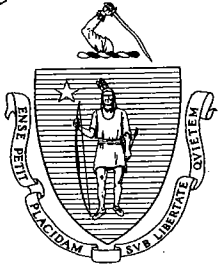


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OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
STATE HOUSE • BOSTON, MA 02133
(617) 725-4000

DEVAL L. PATRICK
GOVERNOR

February 10, 2010

TIMOTHY P. MURRAY
LIEUTENANT GOVERNOR

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal entitled, "An Act Providing for Job Creation by Small Businesses." I urge prompt passage of this important legislation to encourage small businesses to hire new workers and to help accelerate economic growth across the Commonwealth.

The bill provides a tax credit for small businesses to create thousands of new jobs. Small businesses that create and retain new jobs this year will receive a \$2,500 tax credit for each net new job they create.

This legislation also reduces business costs by freezing unemployment insurance rates for all Massachusetts businesses, by proposing essential long-term reforms of our unemployment insurance system, and by including tools for easing the burden of health care costs on small businesses.

Finally, the bill consolidates the Commonwealth's resources for debt and equity financing for small businesses in a new Massachusetts Growth Capital Corporation.

I urge your prompt and favorable consideration of this legislation.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", written over a large, loopy flourish.



The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND AND TEN

AN ACT PROVIDING FOR JOB CREATION BY SMALL BUSINESSES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for job creation by small businesses, 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:

SECTION 1. To provide for a program of job creation and economic development, the sums set forth in section 2A, for the several purposes and subject to the conditions specified in this act, are hereby made available, subject to the laws regulating the disbursement of public funds and approval thereof.

SECTION 2A.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

Office of the Secretary

1100-7400 For the recapitalization of the Massachusetts Growth Capital Corporation

.....\$25,000,000

NOTE. — Use ONE side of paper ONLY. DOUBLE SPACE. Insert additional leaves, if necessary.

6001-0817.. For the recapitalization of the grant program to provide for commercial and residential transportation and infrastructure development, improvements and various capital investment projects under the Growth Districts Initiative established by the executive office of housing and economic development; provided, that the secretary of housing and economic development, in consultation with the secretary of the Massachusetts department of transportation, shall adopt, amend or continue regulations or guidelines regarding this program; provided further, that annually not later than December 31, the secretary of housing and economic development shall issue a written report to the clerks of the senate and house of representatives, the chairs of joint committee on bonding, capital expenditures and state assets, the chairs of the joint committee on transportation, the chairs of the joint committee on economic development and emerging technologies, and the chairs of the senate and house committees on ways and means, which shall include detailed descriptions of infrastructure improvement projects funded pursuant to this program and all funds expended for this purpose.....
\$50,000,000

SMALL BUSINESS JOBS CREATION TAX CREDIT

SECTION 3. Chapter 62B of the General Laws is hereby amended by adding the following section:-

Section 22.(a) Except as otherwise limited under subsection (g), for the 12 calendar months beginning on April 1, 2010 there shall be allowed as a refundable credit to a qualified employer against the tax liability imposed under this chapter, \$2,500 for each full-time employee hired during such period that results in a net increase in full-time Massachusetts employees, as specified in subsection (c), where the net increase in the employer's full-time Massachusetts employees is maintained for at least 12 months.

(b) For purposes of this section:

(1) "Incentive period" means the 12-month period beginning April 1, 2010.

(2) "Full-time Massachusetts employee" means an employee who is paid wages reported under chapter 62E for employment in the commonwealth and who is either:

(A) paid wages by the qualified employer for services of not less than an average of 35 hours per week, or

(B) a salaried employee who was paid compensation during the taxable year for full-time employment by the qualified employer;

but, without limitation, partners, independent contractors and household employees shall not be treated as employees within the meaning of this definition.

(3) "Qualifying full-time employee" means a full-time Massachusetts employee hired during the incentive period whose hire results in a net increase in a qualified employer's full-time Massachusetts employees.

(4) "Employer" means, generally, an employer subject to either chapter 62B or chapter 151A, under rules determined by the commissioner. "Employer" may include a non-profit or for-profit organization but shall not include governmental units.

(5) "Qualified employer" means an employer that, as of March 31, 2010, employed a total of 50 or fewer full-time employees, determined without regard to the location of employment of such employees.

(c) The net increase in full-time Massachusetts employees of a qualified employer shall be determined as follows:

(1) The net increase in full-time Massachusetts employees, measured on an annual full-time equivalent basis, shall be the total number of full-time Massachusetts employees of the employer, minus the total number of full-time Massachusetts employees employed on March 31, 2010 by the employer, subject to the aggregation rules of subsection (f).

(2) For purposes of the calculation set forth in paragraph (1), employers that begin doing business in this state during the incentive period, as determined by the commissioner, shall be treated as having zero Massachusetts employees on March 31, 2010.

(3) The net increase in the number of full-time Massachusetts employees must be sustained continuously for at least 1 year, starting with the date of hire of a qualifying full-time Massachusetts employee during the incentive period. However, eligibility for the credit does not depend on the continuous employment of any particular individual.

(4) Generally, overtime hours shall not be considered in determining the number of an employer's full-time equivalent employees.

(d) Any deduction otherwise allowed under chapter 62 or chapter 63 for wages paid shall not be reduced by the amount of the credit allowed under this section.

(e) Amounts withheld by an employer shall be credited against the individual income tax liability of employees under chapter 62, and the employees' credit for such withholding shall not be affected by any refundable credit received by an employer.

(f) For purposes of determining whether an employer is a qualified employer under this section, a trade or business carried by related persons shall be treated as one business. The commissioner may adopt rules for aggregation of related businesses or employers in order to determine eligibility for the credit under this section. For purposes of this determination, the employer's employees shall be deemed to include the employees of any individuals or entities with which or to which the employer is related within the meaning of Internal Revenue Code section 318, or as otherwise determined by the commissioner.

(g) Eligibility for the credit shall be determined as follows:

(1) An employer shall become eligible for the credit on a first-come-first-served basis. The date on which an application is properly submitted to the commissioner shall determine the applicant's priority in claiming the credit.

(2) A qualified employer that has hired a qualifying full-time employee during the incentive period may apply for the credit with respect to that position, on or after the date of hire of the qualifying full-time employee, beginning April 1, 2010, and not before such date of hire. Except as otherwise provided by the commissioner, the date of hire shall be the first day on which the employee begins providing services for wage compensation.

(3) A qualified employer may apply for the credit for more than one qualifying full-time employee, on or after the date of hire of each qualifying full-time employee.

(4) Notwithstanding any other provision of this section, the cumulative dollar amount of all credits available under this section shall not exceed \$50,000,000. Credits, up to the \$50,000,000 maximum, shall be distributed beginning April 1, 2012, to qualifying employers that have made valid applications and can verify a continuous one-year net increase in full-time Massachusetts employees. If the commissioner receives qualifying credit applications that would result, if granted, in credits exceeding \$50,000,000, the commissioner shall give priority to qualifying applications based on the date of receipt of the completed application.

(h) The commissioner may prescribe rules, guidelines or procedures regarding, without limitation, the definition of employer, the application process, limitation on total credits allowable, determination of hiring date and application date, and guidelines necessary to determine whether an employer is part of a related group for purposes of determining a qualified employer, as needed to carry out the purposes of this section. The commissioner may require that applications be submitted in electronic form. The commissioner may disallow applications to the extent that she determines, under the facts of a particular case, that there has been no bona fide sustained increased in Massachusetts employment.

(1) A credit shall not be conferred under this section for an employee hired after April 1, 2012.

(2) Amounts paid under this section shall be paid without interest and shall be subject to offset under chapters 62C and 62D for any unpaid tax or other obligations of the employer, as specified therein.

CREATE THE MASSACHUSETTS GROWTH CAPITAL CORPORATION BY MERGING THE
CDFC, EST, AND MTDC

SECTION 4. Notwithstanding any general or special law to the contrary, the terms “Massachusetts Community Development Finance Corporation”, “Economic Stabilization Trust”, or “Massachusetts Technology Development Corporation”, wherever any of them appears in a general or special law, shall mean the Massachusetts Growth Capital Corporation.

SECTION 5. Sections 8, 9, 10, 11, 12, 13, 14, and 15 of chapter 23D of the General Laws are hereby repealed.

SECTION 6. Chapter 40G of the General Laws is hereby repealed.

SECTION 7. Chapter 40F of the General Laws is hereby amended by striking out the words “Massachusetts Community Development Finance Corporation” wherever they appear and inserting in place thereof the following words:- Massachusetts Growth Capital Corporation.

SECTION 8. Said chapter 40F is hereby further amended by striking out the word “CDFC” wherever it appears and inserting in place thereof the following word:- GCC.

SECTION 9. Section 1 of said chapter 40F, as appearing in the 2008 Official edition, is hereby amended by striking out the definition of “Community development corporation or “CDC””, and inserting in its place the following definition:-

“Community Development Corporation” or “CDC”, a non-profit corporation organized under chapter 180 of the General Laws, designated as a 501(c)(3) tax-exempt organization by the Internal Revenue Service and which:

(a) focuses a substantial majority of its efforts on serving one or more specific neighborhoods or municipalities, a region of the commonwealth, or a constituency that is economically disadvantaged;

(b) has as its purpose to engage local residents and businesses to work together to undertake community development programs, projects and activities which develop and improve urban, rural and suburban communities in sustainable ways that create and expand economic opportunities for low and moderate income people;

(c) demonstrates to the department of housing and community development that the CDC's constituency, including low and moderate income people, is meaningfully represented on the board of directors of the organization. In making this determination, the department shall consider the following criteria (1) the percentage, if any, of the board is elected by the general membership; (2) the percentage of the board members are residents of the service area; (3) the percentage of board members that are people of low or moderate income; (4) the racial and ethnic composition of the board in comparison to the racial and ethnic composition of the community being serve; (5) other mechanisms, including committees, membership meetings, that the organization uses to ensure that their constituency has a meaningful role in the governance and direction of the organization; and (6) other criteria as determined by the department:

SECTION 10. Said section 1 of said chapter 40F, as so appearing, is hereby further amended by striking out the definition of "Corporation", and inserting in its place the following definition:-

"Corporation" or "GCC", the Massachusetts Growth Capital Corporation established by section 2.

SECTION 11. Said section 1 of said chapter 40F, as so appearing, is hereby further amended by inserting after the definition of "Costs of projects" the following 2 definitions:-

“Equity investment” shall include any of the following types of investment activity: (a) a purchase of stock, (b) a purchase of a partnership interest, (c) a purchase of a limited liability company membership interest, or (d) a loan made on such terms that it has sufficient characteristics of equity.

“Financial products” shall include loans, equity investments and other similar financing activities including the purchase of loans originated by a certified community development financial institution, the provision of loan guarantees, or the provision of surety bond guarantees.

SECTION 12. Said section 1 of said chapter 40F, as so appearing, is hereby further amended by striking out the definition of “Primary employment”.

SECTION 13. Said section 1 of said chapter 40F, as so appearing, is hereby further amended by striking out the definition of “Project” and inserting in place thereof the following 2 definitions:-

“Project”, shall mean making available financial products to small businesses or non-profit corporations.

“Small business”, shall mean any business that has less than 250 full-time equivalent employees.

SECTION 14. Said section 1 of said chapter 40F, as so appearing, is hereby further amended by striking the definition of “Target area” and inserting in place thereof the following:-

“Target area” shall mean any contiguous geographic area in which the project is located and which is either (1) an economic target area designated pursuant to section 3D of chapter 23A; (2) the service area of community development corporation; or (3) a zip code whose current unemployment rate exceeds the state unemployment rate by at least twenty-five per cent or whose mean household income is at or below 80 per cent of the state mean household income as of the most recent decennial census.

SECTION 15. Said chapter 40F is hereby amended by striking out section 2 and inserting in place thereof the following:-

Section 2. (a) There shall be a body politic and corporate to be known as the Massachusetts Growth Capital Corporation or GCC. The GCC is hereby constituted a public instrumentality and the exercise by the GCC of the powers conferred by this chapter shall be deemed to be the performance of an essential governmental function.

The GCC is hereby placed in the executive office of housing and economic development but shall not be subject to the supervision and control of any executive office, department, division, commission, board, bureau or agency except to the extent and in the manner provided by law.

(b) The purpose of the GCC is to provide financing and technical assistance to small businesses in order to: promote economic prosperity and job creation in every region of the commonwealth; create, develop and sustain economically diverse communities in urban, rural and suburban areas of the commonwealth; and, support low and moderate income people having access to a full range of economic opportunities.

(c) The corporation shall consist of 11 directors, 1 of whom shall be the secretary of housing and economic development and who shall serve as chair, 1 of whom shall be the undersecretary for business development, 1 of whom shall be the undersecretary of housing and community development, and 1 of whom shall be the secretary of administration and finance, or their respective designees. The governor shall appoint the remaining 7 members, 1 of whom shall be experienced in community economic development and be employed by a community development corporation as defined under this chapter, 1 of whom shall represent the Massachusetts Association of Community Development Corporations, 1 of whom shall have experience in venture capital or private equity, 1 of whom shall be an practicing or retired attorney with relevant business financing experience, 1 of whom shall have relevant business banking experience, 1 of whom shall be a small business owner, and 1 of whom shall be a representative of organized labor. Each member appointed by the governor shall serve a term of 5 years, except that in making his initial appointments the governor shall appoint 2 members to serve for a term of 3 years, 2 members for a term of 4 years, and 3 members for a term of 5 years.

(d) Any person appointed to fill a vacancy in the office of a member shall be appointed in a like manner and shall serve for only the unexpired term. Any member shall be eligible for reappointment. Any member may be removed from his appointment by the governor only for good cause. The directors shall annually elect one of their members as vice-chairman and designate a secretary-treasurer who need not be a member of the board. The secretary-treasurer shall keep a record of the proceedings of the corporation and shall be the custodian of all books, documents, and papers filed with the corporation, the minute books of the corporation and of its official seal.

(e) Six of the directors of the corporation shall constitute a quorum and 6 affirmative votes shall be necessary for the transaction of business or the exercise of any power or function of the corporation. Each director shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

(f) The corporation, its directors, officers, and employees shall be subject to sections 1 to 4, inclusive, of chapter 268A, except that the corporation may purchase from, sell to, borrow from, loan to, contract with or otherwise deal with any person in which any director of the partnership is in any way interested or involved; provided, however, that such interest or involvement is disclosed in advance to the members of the board and recorded in the minutes of the board; and provided, further, that no director having such an interest or involvement may participate in any decision of the board relating to such person. Employment by the commonwealth or service in any agency thereof shall not be deemed to be such an interest or involvement.

(g) The president of the corporation shall be appointed and his salary established by the board of directors. The president shall be the chief administrative and operational officer of the corporation and shall direct and supervise administrative affairs and the general management of the corporation. The

president may employ other employees designated by the board of directors, shall attend meetings of the board of directors, shall cause copies to be made of all minutes and other records and documents of the corporation and shall certify that such copies are true copies, and all persons dealing with the corporation may rely upon such certification.

(h) All officers and employees of the corporation having access to its cash and negotiable securities shall give bond to the corporation at its expense in such amounts and with such surety as the board may prescribe. The persons required to give bond may be included in one or more blanket or scheduled bonds.

(i) Directors shall not be liable to the commonwealth, to the agency or to any other person as a result of their activities, whether ministerial or discretionary, as such directors, except for willful dishonesty or intentional violations of the law. The corporation may purchase liability insurance for directors, officers, and employees, and may indemnify said persons against claims of others.

(j) Any documentary materials, data, or conversations made or received by any directors or employee of the corporation and consisting of, or to the extent that such materials, data, or conversations consist of, trade secrets or commercial or financial information regarding the operation of any business conducted by an applicant for assistance which the corporation is empowered to render or regarding the competitive position of such applicant in a particular field of endeavor, shall not be public records of the corporation and specifically shall not be subject to section 10 of chapter 66. Any discussion or consideration of such trade secrets or commercial or financial information may be held by the directors in executive session closed to the public notwithstanding chapter 30A, but the purpose of any such executive session shall be set forth in the official minutes of the corporation and no business which is directly related to such purpose shall be transacted nor shall any vote be taken in such an executive session.

SECTION 16. Section 3 of chapter 40F, as so appearing, is hereby amended by striking clauses (o) through (r) and inserting in place thereof following 14 clauses:-

(o) Receive and accept from any federal or state agency and any other public or private entity, grants, loans or advances for or in aid of the purposes of this chapter, and receive and accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied for said purposes.

(p) Create, issue, buy and sell stock and other capital participation instruments; to hold such stock and capital participation instruments and to underwrite the creation of a capital market for these securities.

(q) Provide and pay for such advisory services and technical assistance as may be necessary or desirable to carry out the purposes of this act.

(r) Make loans or grants to, or otherwise finance or invest in any business to further the purposes of this chapter; provided however, that such financing complies with this chapter; and further provided that such loans or grants may be made to community development corporations or other community based nonprofit entities for the purpose of such corporations or entities providing financing to businesses.

(s) Provide loan guarantees to public or private entities for the purpose of causing such entities to provide financing to any business, in furtherance of the purposes of this chapter.

(t) Establish and collect such fees, charges, and interest rates as the corporation determines to be reasonable.

(u) Require, by contract in any financing agreement, or otherwise, specific operational activities, financial actions, or management changes, as conditions for the receipt of any loan, financing, or investment from the trust.

(v) Buy, hold and sell qualified securities.

(w) Finance, conduct, or cooperate in financing or conducting technological, business, financial, or other investigations which are related to or likely to lead to business and economic development by making and entering into contracts and other appropriate arrangements, including the provision of grants, loans, and other forms of assistance.

(x) Solicit, study, and assist in the preparation of, business plans and proposals of new or established small businesses suitable for support by the corporation.

(y) Provide technical assistance and training programs to small businesses, with a focus on serving existing and new businesses with 50 employees or fewer and small businesses located in target areas or participating in a project, as defined by this chapter.

(z) Participate as a general partner or limited partner in a limited partnership; and to participate as a member or manager in a limited liability company.

(aa) In addition to the powers enumerated in paragraph (p), create and issue shares which any person, firm or corporation may purchase. Each share issued shall be in the form of non-voting common stock with each share having a par value of 10 dollars. The total value of the shares issued shall not exceed 25 million dollars.

(bb) Exercise any other powers or rights or responsibilities of a corporation organized under chapter 156B.

Under no circumstances shall any debt obligation issued pursuant to this section, stock or capital participation instrument created pursuant to this section or share issued pursuant to this section, shall be or become an indebtedness or obligation of the commonwealth, and it shall be plainly stated on the face of each bond, capital participation instrument, share or other evidence of indebtedness that it does not constitute an indebtedness or obligation of the Commonwealth of Massachusetts but is payable solely from the revenues or income of the Massachusetts growth capital corporation.

SECTION 17. Section 4 of chapter 40F, as so appearing, is hereby amended by striking out the third, fourth, and fifth paragraphs.

SECTION 18. Said chapter 40F is hereby further amended by inserting section 4A the following 3 sections:-

Section 4B. The GCC, subject to the restrictions as set forth in this section, may participate in a project.

The GCC shall find and incorporate in the official records of the GCC that:

(a) the project will be of a public benefit such that:

(1) The project is reasonably expected to support or promote community economic development, revitalization, or stability, or the creation or expansion of a business sector whose success will enhance the economic development of a target area as defined by this chapter, or gateway municipalities, as defined by section 3A of chapter 23A; or

(2) The project will enhance the quality of life and promote employment opportunities for low and moderate income residents of the commonwealth; or,

(3) The project will promote the creation or retention of jobs; or,

(4) The project will support the creation or retention of jobs or businesses in the manufacturing and emerging technologies sectors.

Thirty percent of all GCC financing over a 3-year period shall be invested in projects under clauses (1) or (2), but the board of directors may amend this percentage by a 2/3 vote.

(b) The GCC determines that its participation is necessary because funding for the project is unavailable in the traditional capital markets.

(c) Provision has been made in contract for adequate reporting of financial and other data to the GCC. Such provisions may include a requirement for an annual or other periodic audit of the project books. Such findings when adopted by the GCC shall be conclusive.

Section 4C. The department of housing and community development shall certify non-profit organizations as community development corporations consistent with criteria set forth in section 1 and shall establish and maintain a list of organizations that have been certified as CDCs. These organizations must be recertified at least once every 4 years.

Section 4D. The GCC shall file an annual report on December 15 of each year with the governor, the speaker of the house of representatives, the president of the senate, the chairs of the house and senate committees on ways and means, the chairs of the joint committee on housing, and the chairs of the joint committee on community development and small business, detailing the following:

(a) a list of certified CDCs in the commonwealth;

(b) a summary of programs, initiatives or partnerships operated by the GCC that provide funding to support CDCs and their programs, projects and initiatives, and otherwise help CDCs advance the purposes of this chapter; and

(c) recommendations, if any, for action that would enhance the ability of CDCs to advance the purposes of this chapter.

SECTION 19. Section 14 of chapter 167 of the General Laws, as so appearing, is hereby amended by striking out, in line 22, the words "and 30" and inserting in place thereof the following words:-, 30 and 30A.

SECTION 20. Section 2 of chapter 167F of the General Laws, as so appearing, is hereby amended by inserting after paragraph 30 the following paragraph:-

30A. To participate in the activities of the Massachusetts capital growth corporation established by chapter 40F, by making capital available for an investment or deposit in or grant to the corporation, an affiliate or subsidiary of the corporation, or any fund managed by the corporation.

SECTION 21. Section 8 of chapter 324 of the acts of 1987 is hereby repealed.

SECTION 22. Notwithstanding any general or special law to the contrary, the comptroller shall promptly transfer \$15,000,000 of the Emerging Technology Fund, established pursuant to chapter 141 of the acts of 2003, to the Commonwealth Capital Growth Corporation, established pursuant to chapter 40F of the General Laws.

SECTION 23. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the Community Development Finance Corporation, the Economic Stabilization Trust, and the Massachusetts Technology Development Corporation as the transferor agencies, to the Massachusetts Growth Capital Corporation, as the transferee agency;

(b) To the extent that employees of the transferor agency, including those who were appointed immediately before the effective date of this act and who hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are transferred to the respective transferee agency, such transfers shall be effected without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state division of labor relations or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any other general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension, discharge, layoff, or abolition of position not prohibited before such date.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before the transferor agency or duly begun by the transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by the transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of the transferor agency, shall be transferred to the transferee agency.

(f) All duly existing contracts, leases and obligations of the transferor agency shall continue in effect but shall be assumed by the transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

CONTROLLING SMALL BUSINESS HEALTH CARE COSTS

Offering More Affordable Options: Plans with Reduced Networks of Providers;
also Create Open Enrollment Periods for Individuals Buying Coverage on Their Own

SECTION 24. Section 4 of chapter 176J of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a)(1) Every carrier shall make available to every eligible individual and every small business, including an eligible small group or eligible individual, a certificate that evidences coverage under a policy or contract issued or renewed to a trust, association or other entity that is not a group health plan, as well as to their eligible dependents, every health benefit plan that it provides to any other eligible individual or eligible small business. No health benefit plan may be offered to an eligible individual or an eligible small business unless it complies with this chapter. Upon the request of an eligible small business or an eligible

individual, a carrier must provide that group or individual with a price for every health benefit plan that it provides to any eligible small business or eligible individual. Except under the conditions set forth in paragraph (3) of subsection (a) and paragraph (2) of subsection

(b), every carrier shall enroll any eligible small business or eligible individual which seeks to enroll in a health benefit plan. Every carrier shall permit every eligible small business group to enroll all eligible persons and all eligible dependents; provided that the commissioner shall promulgate regulations which limit the circumstances under which coverage must be made available to an eligible employee who seeks to enroll in a health benefit plan significantly later than he was initially eligible to enroll in a group plan.

(2) A carrier shall enroll any person who meets the requirements of an eligible individual, including any person who meets the definition of eligible person as defined in section 2741 of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. section 300gg-41(b), into a health benefit plan if such person requests coverage within 63 days after termination of any prior creditable coverage. Coverage shall become effective within 30 days after the date of application, subject to reasonable verification of eligibility.

(3) A carrier shall enroll an eligible individual who does not meet the requirements of paragraph (2) into a health benefit plan during the mandatory open enrollment period commencing June 1 and ending June 30 or during the mandatory open enrollment period commencing December 1 and ending December 31. A carrier may hold additional open enrollment periods provided that the carrier accepts all eligible individuals seeking enrollment during these additional periods. All coverage is to become effective on the first day of the month following enrollment. The commissioner shall promulgate regulations for the open enrollment periods permissible under this section. With respect to Trade Act/Health Coverage Tax Credit Eligible Persons, a carrier may impose a pre-existing condition exclusion or waiting period of no more than 6 months following the individual's effective date of coverage if the Trade Act/Health

Coverage Tax Credit Eligible Person has had less than 3 months of continuous health coverage before becoming eligible for the HCTC; or a break in coverage of over 62 days immediately before the date of application for enrollment into the qualified health plan.

(4) As a condition of continued offer of small group health benefit plans in the commonwealth, a carrier that offers a plan that (i) provides or arranges for the delivery of health care services through a closed network of health care providers; and (ii) as of the close of any preceding calendar year, has a combined total of 5,000 or more eligible individuals, eligible employees and eligible dependents, who are enrolled in health benefit plans sold, issued, delivered, made effective or renewed to qualified small businesses or eligible individuals, shall offer at least 1 product in the small group market that uses a reduced network of health care providers. The base premium for the reduced network product shall be at least 10 percent lower than the base premium of the most actuarially similar product with the carrier's most robust network of providers.

SECTION 25. Paragraphs (1) and (2) of Section 24 shall take effect on April 1, 2010. Paragraph (3) of Section 24 shall take effect on June 1, 2010. Paragraph (4) of Section 24 shall take effect on July 1, 2010.

Moratorium on New Mandated Benefits

SECTION 26. It shall be the policy of the general court to impose a moratorium on all new mandated health benefit legislation until July 1, 2012.

Allow Commissioner to Adjust Rating Rules to Save Administrative Costs

SECTION 27. Section 3 of said chapter 176J, as so appearing, is hereby amended by adding the following 2 subsections:-

(f) The commissioner may conduct an examination of the rating factors used in the small group health insurance market in order to identify whether any expenses or factors inappropriately increase the cost in relation to the risks of the affected small group. The commissioner may adopt changes to the small group regulation each July 1 for rates effective each subsequent January 1 to modify the derivation of group base premium rates or of any factor used to develop individual group premiums.

(g) For small group base rate factors applied between July 1, 2010 and June 30, 2012, a carrier must limit the effect of the application of any single or combination of rate adjustment factors identified in paragraphs (2) to (6), inclusive of subsection (a) used in the calculation of any individual's or small group's premium so that the final annual premium charged to an individual or small group does not increase by more than an amount established annually by the commissioner by regulation.

SECTION 28. Section 26 shall take effect on July 1, 2010.

Strengthen DOI's Authority to Review Rates: Require Advance Filings of Small Group Health Insurance Rates

SECTION 29. Said chapter 176J is hereby further amended by striking out section 6 and inserting in place thereof the following section:-

Section 6. (a) Notwithstanding any general or special law to the contrary, the commissioner may approve health insurance policies submitted to the division of insurance for the purpose of being provided to eligible individuals or eligible small businesses. These health insurance policies shall be subject to this chapter and may exclude coverages of mandated benefits and may include networks that differ from those of a health plan's overall network. The commissioner shall adopt regulations regarding eligibility criteria. These eligibility criteria shall require that health insurance policies which exclude mandated benefits shall

only be offered to small businesses which did not provide health insurance to its employees as of April 1, 1992. These eligibility criteria may require an employer contribution of at least 50 per cent of the health insurance premium for employees. These eligibility criteria shall also provide that small businesses shall not have any health insurance policies which exclude mandated benefits for more than a 5-year period.

(b) Notwithstanding any general or special law to the contrary, the commissioner may require carriers offering small group health insurance plans, including carriers licensed under chapters 175, 176A, 176B or 176G, to file all changes to small group product base rates and to small group rating factors at least 30 days before their proposed effective date. The commissioner shall disapprove any proposed changes to base rates that are excessive, inadequate, or unreasonable in relation to the benefits charged. The commissioner shall disapprove any change to small group rating factors that is discriminatory or not actuarially sound. Rate filing materials submitted for review by the Division shall be deemed confidential and exempt from the definition of public records in clause Twenty-sixth of section 7 of chapter 4. The commissioner shall adopt regulations to carry out this section.

(c) For small group base rate changes filed to be effective any time in the period between July 1, 2010 and June 30, 2012, inclusive, if a carrier files for an increase in a small group product's base rate over the prior year's base rate by an amount that is more than 150 per cent of the prior calendar year's percentage increase in the consumer price index for medical care services, as identified by the division of health care finance and policy, or if a carrier files an initial base rate request that is greater than the average base rate for actuarially equivalent policies offered by other small group carriers by more than 150 per cent of the prior calendar year's base premium rate, such carrier's rate, in addition to being subject to all other provisions of this chapter, shall be presumptively disapproved as excessive by the commissioner as set forth in this subsection.

(1) A carrier must communicate to all employers and individuals covered under any small group product that the proposed increase has been presumptively disapproved and is subject to a hearing at the division of insurance.

(2) The commissioner shall conduct a public hearing and shall advertise it in newspapers in Boston, Brockton, Fall River, Pittsfield, Springfield, Worcester, New Bedford, and Lowell, or shall notify such newspapers of the hearing.

(3) The commissioner shall adopt regulations to specify the scheduling of the hearings required pursuant to this subsection.

SECTION 30. Section 28 shall take effect on July 1, 2010.

SECTION 31. Chapter 118G of the General Laws is hereby amended by inserting after section 15 the following section:-

Section 15A. (a) No contract for payment for hospital, physician group practice, or imaging services between a provider and a carrier as defined by chapter 176O for medical, diagnostic or therapeutic services shall take effect until submitted to the division of health care finance and policy. The contract must be submitted by the provider to the division for review at least 30 days before the proposed effective date of the contract. The division shall review such contracts to determine whether provider payments under the contract, adjusted for volume and patient acuity, would increase by more than the twelve month change of the Consumer Price Index for Medical Care Services as of December 31 of the preceding year. The division may schedule a public hearing on any proposed or existing contract.

(b) Any contract under which provider payments increase by an amount in excess of the applicable Consumer Price Index for Medical Care Services shall be presumptively disapproved. The division may conduct a hearing on any contract that is presumptively disapproved and will approve or disapprove the contract based on its findings following the hearing.

(c) The division, in consultation with the division of insurance, shall adopt regulations in accordance with chapter 30A to specify the criteria for contract review.

(d) Except as specifically provided otherwise by the division, information submitted to the division under this section shall not be a public record under clause Twenty-sixth of section 7 of chapter 4 or chapter 66.

(e) This section shall also apply to any contract in effect before April 1, 2010, for services provided on or after April 1, 2010. The parties shall be afforded 30 days to renegotiate any affected terms of these contracts.

(f) Providers may not shift costs to other health care payers as a result of the requirements in this section. The division may adopt regulations to specify monitoring activities and enforcement provisions, including financial penalties, for violation of this section.

SECTION 32. Section 30 shall take effect on April 1, 2010. Subsection (b) of Section 30 shall cease to be effective on March 31, 2012.

UNEMPLOYMENT INSURANCE

SECTION 33. Section 2RR of chapter 29 of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “Training”, in line 3, the following word:- Trust.

SECTION 34. Said section 2RR of chapter 29, as so appearing, is hereby further amended by striking out, in lines 6 and 7, the words “Subject to appropriation, the commissioner, which in this section shall have the meaning assigned by section 1 of chapter 151A” and inserting in place thereof the following words:- The commissioner, which in this section shall have the meaning assigned by section 1 of chapter 151A, shall be the trustee of the Fund and, without further appropriation.

SECTION 35. Sections 3A, 20A and 25 of chapter 175 of the acts of 1998 are hereby repealed.

SECTION 36. Notwithstanding any general or special law to the contrary, for the fiscal year 2010, workforce training contributions required by section 14L of chapter 151A of the General Laws that exceed \$10,000,000 shall be credited to the General Fund. Contributions not exceeding \$10,000,000 for fiscal year 2010 shall continue to be credited to the Workforce Training Trust Fund, established by section 2RR of chapter 29 of the General Laws.

SECTION 37. Section 1 of chapter 151A of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting after the word “quarter”, in line 318, the following words:- ; and provided further, that, if the wages reported are for 2 quarters and such deeming renders the individual ineligible for unemployment benefits, the weekly wage shall be equal to 1/26 of the total wages reported.

SECTION 38. Section 6 of said chapter 151A, as so appearing, is hereby amended by adding after subsection (x) the following subsection:-

(y) services performed by an officer of a corporation, a person who has more than a 5 per cent equitable or debt interest in the corporation, or a family member of such officer or person, as defined in paragraph (7) of subsection (k) of section 14N, except that this subsection shall not include services as defined in section 3309(a) of the Internal Revenue Code.

SECTION 39. Section 14 of said chapter 151A, as so appearing, is hereby amended by striking out paragraph (4) of subsection (a) and inserting in place thereof the following paragraph:-

(4) "Unemployment insurance taxable wage base", with respect to calendar years beginning on or after January 1, 2011, the term "unemployment insurance taxable wage base" shall mean \$20,900. The unemployment insurance taxable wage base shall be adjusted annually by the same percentage increase or decrease as the increase or decrease in the average annual wage calculated for all employees covered by this chapter, as set forth in subsection (a) of section 29.

SECTION 40. Said section 14 of said chapter 151A, as so appearing, is hereby further amended by inserting after the first sentence of subsection (f) the following sentence:-

All employers electing to be covered under section 14A shall also be subject to a reasonable solvency charge as established by the commissioner.

SECTION 41. Said section 14 of chapter 151A, as so appearing, is hereby further amended by inserting after the word "unit", in line 288, the following words:- and the transferee continues such organization, trade or business.

SECTION 42. Section 14L of said chapter 151A, as so appearing, is hereby amended by inserting after the word "Training", in lines 11 to 12, the following word:- Trust.

SECTION 43. Subsection (b) of section 19A of said chapter 151A, as so appearing, is hereby amended by adding the following sentence:-

An agency or instrumentality of the commonwealth shall not enter into, renew, or extend a contract or agreement with any employer to provide goods, services, or physical space with a maximum obligation or value greater than \$5,000 to such agency or instrumentality or authorize any tax credit under chapters 62 and 63 in excess of \$5,000 unless the employer has submitted a certificate of compliance issued by the department showing that it is current in all its obligations relating to contributions, payments in lieu of contributions, and the fair share employer contributions specified by section 188 of chapter 149.

SECTION 44. Said chapter 151A of the General Laws is hereby further amended by inserting after section 19A the following section:-

Section 19B. (a) Whenever an employer has failed to pay when due any amount required of such employer under this chapter, the commissioner or his designee may serve a stop work order on the employer, requiring the cessation of all business operations at the place of employment or job site. The order shall take effect immediately upon its service on the employer, unless the employer provides evidence, satisfactory to the commissioner or his designee, of having made such payment or having entered into and is complying with a repayment agreement satisfactory to the commissioner.

(b) Any employer who is aggrieved by the imposition of a stop work order shall have 10 calendar days from the date of service to appeal the order. Any employer who timely files an appeal shall be granted a hearing by the commissioner or his designee in accordance with subsection (b) of section. The stop work order shall not be in effect during the pendency of any timely filed appeal. Any stop work order shall be rescinded if the commissioner or his designee finds at the hearing that the employer has no unpaid liability or has entered into and is complying with a repayment agreement satisfactory to the commissioner; otherwise the stop work order shall be effective immediately on the conclusion of the hearing and shall remain in effect until such time as the employer makes such payment or enters into and

complies with the repayment plan. The commissioner shall by regulation, establish the criteria for compliance with the payment plan, including but not limited to defining the duration, compliance, and minimum number of payments needed before the employer is removed from the debarment list, but the employer shall not bid on or perform any publicly funded activity during the aforementioned 10-day period unless the superior court temporarily enjoins the order of debarment or suspension. A stop work order shall be final at the expiration of 30 days from the date of the decision if no action for judicial review of the decision is commenced under chapter 30A.

(c) Any law enforcement agency in the commonwealth shall, at the request of the commissioner, render any assistance necessary to carry out this section, including but not limited to preventing any employee or other persons from remaining at a place of employment or job site after a stop work order has taken effect.

(d) Any employee affected by a stop work order under this section shall be paid for the first 10 days lost under the order, and any time lost under this section not exceeding 10 days shall be considered time worked under chapter 149.

(e) If an employer fails to comply with the requirements set forth in a stop work order, the commissioner may order the cessation of all or the relevant portion of the work on the project site. In addition, any employer failing to comply with the requirements set forth in the stop work order shall be prohibited from contracting, directly or indirectly, with the commonwealth or any of its agencies or political subdivisions or from performing any work as a contractor or subcontractor, for a period of up to 3 years from the date of issuance of such order. Any debarment under this section shall also apply to all affiliates of the employer, as well as any successor company or corporation that the commissioner, upon investigation, determines not to have a true independent existence apart from that of the violating employer.

(f) In cases when the decision of the commissioner or his designee is to debar the employer, the debarment shall not take effect until 10 days after the issuance of the order, provided the employer has filed an appeal under subsection (b).

(g) If any person fails to comply with the requirements set forth in any order issued by the commissioner under this section, the commissioner may apply for a criminal complaint or seek indictment for the violation of the appropriate section of this chapter.

(h) Notwithstanding subsection (b), if any civil penalty imposed by an order issued by the commissioner remains unpaid beyond the time period specified for payment in that subsection, the penalty amount and any restitution order, together with interest thereon at the rate of 18 per cent per annum, shall be a lien upon the real estate and personal property of the person who has failed to pay the penalty. The lien shall take effect by operation of law on the day immediately following the due date for payment of the fine, and, unless dissolved by payment, shall be considered, as of that date, a tax due and owing to the commonwealth, which may be collected through the procedures provided under chapter 62C. In addition to the foregoing, no officer of any corporation which has failed to pay any such penalty may incorporate or serve as an officer in any corporation which did not have a legal existence as of the date the fine became due and owing to the commonwealth.

SECTION 45. Section 25 of said chapter 151A, as so appearing, is hereby amended by striking out, in lines 112-114, the words, "and in each of said weeks has earned an amount equivalent to or in excess of the individuals' weekly benefit amount after the individual has left work" and inserting in place thereof the following words:- and has earned an amount equivalent to or in excess of 8 times the individuals weekly benefit amount after the individual has left work.

SECTION 46. Said section 25 of said chapter 151A, as so appearing, is hereby further amended by striking out the eighth and ninth paragraphs of subsection (e).

SECTION 47. Subsection (b) of section 29 of said chapter 151A, as so appearing, is hereby amended by adding the following sentence:-

Nothing in this subsection shall permit a reduction of benefits solely because an individual quits a subsidiary part-time job during his or her base period.

SECTION 48. Said chapter 151A of the General Laws is hereby further amended by inserting after section 30B the following section:-

Section 30D. (a) The department may establish and operate a self-employment assistance program as authorized under subsection (t) of section 3306 of the Internal Revenue Code. The commissioner may adopt regulations to implement this section.

(b) For the purposes of this section, the term "allowance" means an amount payable in lieu of regular benefits from the Unemployment Compensation Fund established under section 48 to an otherwise qualified individual participating in a self-employment assistance program as defined in subsection (c).

(c) For the purposes of this section, the term "self-employment assistance program" means a program under which:

(1) individuals who meet the requirements described in this subsection are eligible to receive an allowance in lieu of regular unemployment benefits for the purpose of assisting these individuals in establishing a business and becoming self-employed;

(2) the allowance payable to individuals under subsection (a) is payable in the same amount, at the same interval, on the same terms, and subject to the same conditions, as regular unemployment benefits, except:

(i) requirements relating to active search for work, availability for work, and refusal to accept work, are not applicable to such individuals;

(ii) requirements relating to disqualifying income are not applicable to income earned from self-employment entered into by such individuals as a result of their participation in self-employment assistance programs as defined in this section; and

(iii) such individuals are considered to be unemployed for the purposes of laws applicable to unemployment benefits, as long as the individuals meet the requirements applicable under this section;

(d) Individuals may receive the allowance described in subsection (b) if the individuals:

(1) are eligible to receive regular unemployment benefits or would be eligible to receive these benefits except for the requirements set forth in subparagraphs (i) and (ii) of paragraph (2) of subsection (c). For purposes of this section, regular unemployment benefits do not include additional and extended benefits;

(2) are identified under a worker profiling system within the first 5 weeks of the initial filing of the claim as individuals likely to exhaust regular unemployment benefits;

(3) are participating in self-employment assistance activities affiliated with the University of Massachusetts small business development centers, or their successor organizations, as certified by the department of workforce development;

(4) are actively engaged on a full-time basis in activities, which may include training, relating to the establishment of a business and becoming self-employed;

(5) are not individuals who have previously participated in self-employment assistance programs under this section; and

(6) the aggregate number of individuals receiving the allowance under the program does not at any time exceed 5 per cent of the number of individuals receiving regular unemployment benefits at such time.

(e) The sum of any allowance paid under this section, excluding dependency allowances, and regular benefits paid under this chapter for any benefit year shall not exceed the maximum amount of benefits paid under subsection (a) of section 30 with respect to that benefit year.

(f) Each self-employment assistance program applicant shall provide at a minimum, in such form and at such time as the commissioner may prescribe, the following information:

- (1) a description of the proposed self-employment;
- (2) a description of the applicant's knowledge of and experience in self-employment or the applicant's knowledge of and experience with the particular product to be manufactured, produced, processed, distributed or sold or service to be provided;
- (3) the names and addresses of the applicant's previous employers during the 2 years immediately preceding the date of applying for regular unemployment insurance benefits;
- (4) a description of the applicant's work activity and the applicant's previous employer's activity at the work locations to which the applicant was assigned during this 2 year period; and
- (5) any other information that the commissioner may require.

(g) Not later than 3 years after the establishment of the self-employment assistance program, the commissioner shall review and evaluate the performance of the program based on, but not limited to the following criteria:

- (1) demographic characteristics of participants;
- (2) satisfaction with the program;

- (3) participation in the program;
- (4) overall employment outcomes;
- (5) impact on unemployment insurance benefits; and
- (6) any recommendations on changes to the program.

(h) Any allowances paid under this section shall be charged to employers as provided under section 14 or section 14A, whichever is applicable, relating to the charging of regular unemployment benefits.

SECTION 49. Section 46 of said chapter 151A, as amended by section 82 of chapter 27 of the acts of 2009, is hereby further amended by inserting after subsection (i) the following subsection:-

(k) Notwithstanding any general or special law to the contrary, the commissioner may participate in the Joint Enforcement Task Force on the Underground Economy and Employee Misclassification established by Executive Order Number 499 and may share information secured under this chapter with members of the Task Force as specified in section 2 of the executive order for the purpose of fulfilling the mission of the Task Force.

SECTION 50 Said chapter 151A of the General Laws is hereby further amended by inserting after section 47A the following section:-

Section 47B. (a) No employer shall discharge, discipline, penalize or in any manner discriminate against any employee because the employee has filed a claim or instituted or caused to be instituted any proceeding under this chapter, or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this chapter.

(b) Any employee who believes that he has been discharged, disciplined, penalized, or otherwise discriminated against by any person in violation of this section may file a complaint with the commissioner alleging violation of subsection (a). Upon receipt of any such complaint, the commissioner

or the commissioner's authorized representative shall hold a hearing. After the hearing, the commissioner shall send each party a written copy of the commissioner's decision. The commissioner may award the employee all appropriate relief including rehiring or reinstatement to the employee's previous job, payment of back wages, and reestablishment of employee benefits to which the employee otherwise would have been eligible if the employee had not been discharged, disciplined, penalized, or discriminated against. Any employer who has been found to have violated subsection (a) shall be liable to pay the employee's reasonable attorney's fees and costs. Any party aggrieved by the decision of the commissioner may appeal the decision to the superior court under chapter 30A.

(c) The commissioner may request the attorney general to bring an action in the superior court for injunctive relief requiring compliance with any award, decision, or judgment issued by the commissioner under this section.

(d) Nothing in this section shall prohibit the commissioner from referring this matter to the attorney general for prosecution under section 47.

SECTION 51. Section 71 of said chapter 151A of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

Notice of any such redetermination shall be promptly given to the parties entitled to notice of the original determination, in the manner prescribed in this chapter with respect to notice of an original determination. If the amount of benefits would be increased upon such redetermination, an appeal from the redetermination solely with respect to the matters involved in such increase may be filed in the manner and subject to the limitations provided in sections 39 and 40.. If the amount of benefits would be decreased upon such redetermination, the matters involved in the decrease shall be subject to review in connection with an appeal by the claimant thereon or from any determination upon a subsequent claim for benefits which may be affected in amount or duration by the redetermination. Any proposed decrease or increase of the amount of benefits based upon the redetermination shall not take effect if any party seeks

timely review in accordance with subsection (b) of section. Subject to the same limitations and for the same reasons, the commissioner may reconsider the determination in any case in which a decision has been rendered by the board of review or a court, and may apply to the board or court which rendered the decision to revoke or modify the decision, and the board of review or court may affirm, modify or revoke the decision.

SECTION 52. Notwithstanding subsection (i) of section 14 of chapter 151A of the General Laws, for calendar year 2010, the experience rate of an employer qualifying for the rate under subsection (b) of said section 14 shall be the rate which appears in the column designated "E" in paragraph (1) of subsection (i) of said section 14.

SECTION 53. Sections 32, 33, 34, 35, 36, 37, 38 and 40 shall take effect on January 1, 2011.

EXTENSION OF CERTAIN PERMITS

SECTION 54. (a) As used in this section, the following words shall have the following meanings:

"Approval", means, except as otherwise provided in this section, any permit, certificate, order **excluding** an enforcement order, license, certification, determination, exemption, variance, waiver, building permit, or other approval or determination of rights from any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality thereof, concerning the use or development of real property, including certificates, licenses, certifications, determinations, exemptions, variances, waivers, building permits, or other approvals or determination of rights issued or made pursuant to chapter 21, chapter 21A excepting section 16, chapter 21D, sections 61 to 62H, inclusive, of chapter 30, chapters 30A, 40, 40A to 40C, inclusive, 40R, 41, 43D, section 21 of chapter 81, chapter 91, 131, 131A or 143, section 4 or 5 of chapter 249, or chapter 258 of the General Laws, or chapter 665 of the acts of 1956; or any local bylaw or ordinance.

“Development”, means the division of a parcel of land into two or more parcels, the construction, reconstruction, conversion, structural alteration, relocation or enlargement of any building or other structure or facility, or of any grading, soil removal or relocation, excavation or landfill or any use or change in the use of any building or other structure or land or extension of the use of land.

“Tolling Period”, means the period beginning January 1, 2008 and continuing through January 1, 2011.

(b) For any approval in effect or existence during the tolling period, in addition to the lawful term of the approval, the approval shall be extended for a period of 3 years.

(c) Nothing in this section shall be deemed to extend:

(1) any permit or approval issued by the government of the United States or any agency or instrumentality thereof, or to any permit or approval by whatever authority issued of which the duration of effect or the date or terms of its expiration are specified or determined by or pursuant to law or regulation of the federal government or any of its agencies or instrumentalities; or

(2) any permit, license, privilege or approval issued by the division of fisheries and wildlife pursuant to chapter 131 for hunting, fishing or aquaculture.

(d) Nothing in this section shall affect the ability of any municipal, regional or state governmental entity, including any agency, department, commission, or other instrumentality thereof to revoke or modify a specific permit or approval, or extension thereof pursuant to this section, when that specific permit or approval or the law or regulation under which the permit or approval was issued contains language authorizing the modification or revocation of the permit or approval.

(e) If any approval tolled pursuant to this section is based upon the connection to a sanitary sewer system, the approval’s extension shall be contingent upon the availability of sufficient capacity, on the part of the treatment facility, to accommodate the development whose approval has been extended. If sufficient capacity is not available, those permit holders whose approvals have been extended shall have priority with regard to the further allocation of gallonage over those approval holders who have not received approval of a hookup before the effective date of this section.

Priority regarding the distribution of further gallonage to any permit holder who has received the extension of an approval pursuant to this Act shall be allocated in order of the granting of the original approval of the connection.

(f) Nothing in this section shall be construed or implemented in such a way as to modify any requirement of law that is necessary to retain federal delegation to, or assumption by, the commonwealth of the authority to implement a federal law or program.

INFRASTRUCTURE FINANCING

SECTION 55. Section 1 of chapter 40Q of the General Laws, as appearing in the 2008 Official Edition, is hereby amended by inserting the following definition:-

“Adjustment factor”, for each fiscal year of the term of a given development program, the product of the inflation factors for each fiscal year subsequent to the first fiscal year immediately following the base date.

SECTION 56. Said section 1 is hereby further amended by striking out in the definition of “Development program”, clause (8) and inserting in its place the following clause:-

(8) the duration of the program which shall not exceed the longer of (i) 30 years from the date of designation of the district or (ii) 30 years from project stabilization (as defined in the development program).

SECTION 57. Said section 1 is hereby amended by striking out the definition of “Inflation factor” and inserting in place thereof the following definition;

"Inflation factor", if the city or town has not included an election statement in its invested revenue district development program, a ratio: (1) the numerator of which shall be the total assessed value of all parcels of residential, commercial and industrial real estate that are assessed at full and fair cash value for the current fiscal year minus the new growth adjustment factor for the current fiscal year attributable to the residential, commercial and industrial real estate as determined by the commissioner of revenue pursuant to paragraph (f) of section 21C of chapter 59; and (2) the denominator of which shall be the total assessed value for the preceding fiscal year of all the parcels included in the numerator; provided, however, the ratio shall not be less than 1. In the event that the proposed Invested Revenue District does not include residential property, then the assessed value attributable to residential property shall not be included in either the numerator or the denominator in calculating the inflation factor.

SECTION 58. Said section 1 is hereby further amended by striking out in the definition of "Invested revenue district development program" between subparagraphs (6) and (7) the word "and".

SECTION 59. Said section 1 is hereby further amended by inserting in the definition of "Invested revenue district program" after clause (7) the following clause:-

, and (8) if applicable, a statement of the city or town electing that the original assessed value not be increased by the adjustment factor.

SECTION 60. Said section 1 is hereby further amended by striking out the definition of "Original assessed value" and inserting in its place the following definition:-

"Original assessed value", the aggregate assessed value of the invested revenue district as of the base date. If the city or town has not included an election statement in its investment district development program, the original assessed value in any year shall be equal to the original assessed value as of the base date multiplied by the adjustment factor for that fiscal year.

SMALL BUSINESS REGULATORY STATEMENTS

SECTION 61. Section 2 of chapter 30A of the General Laws, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

The notice shall also include an estimate of the proposed regulation's fiscal effect including that on the public and private sector, for its first and second year, and a projection over the first 5-year period, or a statement of no fiscal effect. Unless the proposed regulation has the purpose of setting rates within the commonwealth, the notice shall also include a statement considering the impact of the proposed regulation on small business. This statement of consideration shall include, but not be limited, to a description of the projected reporting, record keeping and other compliance requirements of the proposed regulations, the appropriateness of performance standards versus design standards and an identification of all relevant regulations of the adopting agency that may duplicate or conflict with the proposed regulation.

SECTION 62. Section 3 of said chapter 30A, as so appearing, is hereby amended by inserting after the third paragraph the following paragraph:-

The notice shall also include an estimate of the proposed regulation's fiscal effect including that on the public and private sector, for its first and second year, and a projection over the first 5-year period,

or a statement of no fiscal effect. Unless the proposed regulation has the purpose of setting rates within the commonwealth, the notice shall also include a statement considering the impact of the proposed regulation on small business. This statement of consideration shall include, but not be limited, to a description of the projected reporting, record keeping and other compliance requirements of the proposed regulations, the appropriateness of performance standards versus design standards and an identification of all relevant regulations of the adopting agency that may duplicate or conflict with the proposed regulation.

SECTION 63. Section 5 of said chapter 30A, as so appearing, is hereby amended by striking out the second paragraph.