

HOUSE No. 3708

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, October 17, 2013.

The committee on Bonding, Capital Expenditures and State Assets to whom was referred the Bill financing information technology equipment and related projects (printed in House, No. 3330) reports recommending that the bill ought to pass with an amendment substituting therefore the accompanying bill (House, No. 3708).

For the committee,

ANTONIO F.D. CABRAL.

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The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act financing information technology equipment and related projects.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for the capital improvement needs of the commonwealth and deploy affordable and ubiquitous broadband access to the citizens of the commonwealth, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 SECTION 1. To provide for a program of capital information technology improvements
2 to various state institutions and properties and to fund the Massachusetts Broadband Institute, the
3 sums set forth in this act, for the several purposes and subject to the conditions specified in this
4 act, are hereby made available, subject to the laws regulating the disbursement of public funds,
5 which sums shall be in addition to any other amounts previously appropriated for these purposes;
6 provided, that the amounts specified in an item or for a particular project may be adjusted in
7 order to facilitate projects authorized in this act.

8 SECTION 2.

9 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

10 *Information Technology Division*

11 1790-2018 For the continued implementation of a second, active data center capable of
12 maintaining mission critical applications and a supporting network infrastructure, including
13 salaries and other personnel costs of staff assigned to that project; provided, that the center shall
14 be connected to the Massachusetts information technology center and shall be used on a daily
15 basis to support applications providing the commonwealth with the capacity for business
16 continuity and quick recovery in the event of unplanned outages

17\$9,000,000

18 1790-3001 Subject to the conditions contained in Section 12, for costs associated with
19 planning and studies, the preparation of plans and specifications, purchase, procurement and
20 implementation of information technology-related equipment and related
21 projects.....\$300,000,000

22 1790-3002 Subject to the conditions contained in Section 12, for costs associated with
23 planning and studies, the preparation of plans and specifications, purchase, procurement and
24 implementation of information technology-related equipment and related projects which are
25 eligible for federal reimbursement, including but not limited to projects related to the provision
26 of health care, unemployment insurance and human services; provided, that any federal
27 reimbursement received by a state agency in connection with projects funded from this item may
28 be retained by the state agency and expended for the purposes of the project, without further
29 appropriation, in addition to the amounts appropriated in this item; and provided further, that any
30 state agency receiving federal reimbursements for a project funded from this item shall file a
31 quarterly report with the executive office for administration and finance, the house and senate
32 committees on ways and means, and the house and senate committees on bonding, capital
33 expenditures, and state assets that details, by project, an annual estimate of anticipated federal
34 reimbursement to be received on behalf of and expended for the project, as well as year-to-date
35 actual federal reimbursement received and year-to-date actual expenditures of the
36 reimbursement, by
37 project.....\$140,000,000

38 SECTION 2A.

39 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

40 *Information Technology Division*

41 1790-3003 Subject to the conditions contained in Section 8 and Section 12, for costs
42 associated with planning and studies, the preparation of plans and specifications, purchase,
43 procurement and implementation of information technology-related equipment and related
44 projects; provided, that for projects the secretary of administration and finance certifies to the
45 comptroller directly or indirectly generate new state revenue or budgetary savings, the
46 comptroller shall transfer those budgetary savings or revenue to the state treasurer for payment of
47 debt service related to those projects; provided further, that any federal reimbursement received
48 by a state agency in connection with projects funded from this item may be retained by the state
49 agency and expended for the purposes of the project, without further appropriation, in addition to
50 the amounts appropriated in this item; and provided further, that any state agency receiving
51 federal reimbursements for a project funded from this item shall file a quarterly report with the
52 executive office for administration and finance, the house and senate committees on ways and
53 means, and the house and senate committees on bonding, capital expenditures, and state assets
54 that details, by project, an annual estimate of anticipated federal reimbursement to be received on

55 behalf of and expended for the project, as well as year-to-date actual federal reimbursement
56 received and year-to-date actual expenditures of the reimbursement, by project
57 \$280,000,000

58 SECTION 2B.

59 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

60 *Office of the Secretary*

61 1599-7061 For a reserve to provide funds to the Massachusetts Broadband Incentive
62 Fund established by section 6C of chapter 40J of the General Laws.....
63 \$40,000,000

64 1599-7062 For a matching grant program, administered by the Department of Elementary
65 and Secondary Education, to help those public school districts without the access through
66 broadband, as defined in section 6B of chapter 40J of the general laws, needed to conduct
67 Partnership for Assessment of Readiness for College and Careers testing obtain said access;
68 provided that such installation, retrofit or other capital improvement shall also conform to the
69 broadband standard of access established by the Department of Elementary and Secondary
70 Education State Educational Technology Directors Association in the 2012 report titled The
71 Broadband Imperative: Recommendations to Address K-12 Infrastructure Needs; provided
72 further that the guidelines established by the Department of Elementary and Secondary
73 Education for such testing are satisfied; provided further that grant amounts to districts shall vary
74 according to the formula contained in section 10 of Chapter 70B of the General Laws; provided
75 further that grants shall not be awarded for school buildings that are scheduled for
76 decommissioning or razing within a period of ten years from the time of completion of the
77 broadband installation, retrofit or upgrade; provided further that such installations, retrofits and
78 upgrades occur only on and within publicly owned real property maintained for the benefit of the
79 school district..... \$38,000,000

80 1599-7063 For costs associated with the planning, preparation of plans and
81 specifications, purchase, procurement and implementation of information technology related
82 equipment and related projects for the Executive Office of Health and Human Services
83 (EOHHS) to establish an integrated confidential data system among all state agencies that
84 interact with individuals with autism to track diagnosis, treatment, services and outcome of
85 individuals with autism..... \$12,000,000

86 SECTION 2C.

87 EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

88 *Information Technology Division*

89 1790-3004 Subject to the conditions contained in Section 12, for costs associated with
90 planning and studies, the preparation of plans and specifications, purchase, procurement and
91 implementation of information technology-related equipment and related projects for the
92 Massachusetts department of transportation\$100,000,000

93 SECTION 3. To meet the expenditures necessary in carrying out section 2, the state
94 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth, in an
95 amount to be specified by the governor from time to time, but not exceeding, in the aggregate,
96 the sum of \$449,000,000. All bonds issued by the commonwealth, under this section, shall be
97 designated on their face, Information Technology and Innovation Act of 2013, and shall be
98 issued for such maximum terms of years not exceeding 20 years, as the governor may
99 recommend to the general court under Section 3 of Article LXII of the Amendments to the
100 Constitution, but all such bonds shall be payable not later than June 30, 2038. All interest and
101 payments on account of principal of these obligations shall be payable from the General Fund
102 unless otherwise specified. Bonds and interest thereon issued under the authority of this section,
103 notwithstanding any other provision of this act, shall be general obligations of the
104 commonwealth.

105 SECTION 4. To meet the expenditures necessary in carrying out section 2A, the state
106 treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth, in an
107 amount to be specified by the governor from time to time, but not exceeding, in the aggregate,
108 the sum of \$280,000,000. All bonds issued by the commonwealth, under this section, shall be
109 designated on their face, Information Technology and Innovation Act of 2013, and shall be
110 issued for such maximum terms of years not exceeding 20 years, as the governor may
111 recommend to the general court under Section 3 of Article LXII of the Amendments to the
112 Constitution, but all such bonds shall be payable not later than June 30, 2038. All interest and
113 payments on account of principal of these obligations shall be payable from the General Fund
114 unless otherwise specified. Bonds and interest thereon issued under the authority of this section,
115 notwithstanding any other provision of this act, shall be general obligations of the
116 commonwealth.

117 SECTION 5. Notwithstanding any general or special law to the contrary, to meet the
118 expenditures necessary to carry out section 2B, the state treasurer shall, upon request of the
119 governor, issue and sell bonds of the commonwealth in an amount to be specified by the
120 governor from time to time, but not exceeding, in the aggregate, \$90,000,000. All bonds issued
121 by the commonwealth under this section shall be designated on their face, Information
122 Technology and Innovation Act of 2013, and shall be issued for a maximum term of years, not
123 exceeding 30 years, as the governor may recommend to the general court under section 3 of
124 Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later
125 than June 30, 2048. No authorization shall be expended unless expressly authorized by the
126 secretary of administration and finance. All interest and payments on account of principal of

127 these obligations shall be payable from the General Fund. Bonds issued under the authority of
128 this section shall be general obligations of the commonwealth.

129 SECTION 6. Notwithstanding any general or special law to the contrary, to meet the
130 expenditures necessary to carry out section 2C, the state treasurer shall, upon request of the
131 governor, issue and sell bonds of the commonwealth in an amount to be specified by the
132 governor from time to time, but not exceeding, in the aggregate, \$100,000,000. All bonds issued
133 by the commonwealth under this section shall be designated on their face, Information
134 Technology and Innovation Act of 2013, and shall be issued for a maximum term of years, not
135 exceeding 20 years, as the governor may recommend to the general court under section 3 of
136 Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later
137 than June 30, 2038. No authorization shall be expended unless expressly authorized by the
138 secretary of administration and finance. All interest and payments on account of principal of
139 these obligations shall be payable from the Commonwealth Transportation Fund. Bonds issued
140 under the authority of this section shall be general obligations of the commonwealth.

141 SECTION 7. The secretary of administration and finance shall submit a report on the
142 progress of any projects funded through the authorizations in this act and included in the
143 governor's 5- year capital investment plan to the clerks of the senate and house of
144 representatives, the chairs of the senate and house committees on ways and means, and the
145 senate and house chairs of the committees on bonding, capital expenditures and state assets. The
146 report shall include, but not be limited to, the previous year planned spending, previous year
147 spending, current year planned spending, current year spending to date, original estimated total
148 project cost, project description and purpose, location of the project, type of spending, type of
149 asset and useful life of the project once completed. The report shall be submitted on June 30 and
150 December 31 of each year for a period of 8 years after the effective date of this act.

151 SECTION 8. The authorization contained in Section 2A is made subject to the
152 satisfaction of the following requirement: the secretary of administration and finance shall, at
153 least sixty days prior to execution of any contract in furtherance of any project funded by Section
154 2A, submit to the clerks of the senate and house of representatives, the chairs of the senate and
155 house committees on ways and means, and the chairs of the senate and house committees on
156 bonding, capital expenditures and state assets a written finding, including the data and analysis
157 on which such finding is based, that the cost of the project scheduled to receive funding from the
158 authorization contained in Section 2A is projected to be less than the new savings or new
159 revenues to the Commonwealth that will result upon completion of the project. Projects for
160 which such findings are not submitted by the secretary of administration and finance may not be
161 funded by the authorization contained in Section 2A.

162 SECTION 9. The information technology division, in consultation with the operational
163 services division, shall require that the procurement of services and equipment funded under
164 items 1790-2018, 1790-3001, 1790-3002, 1790-3003 of section 2A and 1790-3004 of section 2C

165 shall comply with the procurement policies filed by the state comptroller under section 13 of
166 chapter 27 of the acts of 2007 to ensure an open and fair competitive process. Executive agencies
167 that have or seek funding under said items 1790-2018, 1790-3001, 1790-3002 1790-3003 and
168 1790-3004 shall submit to the information technology division, at intervals to be determined by
169 the division, documentation and deliverables necessary to enable it to oversee, ascertain and
170 evaluate financial and non-financial benefits to be realized by performing the project, impacts to
171 current and future operating budgets, and project management, status, progress, performance and
172 expenditures. The information technology division shall specify this documentation and
173 deliverables, which may include, without limitation, project management plans and
174 methodology, technology designs and specifications, accountings of amounts expended or to be
175 expended for all goods and services including, without limitation, hardware, software, consultant
176 services and personnel, ongoing operating cost impacts, an assessment of whether the project is
177 within budget and on schedule for completion, an explanation of any deviations in completion
178 schedules and funding needs from those that were originally established for the projects, project
179 plans and other document deliverables. The information technology division may make funding
180 or continued funding for executive department agency projects contingent upon its approval of
181 these documentation and deliverables.

182 SECTION 10. Chapter 7 of the General Laws is hereby amended by inserting after
183 section 4F 1/2 the following section:-

184 Section 4F ¾. There shall be established and set up a separate account, to be known as
185 the Commonwealth Federal Grants Management Trust, in this section called the trust. The
186 secretary of administration and finance shall expend funds in the trust without further
187 appropriation to support the purposes of the federal grants management unit within the office of
188 commonwealth performance, accountability and transparency, established by subsection (e) of
189 section 4A. The secretary shall charge all federal grants, an amount determined by the secretary
190 for these purposes, not exceeding 1 per cent per grant and not exceeding an annual total amount
191 of \$500,000, plus the one-time costs of any technology as determined by the secretary.

192 SECTION 11. To provide for the continued availability of certain bond-funded spending
193 authorizations which otherwise would expire, the balances of the following appropriation items
194 and any allocations thereof are hereby extended through June 30, 2017, for the purposes of and
195 subject to the conditions stated for these items in the original authorizations and any amendments
196 to such authorizations: 1599-7060, 1790-2013, 1790-2016, 1790-2017, and 1790-2500

197 SECTION 12. There shall be a special commission for the purpose of making an
198 investigation and study relative to information technology procurement and to make
199 recommendations regarding responsible and fiscally prudent standards for state information
200 technology procurements, known as the information technology procurement commission. The
201 commission shall be chaired by the secretary of administration and finance or his designee. The
202 governor shall appoint two members to the commission. The treasurer, the attorney general, the

203 speaker of the house and the senate president shall each appoint one member to the commission.
204 Each member of the commission shall have experience in at least one of the following areas:
205 software and technology development, operations management, government procurement, public
206 finance and government contract negotiation and dispute resolution. Said appointments shall be
207 made no later than December 15, 2013.

208 The commission shall report its findings and any legislation necessary to implement said
209 findings to the governor, the clerks of the senate and house of representatives, the senate and
210 house of representatives committees on ways and means, the senate and house of representatives
211 committees on bonding, capital expenditures and state assets by May 1, 2014. The authorizations
212 contained in Section 2, line items 1790-3001 and 1790-3002, Section 2A and Section 2C may
213 not be utilized to fund any capital project for any purpose until the commission files such report.
214 The commission report shall include but not be limited to: an analysis of best practices for
215 information technology procurement, including the scoping of projects, hiring outside vendors,
216 oversight of outside vendors, review and assessment of projects and successful initiation of
217 operations. In making its recommendations the commission shall consider among other issues:

218 a) best practices for information technology procurement among state and federal
219 governments;

220 b) the number of state personnel needed to initiate information technology procurements
221 and oversee outside vendors, as well as the required salary to attract individuals with information
222 technology expertise;

223 c) appropriate benchmarks for periodic review throughout the completion of information
224 technology project;

225 d) incentives for the on time and on budget completion of projects, as well as penalties
226 for delays and overages;

227 e) benefit-funded procurements, in which an outside vendor is paid from the proceeds of
228 a given information technology project;

229 f) performance based pay, in which an outside vendor is scored on the satisfactory
230 completion of a project and pay is correlated to the vendor's score;

231 g) fixed price technical competition, in which the budget for a given project is
232 determined during scoping and vendors compete over the level of service provided at the
233 specified budget;

234 h) the structure and dynamics of the software and technology industry focused on
235 government contracts; and

236 i) specific reporting requirements necessary to inform executive branch agencies, the
237 general court and the public of information technology projects, including reports deemed
238 necessary prior to soliciting bids, during the life of the project and upon the project's completion,
239 including any changes to the project made prior to project completion.