

HOUSE No. 4741

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, March 8, 2006.

The committee on Labor and Workforce Development, to whom was referred the petition (accompanied by bill, House, No. 3577) of Brian S. Dempsey and others relative to the creation of technical assistance centers within regional planning districts for the delivery of coordinated, comprehensive and continuing services to local governments, reports recommending that the accompanying bill (House, No. 4741) ought to pass.

For the committee,

MICHAEL J. RODRIGUES.

The Commonwealth of Massachusetts

In the Year Two Thousand and Six.

AN ACT RELATIVE TO STREAMLINING & EXPEDITING THE PERMITTING PROCESS IN THE COMMONWEALTH.

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 supplementing certain items in the
2 general appropriation act and other appropriation acts for fiscal
3 year 2006 the sums set forth herein are hereby appropriated from
4 the General Fund unless specifically designated otherwise herein
5 or in said appropriation acts, for the several purposes and subject
6 to the conditions specified herein or in said appropriation acts, and
7 subject to the provisions of law regulating the disbursement of
8 public funds for the fiscal year ending June 30, 2006 provided,
9 that said sums shall be in addition to any amounts previously
10 appropriated and made available for the purposes of said items;
11 and provided further, that all funds appropriated in this section
12 shall be available for expenditure through June 30, 2007.

1 SECTION 2. To provide for certain unanticipated obligations
2 of the commonwealth, to provide for an alteration of purpose for
3 current appropriations, and to meet certain requirements of law,
4 the sums set forth herein are hereby appropriated from the General
5 Fund unless specifically designated otherwise herein, for the sev-
6 eral purposes and subject to the conditions specified herein, and
7 subject to the provisions of law regulating the disbursement of
8 public funds for the fiscal year ending June 30, 2006 provided,
9 that said sums shall be in addition to any amounts previously
10 appropriated and made available for the purposes of said items;
11 and provided further, that all funds appropriated in this section
12 shall be available for expenditure through June 30, 2007.

**EXECUTIVE OFFICE OF
ECONOMIC DEVELOPMENT.**

Office of the Secretary.

7002-0013	<p>For the streamlining of state and local permitting processes; provided, that not less than \$3,000,000 shall be expended for technical assistance grants as established in section 3(b) of chapter 43D of the General Laws to be administered by the interagency permitting board; provided further that not less than \$500,000 shall be expended for the creation of the Massachusetts permit regulatory office and the state permit ombudsman who will direct the interagency permitting board to conduct state permit evaluation and to overhaul state agency services for streamlined and expedited permitting; provided further, that such analysis and evaluation shall include the executive office of environmental affairs, the executive office of public safety, the executive office of transportation, and the executive office economic development; provided further, that not less than \$500,000 shall be expended by the Massachusetts Development Finance Agency for permitting specialists in each of their regional offices, in consultation with the Massachusetts permit regulatory office to work with new and existing businesses to assist in their relocation and expansions permitting, licensing, and regulatory processes, to help foster job creation efforts within the municipality and region.....</p>	4,000,000
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- 1 SECTION 3. Section 4G of Chapter 7 of the General Laws, as
2 appearing in the 2004 Official Edition, is hereby amended by
3 adding the following:—
4 It shall be the responsibility of said administrative magistrate to
5 cause a statistical list to be maintained of all matters heard or con-
6 ferred by each administrative magistrate as relating to appeals
7 from the Department of Environmental Protection and of all deci-
8 sions filed as relating to appeals from the Department of Environ-
9 mental Protection by each administrative magistrate and
10 bi-annually shall cause said list to be reported to the House and
11 Senate Committees on Ways and Means as well as to the director
12 of the Massachusetts permit regulatory office in section 3H of
13 chapter 23A, as so created in section 4 of this act.
14 The statistical list to be maintained by the administrative mag-
15 istrate shall include but shall not be limited to the following infor-
16 mation; (1) the number of appeals filed; (2) the type of appeal; (3)
17 the number of instances where the case was settled; (4) the total
18 number of simplified hearings; and (5) the length of time from ini-
19 tial filing of the appeal with the division of administrative law
20 appeal until a written decision is made.

21 It shall be the responsibility of said administrative magistrate to
22 verify that written decisions are issued within 90 days after a
23 hearing is concluded and the record is closed.

1 SECTION 4. Chapter 23A, as appearing in the 2004 Official
2 Edition of the General Laws, is hereby amended by striking out
3 section 3H, and inserting in place thereof the following section:—

4 Section 3H. The Governor shall appoint the director of the
5 Massachusetts permit regulatory office within the executive office
6 of economic development. The director, who shall have experi-
7 ence with permitting and business development and who shall
8 serve as the primary state ombudsman to new and expanding busi-
9 nesses, to provide one-stop licensing for businesses and develop-
10 ment in order to streamline and expedite the process of obtaining
11 state licenses, permits, state certificates, state approvals, state reg-
12 istrations, state charters and other requirements of law. The
13 ombudsman shall facilitate communication between the municipi-
14 pality and state agencies. The Massachusetts permit regulatory
15 office shall consult with each regional office of the Massachusetts
16 office of business development and each regional office of the
17 Massachusetts development financing agency, in order to better
18 serve local businesses.

19 There shall be a permitting specialist within each of the five
20 regional offices of the Massachusetts development financing
21 agency. It shall be the responsibility of the specialist to work with
22 new and existing businesses to assist in their selection, applica-
23 tion, and finalizing of permits, local approvals, licensing and reg-
24 ulations. The specialists shall communicate with the regional
25 planning agencies and the municipal officials responsible for local
26 review procedures, to determine the municipal perspective on the
27 proposed project.

28 The ombudsman shall file an annual report with the house and
29 senate committees on ways and means by January 1 of each year
30 on the activities of the Massachusetts permit regulatory office and
31 the interagency permitting board, including legislative recommen-
32 dations on business development and expansion efforts.

1 SECTION 5. Chapter 23A of the General Laws, as appearing in
2 the 2004 Official Edition, is hereby amended by adding the
3 following section:—

4 Section 62. There shall be an interagency permitting board
5 within the department of economic development. The members of
6 the board shall be the state permit ombudsman who will serve as
7 the chair of the interagency permitting board, the secretary of eco-
8 nomic development, the secretary of transportation, the secretary
9 of environmental affairs, the secretary of public safety, the
10 director of the department housing and community development,
11 the director of the department of business and technology, the
12 director of the department workforce development, the director of
13 the department of consumer affairs and business regulation, the
14 chair of the commonwealth development coordinating council,
15 and the executive director of the Massachusetts Development
16 Finance Agency; or their designees. Five members shall be a
17 quorum for the transaction of business. The chair shall communi-
18 cate with municipal officials responsible for local review proce-
19 dures to determine the municipal perspective on the proposed
20 project, and to facilitate communication between the municipality
21 and state agencies. The interagency permitting board shall consult
22 with each regional office of the Massachusetts office of business
23 development as well as each regional planning agency, in order to
24 better serve local businesses. At the direction of the chair, the
25 board shall meet no less than 8 times a year, and shall monitor the
26 development of priority development sites as provided for in
27 chapter 43D and investigate ways in which to expedite priority
28 development site projects. The board shall evaluate state agency
29 permit procedures and recommend changes for improved effi-
30 ciency. The secretary of economic development shall work with
31 the chair of the interagency permitting board and senior staff
32 members to develop a recommended format for an application
33 form and procedure which shall be used by all executive offices
34 when possible.

1 SECTION 6. Chapter 29 of the General Laws, as appearing in
2 the 2004 Official Edition, is hereby amended by adding after
3 section 2NNN, the following section:—

4 Section 2000. There shall be established and set upon the
5 books of the commonwealth a separate fund to be known as the
6 District Local Technical Assistance Fund. Amounts credited to the
7 fund shall be administered by the Bureau of Municipal Assistance

8 within the Department of Revenue which shall determine that the
9 funds are used for activities consistent with the purpose of this act
10 and the Massachusetts management and accounting reporting
11 system, so-called. Said amounts shall be used solely for the
12 administration and implementation of the provisions of this act.

13 Each regional planning district created under chapter 40B or by
14 special act shall be granted a fixed annual base allocation of
15 \$150,000 from said fund, with the exception of the Metropolitan
16 Area Planning Council, which shall receive a base allocation of
17 \$200,000, the Martha's Vineyard commission which shall receive
18 a full annual allocation of \$100,000 and the Nantucket planning
19 and economic development commission which shall receive a full
20 annual allocation of \$50,000. One half of the remainder of the
21 amount shall be apportioned among said entities based on the per-
22 centage of the commonwealth's population served by each entity,
23 with the other half apportioned based on the percentage of the
24 commonwealth's municipalities served by each entity. Notwith-
25 standing the foregoing, the full annual allocation to the Martha's
26 Vineyard commission shall not exceed \$100,000, the full annual
27 allocation to the Nantucket planning and economic development
28 commission shall not exceed \$50,000, and the population and
29 number of municipalities on Martha's Vineyard and Nantucket
30 shall not be included in calculating the distribution of the
31 remainder as provided above. Recipients of said funds shall pro-
32 vide matching resources of not less than 10%, no more than $\frac{1}{2}$ of
33 which may be in-kind services, and shall report annually on their
34 expenses and program activities to the commonwealth and local
35 governments.

1 SECTION 7. The state comptroller is hereby authorized and
2 directed to transfer \$1,850,000 from the general fund to the Dis-
3 trict Local Technical Assistance Fund established pursuant to
4 section 2000 of chapter 29, as so created in section 6 of this act,
5 of the General Laws.

6 The fund shall be a separate and expendable trust fund adminis-
7 tered by the Division of Local Services within the Department of
8 Revenue. There shall be credited to the fund, revenue from appro-
9 priations or other monies authorized by the general court and
10 specifically designated to be credited to the fund and investment

11 income earned on the fund's assets, and all other sources. Money
12 remaining in the fund at the end of a fiscal year shall not revert to
13 the General Fund, and any such funds shall be allocated to the
14 regional planning agencies the following fiscal year pursuant to
15 the formula established in section 2000 of chapter 29 of the
16 General Laws.

1 SECTION 8. Section 10A of Chapter 30A of the General Laws,
2 as appearing in the 2004 Official Edition, is hereby amended by
3 adding the following:—

4 The right of intervention provided by this section shall not be
5 available in or with respect to any proceeding concerning or
6 arising out of a decision of the department of environmental pro-
7 tection under or pursuant to chapter 91 of the General Laws
8 including, without limitation, licenses, license determinations,
9 applicability determinations, and municipal harbor plan approvals.

10 By no later than 180 days following the effective date of this
11 bill, the department of environmental protection shall revise its
12 regulations as necessary to be consistent with Section 10A hereof.

1 SECTION 9. Section 18 of chapter 91 of the General Laws, as
2 appearing in the 2004 Official Edition, shall be amended by
3 inserting the following paragraph, after the seventh paragraph:—

4 Notwithstanding any other General Law to the contrary, no
5 person or persons not aggrieved by a decision of the department to
6 grant a license pursuant to this chapter or determining that no
7 license is required under this chapter may appeal said grant or
8 determination to the courts of the Commonwealth.

1 SECTION 10. Section 9 of Chapter 40A of the General Laws,
2 as appearing in the 2004 Official Edition, is hereby amended by
3 striking out the fifteenth paragraph and inserting the following in
4 place thereof:—

5 Zoning ordinances or by-laws shall also provide that research
6 and development uses, whether or not such uses are currently per-
7 mitted as a matter of right, may be permitted in any non-residen-
8 tial zoning district upon the issuance of a special permit provided
9 the granting authority finds that such uses do not substantially
10 derogate from the public good. "Research and development uses"

11 shall include any one or more of investigation, development, labo-
12 ratory and similar research uses and any related office and, subject
13 to the following limitations, limited manufacturing uses and uses
14 accessory to any of the foregoing in any field of science. "Limited
15 manufacturing" shall, subject to the issuance of such special
16 permit, be an allowed use provided that the following require-
17 ments are satisfied: (1) such manufacturing activity is related to
18 research uses; (2) no manufacturing activity customarily occurs
19 within fifty (50) feet of a residential district; and (3) substantially
20 all manufacturing activity customarily occurs inside of buildings
21 with any manufacturing activities customarily occurring outside
22 of buildings subject to such conditions as may be imposed in the
23 special permit.

1 SECTION 11. Section 11 of Chapter 40A of the General Laws,
2 as appearing in the 2004 Official Edition, is hereby amended by
3 striking out the last paragraph, and inserting in place thereof the
4 following:—

5 Upon the granting of a variance or special permit, or any exten-
6 sion, modification or renewal thereof, the permit granting
7 authority or special permit granting authority shall issue to the
8 owner and to the applicant if other than the owner a copy of its
9 decision, certified by the permit granting authority or special
10 permit granting authority, containing the name and address of the
11 owner, identifying the land affected, setting forth compliance with
12 the statutory requirements for the issuance of such variance or
13 permit and certifying that copies of the decision and all plans
14 referred to in the decision have been filed with the planning board
15 and city or town clerk. No variance or special permit, or any
16 extension, modification or renewal thereof, shall take effect until a
17 copy of the decision bearing the certification of the city or town
18 clerk that twenty days have elapsed after the decision has been
19 filed in the office of the city or town clerk and either that (i) no
20 appeal has been filed or such appeal has been filed within such
21 time, or (ii) if it is a variance or special permit which has been
22 approved by reason of the failure of the permit granting authority
23 or special permit granting authority to act thereon within the time
24 prescribed, a copy of the application for the special permit or peti-
25 tion for the variance accompanied by the certification of the city

26 or town clerk stating the fact that the permit granting authority or
27 special permit granting authority failed to act within the time pre-
28 scribed and whether or not an appeal has been filed within such
29 time and that the grant of the application or petition resulting from
30 such failure to act has become final, is recorded in the registry of
31 deeds for the county and district in which the land is located and
32 indexed in the grantor index under the name of the owner of
33 record or is recorded and noted on the owner's certificate of title.
34 The fee for recording or registering shall be paid by the owner or
35 applicant. The provisions of this paragraph shall in no event ter-
36 minate or shorten the tolling, during the pendency of any appeals,
37 of the six month periods provided under the second paragraph of
38 section 6 of this chapter.

1 SECTION 12. Chapter 40B of the General Laws, as appearing
2 in the 2004 Official Edition, is hereby amended by adding the
3 following section:—

4 Section 30. (a) There shall be established within each regional
5 planning district created under this chapter or by special act, a
6 technical assistance center for the delivery of coordinated, com-
7 prehensive, and continuing technical services to and among local
8 governments for the purpose of expediting permitting. Said
9 regional planning districts shall, at the request of a member city or
10 town, provide said city or town services and assistance to:

- 11 1. reduce unnecessary delays and create certainty and pre-
12 dictability as well as promote an efficient and timely
13 appeals process;
- 14 2. create a positive regulatory culture with a bias toward
15 making decisions;
- 16 3. conduct on-going staff training to address applicant ques-
17 tions;
- 18 4. select sites for expedited permitting, while identifying
19 potential issues, concerns, or problem areas;
- 20 5. prepare applications for approval of such sites;
- 21 6. establish clear criteria for determining the completeness of
22 permit applications;
- 23 7. update or eliminate conflicting, cumbersome, and redun-
24 dant permit processes and procedures;

- 25 8. examine and redraft zoning by-laws to aid in the balanced
26 development of the community; and
27 9. develop plans and incentives for residential and commer-
28 cial development, while taking steps to mitigate the envi-
29 ronmental and transportation impacts of new growth.
30 (b) A city or town shall not be required to receive technical
31 assistance from a regional planning agency in order to participate
32 in the expedited permitting process, pursuant to Chapter 43D of
33 the General Laws.

1 SECTION 13. Chapter 43D of the General Laws, as inserted by
2 section 94 of chapter 149 of the Acts of 2004, is hereby amended
3 by striking out the chapter in its entirety and inserting in place
4 thereof the following:—

5 **CHAPTER 43D.**
6 **Expedited Permitting.**

7 Section 1. Notwithstanding any general or special law, charter
8 provision, by-law or ordinance to the contrary this chapter shall
9 apply upon its acceptance by any city or town.

10 Section 2. For the purposes of this chapter, the following words
11 shall have the following meanings unless the context clearly
12 requires otherwise:

13 “Governing body”, in a city having a Plan D or Plan E charter
14 the city manager and the city council and in any other city the
15 mayor and city council, and in towns the board of selectmen.

16 “Interagency permitting board”, the board, as described in
17 section 62 of chapter 23A, established to review and approve or
18 deny municipal priority development site proposals and to grant
19 and administer technical assistance grants.

20 “Issuing authority”, a local board, commission, department or
21 other municipal entity that is responsible for issuing permits,
22 granting approvals or otherwise involved in land use development
23 including redevelopment of existing buildings and structures.

24 “Permit”, a permit formal determination, order of conditions,
25 license, certificate, authorization, registration, plan approval,
26 zoning relief or other approval or determination with respect to
27 the use or development of land, buildings, or structures required

28 by any issuing authority including but not limited to those under
29 statutory authorities contained in chapter 40A, sections 81A to
30 81J, inclusive, and sections 81X to 81GG, inclusive, of chapter
31 41, sections 40 and 40A of chapter 131, sections 26 to 32, inclu-
32 sive, of chapter 111, chapter 40C, sections 13 and 14 of chapter
33 148, chapter 772 of the acts of 1975, or otherwise under state law
34 or local by-law or ordinance, and all associated regulations, by-
35 laws and rules, but not including building permits or approvals
36 pursuant to sections 81O to 81W, inclusive, of chapter 41.
37 "Permit" shall not include the decision of an agency to dispose of
38 property under its management or control; predevelopment
39 reviews conducted by the municipal office of permit coordination
40 or a technical review team; or permits granted by the Massachu-
41 setts Water Resources Authority.

42 "Priority Development site", a privately or publicly owned
43 property that is (1) commercially or industrially zoned, (2) eli-
44 gible under applicable zoning provisions, including special per-
45 mits or other discretionary permits, for the development or
46 redevelopment of a building at least 50,000 square feet of gross
47 floor area in new or existing buildings or structures, and (3) desig-
48 nated as a priority development site by the board. Several parcels
49 or projects may be included within a single priority development
50 site.

51 "Secretary", the secretary of the executive office of economic
52 development.

53 "Technical Review team", an informal working group con-
54 sisting of representatives of the various issuing authorities
55 designed by the head of their issuing authority to review requests
56 submitted under this chapter. The technical review team shall not
57 include members of the zoning board of appeals.

58 Section 3. (a) For a property to receive a designation as a pri-
59 ority development site, the governing body must file a formal pro-
60 posal with the board. The proposal shall include: (1) a detailed
61 description of the property, (2) good faith commitment to comply
62 with the provisions of this chapter, (3) written authorization of the
63 property owner, and (4) at the discretion of the governing body, a
64 request for a technical assistance grant. (b) All requests for a tech-
65 nical assistance grant shall include a detailed description of how
66 the grant will be used and shall be submitted with the formal pro-

67 posal as described in subsection (a). The grants shall be used to
68 implement the requirements of this chapter, which shall include
69 but not be limited to, professional staffing assistance, local gov-
70 ernment reorganization, and consulting services. The amount of
71 any single grant awarded from the fund, shall not exceed
72 \$100,000. The board shall review and determine eligibility of
73 such proposals and approve requests within 60 days of receipt of
74 such proposals. In special circumstances where a specific and
75 originally unforeseen need can be demonstrated, the governing
76 body may be eligible for an additional technical assistance grant if
77 approved by the board and the secretary.

78 Section 4. Within 120 days of the acceptance of this chapter the
79 governing body shall implement the following: (a) appoint a
80 single point of contact to serve as the primary municipal liaison
81 for all issues relating to the provisions of this chapter. (b) amend
82 rules and regulations on permit issuance to conform to this
83 chapter, (c) along with the issuing authority, collect and ensure the
84 availability of all governing statutes, local ordinances, by-laws,
85 regulations, procedures and protocols pertaining to each permit.
86 (d) establish a procedure whereby the governing body shall deter-
87 mine all permits, reviews and predevelopment reviews required
88 for a project; all required scoping sessions, public comment
89 periods and public hearings; and all additional specific applica-
90 tions and supplemental information required for review, including,
91 where applicable, the identification of potential conflicts of juris-
92 diction or substantive standards with abutting municipalities and a
93 procedure for notifying the applicant. (e) establish a procedure,
94 following the notification of the required submissions for review
95 as set forth in subsection (d) of this section, for determining if all
96 the materials required for the review of the project have been
97 completed.

98 Section 5. (a) Priority development permit reviews and final
99 decisions shall be completed within 180 days subject to the exten-
100 sion herein. The said time period shall begin the day after the
101 issuance of the notice that the application materials are complete
102 pursuant to subsection (e) of section 4. The governing body shall
103 notify the applicant in writing within 20 business days from
104 receipt of the completed form of additional information needed or
105 requirements that it may have. The governing body may provide

106 for pre-application conferences to facilitate this process. (b) The
107 resubmission of the application or the submission of such addi-
108 tional information required by the governing body shall com-
109 mence a new 30-day period for review of the additional
110 information. (c) If, at any time, an issuing authority determines
111 that a permit or other predevelopment review is required which it
112 did not previously identify, it shall immediately notify the appli-
113 cant by certified mail and shall where public notice and comment
114 or hearings are not required complete action on the application
115 filed for the previously unidentified permit within 30 days of
116 receipt of the completed application or not later than the latest
117 required decision date for a pending permit, whichever is later.
118 Where public notice and comment or hearing are required for the
119 previously unidentified permit, the required action date shall be
120 not later than 30 days from the later of the close of the hearing or
121 comment period, which shall be scheduled to commence as
122 quickly as publication allows. The failure of the governing body
123 to notify an applicant of the requirement of a public hearing or
124 comment period shall not constitute a waiver of said requirement.

125 Section 6. In accordance with the provisions of this chapter, the
126 governing body:

127 (a) may establish an informal procedure to allow permit appli-
128 cants to obtain advisory review by a technical review team of any
129 issue of law, policy, procedure, or classification that the applicant
130 claims is in dispute between the applicant and the issuing
131 authority which has affected or will affect the ability of the appli-
132 cant to obtain timely review of the permit application. Procedures
133 shall provide for filing a request for review by the applicant, rep-
134 resentation by the issuing authority on the technical review team,
135 and a period not to exceed 30 days for issuance of a decision. Use
136 of this procedure shall toll the review time periods. An advisory
137 determination or ruling made pursuant to a procedure established
138 in this section shall not constitute a decision or final action and
139 shall not be subject to any right of administrative or judicial
140 review; (b) may establish an additional and separate fee, in addi-
141 tion to any fees that may be assessed by an issuing authority in
142 order to carry out its duties under any provision of this chapter,
143 and may deposit the fees in a special account to be maintained by
144 the treasurer. The special account, including any accrued interest

145 shall be expended at the direction of the governing body, without
146 further appropriation; provided, however, that the funds shall be
147 expended only in carrying out its responsibilities under this
148 chapter.

149 Section 7. Failure by any issuing authority to take final action
150 on a permit or approval within said 180-day period or extended
151 time, if applicable, shall be deemed a grant of the relief requested
152 of that authority. In that event, within 14 days after the date of
153 expiration of the time period, the applicant shall file an affidavit
154 with the city or town clerk, attaching the application, setting forth
155 the facts giving rise to said grant and stating that notice of the
156 grant has been mailed, by certified mail, to all parties to the pro-
157 ceedings and all persons entitled to such notice of hearing in con-
158 nection with the application.

159 Section 8. The said grant shall not occur where (1) the gov-
160 erning body has made a timely determination that the application
161 is not complete in accordance with its requirements and notified
162 the applicant as set forth herein and the applicant has not made a
163 timely response to complete the application; (2) the governing
164 body has determined that the final application contained false or
165 misleading information; or (3) the governing body has determined
166 that substantial changes to the project affect the information
167 required to process the permit application have occurred since the
168 filing of the application.

169 Section 9. The 180 day time period may be waived or extended
170 for good cause upon written request of the applicant with the con-
171 sent of the governing body or upon written request of the issuing
172 authority with the consent of the applicant. The said 180 day
173 period may be extended for up to 30 days by the governing body
174 in the event an additional permit or other predevelopment review
175 is required in accordance with section 5 (c); provided however,
176 that the requirement for the previously unidentified permit or
177 review has been determined no less than 150 days after the
178 issuance of the notice of completeness. The 180 day time period
179 shall be extended when the issuing authority determines either
180 (1) that action by another federal, state or municipal government
181 agency is required before the issuing authority may act; (2) that
182 judicial proceedings affect the ability of the issuing authority or
183 applicant to proceed with the application; or (3) that enforcement

184 proceedings that could result in revocation of an existing permit
185 for that facility or activity and denial of the application have been
186 commenced. In such circumstances, the issuing authority must
187 provide written notification to the secretary. When the reason for
188 the extension is no longer applicable, the issuing authority shall
189 immediately notify the applicant, and shall complete its decision
190 within the time period specified in this section, beginning the day
191 after the notice is issued. An issuing authority may not use lack of
192 time for review as a basis for denial of a permit if the applicant
193 has provided a complete application and met all other obligations
194 in accordance with this chapter. If the Martha's Vineyard commis-
195 sion as described in chapter 831 of the acts of 1977 or the Cape
196 Cod commission as described in chapter 716 of the acts of 1989
197 require or allow referral of a permit application, the 180-day time
198 period as described in this chapter shall be suspended upon receipt
199 of the permit application. The 180-day time period shall recom-
200 mence at the completion of the regional commission's review; but
201 if either commission denies a regional permit on a priority devel-
202 opment site, section 7 shall not apply and the issuing authority,
203 upon receipt of the denial notice, shall permanently cease the 180-
204 day time period.

205 Section 10. (a) Appeals from issuing authority decisions or
206 from a grant by operation of law must be filed within 20 days
207 after the last such individual permitting decision has been ren-
208 dered or within 20 days after the conclusion of the 180 day period
209 as set forth in Section 5 A, whichever is later. The 180 day period
210 shall be increased by the number days in any extension granted
211 under this chapter. (b) A person aggrieved by a final decision of
212 any issuing authority, or by the failure of such authority to take
213 final action concerning any such application within the time speci-
214 fied, whether or not previously a party to the proceeding, or any
215 governmental officer, board, or agency, may appeal to the division
216 of administrative law appeals by bringing an action within 20 days
217 after a written decision was or should have been rendered.
218 Appeals from decisions of multiple permitting authorities shall be
219 filed simultaneously and shall be consolidated for purposes of
220 hearing and decision. Nothing in this section shall apply to
221 appeals pursuant to sections 40 and 40A of chapter 131, which
222 shall continue to be appealed in accordance with said chapter,

chapter 30A and applicable regulations. (c) When hearing appeals hereunder, the said division shall revise its rules, procedures and regulations to the extent necessary to accord with the requirements of this chapter. (d) The said division shall render a final written decision within 90 days of the receipt of the appeal. Thereafter, an aggrieved party may appeal to the land court department by bringing an action within 20 days after the said division has rendered a final decision.

Section 11. (a) Permits shall not transfer automatically to successors in title, unless the permit expressly allows the transfer without the approval of the issuing authority. (b) Issuing authorities having substantive jurisdiction over permit issuance may develop procedures for simplified permit renewals and annual reporting requirements. If the procedures are not developed, renewals of permits shall be governed by the same procedures and timelines as specified in conjunction with this chapter. (c) Issuing authorities shall make every reasonable effort to review permit modification requests within as short a period as is feasible to maintain the integrity of the expedited permitting process. An issuing authority shall inform an applicant within 20 business days of receipt of a request whether the modification is approved, denied, determined to be substantial or additional information is required by the issuing authority in order to issue a decision. If additional information is required, the issuing authority shall inform an applicant within 20 business days after receipt of the required additional information whether the modification is approved or denied or that additional information is still required by the issuing authority in order to render a decision. In cases in which the issuing authority determines that a requested modification is substantial, the original review period for permit categories as set forth in section 5 shall apply. (d) Permits issued pursuant to this chapter shall expire five years from the date of the expiration of the applicable appeal period unless exercised sooner. Where permits cover multiple buildings, commencement and continuation of construction of one building shall preserve the permit validity. Changes in the law subsequent to the issuance of permits based upon the priority proposal shall not invalidate the permits or review certificates. Nothing in this section shall limit the effectiveness of section 6 of chapter 40A.

262 Section 12. A priority development site shall be eligible for the
263 following:

264 (a) priority consideration for community development action
265 grants, and public works economic development grants;

266 (b) priority consideration for other state resources such as
267 quasi-public financing and training programs;

268 (c) brownfields remediation assistance;

269 (d) enhanced marketing by the Massachusetts office of business
270 development, and the Massachusetts alliance for economic devel-
271 opment;

272 (e) technical assistance provided by the regional planning
273 council.

274 Section 13. (a) Technical assistance funding is intended to be a
275 one-time grant to municipalities, provided the municipality has
276 adopted expedited permitting as provided in Chapter 43D, sec-
277 tions 3 through 11; (b) A municipality will be eligible for tech-
278 nical assistance funding, which may be less than the previous
279 amounts awarded, for a second time if it has identified and suc-
280 cessfully permitted one priority development site.

281 Section 14. Any required reviews established under sections 61
282 to 62H, inclusive, of chapter 30 or sections 26 to 27C, inclusive,
283 of chapter 9 shall be conducted concurrently and shall conclude
284 within 120-days of a state determination of completeness of
285 required review materials, as shall be established by the executive
286 office of environmental affairs. The secretary of environmental
287 affairs and the state secretary shall establish time frames for all
288 required filings and additional filings by the applicant in order to
289 comply with this section. In the event an applicant fails to comply
290 with all relevant time frames, the time shall be tolled until the
291 applicant files the required documents.

292 Section 15. Nothing in this chapter shall be construed to alter
293 the substantive jurisdictional authority of issuing authorities.

294 Section 16. The secretary shall promulgate such rules and regu-
295 lations as are necessary to implement the purposes of this chapter.

1 SECTION 14. Section 21 of Chapter 81, as appearing in the
2 2004 Official Edition, is hereby amended by adding the
3 following:—

4 Enforceable guidelines shall be developed by the commissioner
5 to effectuate the purposes of this section. Said enforceable guide-
6 lines shall be issued by July 1, 2006.

1 SECTION 15. Chapter 212 of the General Laws, as appearing
2 in the 2004 Official Edition, is hereby amended by inserting at the
3 end thereof the following new chapter 212A:—

4 **Chapter 212A Permit Division.**

5 Section 1. There shall be established a separate division of the
6 Superior Court Department with jurisdiction over actions as
7 defined in section 4. This division shall be known as the Permit
8 Division of the Superior Court Department.

9 Section 2. The Permit Division shall consist of four justices
10 from any department of the Trial Courts of the Commonwealth,
11 who shall be appointed by the Chief Justice for Administration of
12 the Trial Courts in consultation with the Chief Justices of the fore-
13 going Departments to serve for terms with a duration of five
14 years. The justices of the Permit Division shall be appointed from
15 justices of any Departments of the Trial Courts then sitting on the
16 effective date of this Chapter or hereafter appointed. After the ini-
17 tial appointment of justices to the Permit Division, the Chief Jus-
18 tice for Administration of the Trial Courts shall also appoint
19 justices to fill any vacancy in the Permit Division which occurs
20 subsequent to the initial appointment of justices pursuant to this
21 section, again in consultation with the Chief Justices of the fore-
22 going Departments of the Trial Courts. Any such justice so
23 appointed to fill a vacancy shall serve for a term of five years. The
24 Chief Justice for Administration of the Trial Courts may reappoint
25 a justice to serve additional five-year terms. In making such
26 appointments, the Chief Justice for Administration shall make rea-
27 sonable efforts to select justices who by reason of their past expe-
28 rience in private practice or on the bench have particular skills
29 related to environmental and land use permitting and/or disputes
30 concerning the same.

31 Section 3. Sessions of the Permit Division shall be held in Suf-
32 folk, Middlesex, Essex, Norfolk, Plymouth, Worcester and Ham-
33 pden counties, and such other counties as the Chief Justice of the
34 Superior Court Department shall from time to time designate.

35 Section 4. The Permit Division shall have original jurisdiction,
36 concurrently with the Superior Court, over civil actions in whole
37 or part: (a) based on or arising out of the appeal of any municipal,
38 regional or state permit or approval concerning the use or devel-
39 opment of real property; (b) arising under or based on or relating
40 to chapters 21, 30 sections 61-62H, 30A, 40A, 40B, 40C, 40R, 41,
41 43D, 91, 131, 131A, and 249, section 4, of the General Laws and
42 Chapter 665 of the Acts of 1956; (c) seeking equitable or declara-
43 tory relief (i) designed to secure or protect the issuance of any
44 municipal, regional or state permit or approval concerning the use
45 or development of real property or (ii) challenging the interpreta-
46 tion or application of any municipal, regional or state rules, regu-
47 lations, statutes, laws, bylaws, ordinances concerning any permit
48 or approval; (d) claims under chapter 231, section 6F or for mali-
49 cious prosecution, abuse of process, intentional or negligent inter-
50 ference with advantageous relations or intentional or negligent
51 interference with contractual relations arising out of or based on
52 or relating to the appeal of any municipal, regional, state permit or
53 approval concerning the use or development of real property;
54 and/or (e) any other claims between persons holding any right,
55 title or interest in land and any municipal, regional or state board,
56 authority, commission or public official based on or arising out of
57 any action taken with respect to any permit or approval con-
58 cerning the use or development of real property.

59 Section 5. Notwithstanding any other General Law to the con-
60 trary, any action not commenced in the Permit Division, but
61 within the jurisdiction of the Permit Division as provided in
62 Section 4 of this chapter, shall be transferred to the Permit Divi-
63 sion upon motion by any party to the Chief Justice for Adminis-
64 tration of the Trial Courts. There shall be a presumption against
65 more than one transfer of a case between any Departments of the
66 Trial Court.

67 Section 6. Each case filed in the Permit Division shall be
68 assigned to a single judge from the commencement to the conclu-
69 sion of the case. The judge assigned to the case will hold all hear-
70 ings and preside at the trial, except in the case of death, disability,
71 expiration of judicial appointment to the Division or emergency.

72 Section 7. At the time of filing, all cases in the Permit Division
73 shall be assigned to one of the following tracks: nine (9) months

74 to trial (Average or “A” Track); six (6) months to trial (Fast or “F”
75 Track); or three (3) months to trial (Accelerated or “X” Track).
76 Particular classes of cases shall be assigned to each of these tracks
77 in accordance with regulations established by the Justices of the
78 Permit Division. On motion by a party or the Court’s own motion,
79 where an exceptional cause is shown, cases may be reassigned to
80 a different track or tracking order dates may be extended or modi-
81 fied.

82 Section 8. The final disposition of cases in the Permit Division
83 by the Court by dismissal, judgment or otherwise shall be in
84 accordance with the following timeframes which shall commence
85 on the filing of the trial transcript with the Court (or in the case of
86 a summary judgment motion, from the date the motion is taken
87 under advisement): A Track in three (3) months, F Track in two
88 (2) months and X Track in one (1) month.

1 SECTION 16. Chapter 45 of the Acts of 2005 is hereby
2 amended by striking item 1110-1000 in its entirety and inserting
3 in place thereof the following:—

Division of Administrative Law Appeals.

1110-1000 For the operation of the division of administrative law appeals
established by section 4H of chapter 7 of the General
Laws; provided, that said office shall maintain, to the
fullest extent practicable, a complete physical and techno-
logical separation from any agency, department, board,
commission or program whose decisions, determinations
or actions may be appealed to it; and provided further,
that every decision issued by a commissioner or other
head of agency, or designee, following the issuance of a
recommended decision by an administrative law judge of
the division, shall be an agency decision subject to judi-
cial review pursuant to chapter 30A of the General Laws;
provided further, that not less than \$250,000 shall be
expended for the processing and adjudication of all
pending and newly-filed department of environmental
protection appeals

1,352,144.

1 SECTION 17. Said chapter 45 of the Acts of 2005 is hereby
2 further amended by striking item 7007-0515 in its entirety and
3 inserting in place thereof the following:—

Department of Business and Technology.

7007-0515

For economic development grants to be administered by the department of business and technology; provided, that not less than \$150,000 be expended on the Cape Cod Regional Incubator Project to be operated by the Cape Cod Chamber of Commerce; provided further, that not less than \$200,000 shall be expended on the operation of the Massachusetts Fisheries Recovery Commission, not less than \$60,000 of which shall be expended for the purposes of a socio-economic study and analysis of the commonwealth's fishing industry; provided further, that not less than \$250,000 shall be expended for a grant to the South Shore Tri-Town Development Corporation established in chapter 301 of the acts of 1998; and provided further, that \$350,000 shall be expended for a grant to the Massachusetts Alliance for Economic Development for the purpose of enhancing economic development related services, including but not limited to implementation of a statewide online site finder to assist business growth; provided further, that not less than \$500,000 shall be expended for the Massachusetts Alliance for Economic Development to manage and market an online inventory of priority development properties and other development sites as established in chapter 43D of the General Laws

1,510,000.

