. Such notes shall mature
441 at such time or times as provided by the issuing resolution of the agency and may be renewed
442 from time to time; provided, however, that all such notes and renewals thereof shall mature on or
443 prior to 20 years from their date of issuance.

444 (e) In addition to other security provided herein, or otherwise by law, bonds, notes or
445 obligations issued by the agency under any provision of this chapter, may be secured, in whole or
446 in part, by a letter of credit, line of credit, bond insurance policy, liquidity facility or other credit
447 facility for the purpose of providing funds for payments in respect of bonds, notes or other
448 obligations required by the holder thereof to be redeemed or repurchased prior to maturity or for
449 providing additional security for such bonds, notes or other obligations. In connection
450 therewith, the agency may enter into reimbursement agreements, remarketing agreements,
451 standby bond purchase agreements and any other necessary or appropriate agreements. The
452 assessing party may pledge or assign any of its revenues as security for the reimbursement by the
453 it to the agencies or providers of such letters of credit, lines of credit, bond insurance policies,
454 liquidity facilities or other credit facilities of any payments made under the letters of credit, lines
455 of credit, bond insurance policies, liquidity facilities or other credit facilities.

456 (f) In connection with, or incidental to, the issuance of bonds, notes or other obligations, the
457 agency may enter into such contracts as the agency may determine to be necessary or appropriate
458 relative to the issuance thereof and the interest payable thereon or to place the bonds, notes or
459 other obligations of the agency, as represented by the bonds or notes, or other obligations in
460 whole or in part, on such interest rate or cash flow basis as the agency may determine
461 appropriate, including without limitation, interest rate swap agreements, insurance agreements,
462 forward payment conversion agreements, futures contracts, contracts providing for payments
463 based on levels of, or changes in, interest rates or market indices, contracts to manage interest
464 rate risk, including without limitation, interest rate floors or caps, options, puts, calls and similar
465 arrangements. Such contracts shall contain such payment, security, default, remedy and other
466 terms and conditions as the agency may deem appropriate and shall be entered into with such

467 party or parties as the agency may select, after giving due consideration, where applicable, for
468 the credit worthiness of the counter party or counter parties, including any rating by a nationally
469 recognized rating agency, the impact on any rating on outstanding bonds, notes or other
470 obligations or any other criteria the agency may deem appropriate.

471 (g) The agency shall have the power out of any funds available therefore to purchase its bonds
472 or notes. The agency may hold, pledge, cancel or resell such bonds or notes, subject to and in
473 accordance with agreements with bondholders. The agency may issue refunding bonds for the
474 purpose of paying any of its bonds at maturity or upon acceleration or redemption. Refunding
475 bonds may be issued at such time or times prior to the maturity or redemption of the refunded
476 bonds as the agency deems to be in the public interest. Refunding bonds may be issued in
477 sufficient amounts to pay or provide for the principal of the bonds being refunded, together with
478 any redemption premium thereon, any interest accrued or to accrue to the date of payment of
479 such bonds, the expense of issuing the refunding bonds, the expense of redeeming bonds being
480 refunded and such reserves for debt service or other capital from the proceeds of such refunding
481 bonds as may be required by a trust agreement or resolution securing the bonds and, if
482 considered advisable by the agency, for the additional purpose of the acquisition, construction or
483 reconstruction and extension or improvement of improvements. All other provisions relating to
484 the issuance of refunding bonds shall be as set forth in this chapter insofar as the same may be
485 applicable.

486 (h) All moneys received pursuant to the provisions of this chapter, whether as proceeds from
487 the issue of bonds or notes, or as revenue or otherwise, shall be deemed trust funds to be held
488 and applied solely as provided in this chapter.

489 (i) Bonds or notes issued under this chapter are hereby made securities in which all public
490 officers and public bodies of the commonwealth and its political subdivisions, all insurance
491 companies, trust companies in their commercial departments and within the limits set by the
492 General Laws, banking associations, investment companies, executors, trustees and other
493 fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to
494 invest in bonds or other obligations of a similar nature may properly and legally invest funds,
495 including capital in their control and belonging to them; and the bonds are hereby made
496 obligations that may properly and legally be made eligible for the investment of savings deposits
497 and income thereof in the manner provided by section 2 of chapter 167E. The bonds or notes
498 are hereby made securities that may properly and legally be deposited with and received by any
499 state or municipal officer or any agency or political subdivision of the commonwealth for any
500 purpose for which the deposit of bonds or other obligations of the commonwealth is now or may
501 hereafter be authorized by law.

502 Notwithstanding any general or special law to the contrary, or any provision in their respective
503 charters, agreements of associations, articles or organization, or trust indentures, domestic
504 corporations organized for the purpose of carrying on business within the commonwealth,
505 including without implied limitation any electric or gas company as defined in section 1 of
506 chapter 164, railroad corporations as defined in section 1 of chapter 160, financial
507 institutions, trustees and the municipality may acquire, purchase, hold, sell, assign, transfer, or
508 otherwise dispose of any bonds, notes, securities or other evidence of indebtedness of the agency
509 provided that they are rated similarly to other governmental bonds or notes, and to make
510 contributions to the agency, all without the approval of any regulatory authority of the
511 commonwealth.

512 (j) Any holder of bonds or notes issued under this chapter, and a trustee under a trust
513 agreement, except to the extent its rights may be restricted by the trust agreement, may, either at
514 law or in equity, by suit, action, mandamus or other proceeding, protect and enforce all rights
515 under the laws of the commonwealth or granted hereunder or under the trust agreement, and may
516 enforce and compel the performance of all duties required by this chapter or by the trust
517 agreement, to be performed by the agency or by any officer thereof.

518 (k) Notwithstanding any of the provisions of this chapter or any recitals in any bonds or notes
519 issued under this chapter, all such bonds or notes shall be deemed to be investment securities
520 under the provisions of chapter 106.

521 (l) Bonds or notes may be issued under this chapter without obtaining the consent of any
522 department, division, commission, board, bureau or agency of the commonwealth or the
523 municipality, and without any proceedings or the happening of any other conditions or things
524 than those proceedings, conditions or things that are specifically required thereof by this chapter,
525 and the validity of and security for any bonds or notes issued by the agency shall not be affected
526 by the existence or nonexistence of any such consent or other proceeding conditions, or things.

527 Section 6. Bonds or notes issued by the agency and their transfer and their interest or income,
528 including any profit on the sale thereof, and the improvements belonging to the public facilities
529 owner shall at all times be exempt from taxation within the commonwealth, provided that
530 nothing in this chapter shall act to limit or restrict the ability of the commonwealth or the
531 municipality to otherwise tax the individuals and companies, or their real or personal property or
532 any person living or business operating within the boundaries of the development zone.

533 Section 7. For purposes of this chapter, the agency may also issue bonds secured by
534 infrastructure assessments pursuant to and according to the terms of chapter 40Q of the General
535 Laws. With the approval of the municipal governing body and the Massachusetts Economic
536 Assistance Coordinating Council, the agency may issue its bonds in place of those of the
537 municipality pursuant to, and according to the terms of chapter 40Q, provided that the
538 municipality has fulfilled all requirements set forth in said chapter 40Q that would be required
539 of the municipality if it were itself issuing bonds pursuant to said chapter 40Q. In addition, the
540 municipality shall include in its “invested revenue district development program” as defined in
541 said chapter 40Q, a description of the rights and responsibilities of the assessing party, the
542 agency and the municipality with respect to said program. In such case, the municipality may
543 designate the agency as the issuer of bonds pursuant to said chapter 40Q for the purpose of
544 financing any of the “project costs” as defined in said chapter 40Q and that are located in, or
545 functionally serving the needs of the development zone. The municipality shall determine the
546 percentage of the “captured assessed valuation,” as defined in said chapter 40Q, of property
547 within the boundaries of the development zone that the municipality is pledging pursuant to an
548 invested revenue district development program as defined in said chapter 40Q for the payment
549 of the agency’s bonds. With the written agreement of the person or persons owning 1 or more
550 specific tax parcels in the development zone, the assessing party may adopt a plan whereby any
551 of the assessing powers described in this chapter are made applicable exclusively to said parcels
552 in order to secure and fund the debt service for the bonds. The “project costs” as defined in
553 said chapter 40Q, shall not be reduced by the amount of the revenues derived pursuant to this
554 chapter and said revenues derived from such a plan, may be made contingent upon or abated, in
555 whole or in part, by the assessing party upon the receipt of the anticipated revenues generated

556 through the pledged captured assessed valuation. At its option, the municipality may waive
557 any adjustment for the “inflation factor” described in said chapter 40Q, in order to increase the
558 captured assessed valuation available to finance improvements benefiting the development zone.
559 The assessing party, the agency and the municipality shall enter into an agreement delineating
560 the rights and responsibilities of each pursuant to such district improvement financing.

561 Section 8. The agency may make representations and agreements for the benefit of the holders
562 of the agency’s bonds and notes or other obligations to provide secondary market disclosure
563 information. The agreement may include: (1) covenants to provide secondary market
564 disclosure information (2) arrangements for such information to be provided with the assistance
565 of a paying agent, trustee, dissemination or other agent; and (3) remedies for breach of the
566 agreements, which remedies may be limited to specific performance.

567 Section 9. The collector-treasurer of each municipality, at the option of the municipality and
568 the agency, may collect any infrastructure assessments including any recording fees, on behalf of
569 the agency pursuant to an agreement between the municipality and the agency and to disburse
570 the funds to any designated management entity or financial institution selected by agency. The
571 collector-treasurer shall disburse revenues to the management entity or financial institution
572 within 30 days of the collection of such fees, together with the interest earned on the holding of
573 such fees.

574 Section 10. (a) This chapter shall be considered to provide an exclusive, additional, alternative
575 and complete method of accomplishing the purposes of this chapter and exercising the powers
576 authorized hereby and shall be considered and construed to be supplemental and additional to,
577 and not in derogation of, powers conferred upon the agency, the assessing party or the public

578 facilities owner, by law; but, insofar as the proceedings of this chapter are inconsistent with any
579 general or specific law, administrative order or regulation, or any resolution or ordinance of the
580 municipality, this chapter shall be controlling. Without limiting the generality of the
581 foregoing, no provision of any resolution or ordinance of the municipality requiring ratification
582 by the voters of certain bond issues shall apply to the issuance of bonds or notes of the agency
583 pursuant to this chapter, nor shall be applicable to the manner of voting or the limitations as to
584 the amount and time of payment of debts incurred by the agency.

585 (b) Except as specifically provided in this chapter, all other statutes, ordinances, resolutions,
586 rules and regulations of the commonwealth and the municipality shall be fully applicable to the
587 property, property owners, residents and businesses located in the development zone. This
588 chapter shall not obligate the municipality or the agency to pay any costs for the acquisition,
589 construction, equipping or operation and administration of the improvements located within the
590 development zone.