

SENATE No. 2037

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore

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

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

An Act relative to transportation governance.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	
<i>Joseph A. Boncore</i>	<i>First Suffolk and Middlesex</i>	
<i>Peter Capano</i>	<i>11th Essex</i>	<i>2/1/2019</i>
<i>Michelle L. Ciccolo</i>	<i>15th Middlesex</i>	<i>2/1/2019</i>

SENATE No. 2037

By Mr. Boncore, a petition (accompanied by bill, Senate, No. 2037) of Joseph A. Boncore, Peter Capano and Michelle L. Ciccolo for legislation relative to transportation governance .
Transportation.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to transportation governance.

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. Chapter 46 of the Acts of 2015 is here by amended by striking out Sections
2 199 through Section 208, inclusive.

3 SECTION 2. Chapter 161A is hereby amended by inserting after section 7A the
4 following section:-

5 Section 7B MBTA Board of Directors

6 a) There shall be within the department, as defined in section 1 of Chapter 6C of the
7 General Laws, as appearing in the 2016 Official Edition, but not under its control, a board of
8 directors.

9 b) The board of directors shall consist of 5 members: 3 of whom shall be appointed
10 by the governor, 1 of whom shall have experience in transportation finance, 1 of whom shall
11 have experience in mass transit operation, and 1 of whom shall be a representative of a labor

12 organization selected from a list of 3 nominees provided by the Massachusetts State Labor
13 Council, AFL-CIO; 1 member shall be the secretary of transportation, ex officio; and 1 member
14 shall be appointed by the advisory board, as defined in section 7A of Chapter 161A of the
15 General Laws, as appearing in the 2016 Official Edition. The governor shall appoint a
16 chairperson from the 3 members he appoints. The initial appointment of the chairperson shall be
17 for a term ceasing on July 31, 2023; provided however subsequent appoints shall be for a term of
18 4 years. All other members of the board shall serve for a term to run coterminous with the
19 appointing governor. Members shall serve without pay, but may be reimbursed for actual
20 expenses not totaling more than \$3,000 to be paid from funds of the department. The board shall
21 meet as regularly as necessary to ensure the stability of authority operations and finances but not
22 less frequently than 24 times per year and at least once per month.

23 c) Notwithstanding sections 3 and 7 of chapter 161A of the General Laws or any
24 other general or special law to the contrary, the board shall be afforded all powers,
25 responsibilities and obligations relative to the authority that are vested in the board, except as
26 otherwise provided in this act, and those powers, responsibilities and obligations set forth in this
27 act.

28 d) Meetings of the control board shall be subject to sections 18 to 25, inclusive, of
29 chapter 30A of the General Laws. Records of the board shall be subject to section 10 of chapter
30 66 of the General Laws.

31 e) The board shall appoint an executive assistant by a majority vote. The executive
32 assistant shall support the administrative affairs and general management and operations of the
33 board and also serve as secretary of the board, ex officio. The executive assistant shall receive a

34 salary commensurate with the duties of the office. The executive assistant may, with the approval
35 of the board, appoint other employees of the board necessary to the functioning of the board.

36 The executive assistant shall not be required to obtain the approval of any other executive
37 agency in connection with appointment of employees. Sections 9A, 45, 46 and 46C of chapter
38 30, chapter 31 and chapter 150E shall not apply to the executive assistant of the board. Sections
39 45, 46 and 46C of chapter 30 shall not apply to any employee of the board. The board may
40 establish personnel regulations for its employees.

41 The executive assistant shall file an annual personnel report not later than the first
42 Wednesday in February with the senate and house committees on ways and means containing the
43 job classifications, duties and salary of each officer and employee within the center together with
44 personnel regulations applicable to said employees. The executive assistant shall file
45 amendments to such report with the senate and house committees on ways and means whenever
46 any changes become effective.

47 The executive assistant shall, with the approval of the board:

48 (i) plan, direct, coordinate and execute administrative functions in conformity with the
49 policies and directives of the board;

50 (ii) employ professional and clerical staff as necessary;

51 (iii) report to the board on all operations under their control and supervision;

52 (iv) prepare an annual budget and manage the administrative expenses of the board; and

53 (v) undertake any other activities necessary to implement the powers and duties of the
54 board under this chapter.

55 f) The purpose of the board shall be to initiate and assure the implementation of
56 appropriate measures to secure the fiscal, operational and managerial stability of the authority.

57 g) The board may delegate any powers, responsibilities and obligations specifically
58 afforded to it to the general manager unless otherwise provided in this act.

59 The board shall approve the appointment of the general manager of the authority and
60 shall make final decisions related to the employment and termination of the general manager.

61 The general manager shall at least monthly provide the board with information on the
62 status of the revenues and expenses for the operating budget and on the status of revenues,
63 contracting, procurement and authorized and actual spending for the capital program. The
64 general manager shall at least quarterly provide the board with data on progress toward achieving
65 key performance management targets. The reports shall be submitted to the secretary of
66 transportation, the secretary of administration and finance, the clerks of the house of
67 representatives and senate, the chairs of the house and senate committees on ways and means and
68 the chairs of the joint committee on transportation

69 h) The board shall formulate and adopt a plan to stabilize and strengthen the
70 finances, management, operations and asset condition of the authority. The board shall develop
71 performance metrics and measure items included in the plan. The plan shall: (i) provide a safe,
72 reliable and sustainable transit system consistent with the current and anticipated mobility needs
73 of metropolitan Boston as well as the comprehensive state transportation plan under section 11 of
74 chapter 6C of the General Laws; (ii) establish and maintain fiscal stability, including short-term
75 and long-term planning to ensure that the authority's budgets are aligned with its operational and
76 capital needs; (iii) reorient the authority to focus on providing better service to its riders and

77 attracting new riders; (iv) facilitate sound management and a safe and effective workplace
78 consistent with section 7 of said chapter 6C; and (v) develop a financially responsible, long-
79 range approach to preserving and modernizing the authority's assets and meeting future needs
80 for regional transit facilities and services consistent with the program for mass transportation
81 required by paragraph (g) of section 5 of chapter 161A of the General Laws.

82 i) In addition to those powers otherwise provided in this act, the board shall: (i)
83 establish separate operating and capital budgets each with clearly designated revenue sources and
84 uses and establish policies and procedures to ensure that no funds are commingled between
85 operating and capital budgets; (ii) establish 1-year, 5-year and 10-year operating budgets
86 beginning with fiscal year 2020, which are balanced primarily through a combination of internal
87 cost controls and increased own-source revenues consistent with paragraph (q) of section 5 of
88 chapter 161A of the General Laws and which facilitate the transfer of all employees of the
89 authority from the capital budget to the operating budget; provided, however, that the 1-year, 5-
90 year and 10-year budgets shall be consistent with section 20 of said chapter 161A; (iii) establish
91 5-year, 10-year and 20-year capital plans that include a phased program for the complete
92 restoration, modernization and expansion of the physical assets of the authority including its
93 vehicle fleet, a plan to address failings within the existing capital program and funding
94 recommendations to meet the region's transit needs; (iv) establish a rigorous performance
95 management system and performance metrics and targets that address, among other things,
96 maximizing of own-source revenues, increasing ridership, reducing absenteeism, addressing
97 vacancies and attrition, improving employee morale, achieving procurement and contracting
98 improvements and improving customer focus and orientation; (v) review any contract for the
99 provision of services entered into by the authority, including contracts entered into before the

100 establishment of the fiscal and management control board, including, but not limited to,
101 commuter rail and paratransit service contracts, and amend those contracts, as necessary, in
102 accordance with their terms; and (vi) establish, increase, or decrease any fare, fee, rate, or
103 charge for any service, license or activity within the scope of the authority subject to and
104 consistent with subsection (d) of section 61 of chapter 46 of the acts of 2013.

105 j) Notwithstanding any general or special law to the contrary, the board may: (i)
106 reorganize or consolidate departments, divisions or entities of the authority, except the
107 Metropolitan Boston Transit Parking Corporation, in whole or in part; (ii) establish any new
108 departments, divisions, or entities as it considers necessary; and (iii) transfer the duties, powers,
109 functions and appropriations of 1 department, division or entity, except the duties, powers,
110 functions and appropriations of the Metropolitan Boston Transit Parking Corporation, to another.
111 Any reorganization or consolidation that affects the department shall not be effective unless
112 approved by the board.

113 k) The board may amend any borrowing authorization or finance or refinance any
114 debt of the authority in accordance with the law; provided, however, that the board shall not
115 delegate this authority.

116 l) Annually, not later than December 31, the board shall report on the authority's
117 own source revenue, operating budget, capital plan and progress toward meeting performance
118 metrics and targets to the secretary, the secretary of administration and finance, the clerks of the
119 house of representatives and senate, the house and senate chairs of the joint committee on
120 transportation and the chairs of the house and senate committees on ways and means. The report
121 shall include an update on the authority's progress in: (i) maintaining a priority list of immediate

122 capital needs for the next 5 years and procurement and implementation plans; (ii) imposing a
123 barrier between the commingling of operating and capital budgets; (iii) increasing own-source
124 revenue as required by section 61 of chapter 46 of the acts of 2013; (iv) conducting thorough
125 reviews and analyses of all proposals for system expansion, taking into account operating and
126 capital costs, benefits to current and new riders and economic development impacts; (v)
127 centralizing authority procurement and contracting, implementing best procurement and
128 contracting practices and sharing or consolidating authority procurement and contracting with
129 that of the department consistent with this act; (vi) planning and preparedness processes and
130 adopting an incident command system; (vii) reorganizing internal structure along modal business
131 lines; (viii) maintaining 1-year and 5-year operating plans and budgets; (ix) maintaining a 20-
132 year capital plan for the restoration of physical assets; (x) improving customer relations and
133 instituting a customer-oriented performance management program; (xi) identifying and
134 implementing best practices supporting workforce productivity and engagement; (xii) reducing
135 employee absenteeism; (xiii) reducing barriers to public-private partnerships; and (xiv) utilizing
136 the lease and sale of real estate assets to support the long-term health of the system and
137 implementing value capture strategies.

138 m) Notwithstanding any other section of this act, no existing rights of the holders of
139 bonds, notes and other financing obligations issued by or on behalf of the authority under chapter
140 161A of the General Laws shall be impaired and nothing in this act shall be construed to alter or
141 grant the power to alter existing agreements securing the bonds or other obligations, hedge
142 agreements or investment contracts pertaining thereto, other than in accordance with their terms.
143 The authority shall maintain the covenants and agreements of the trust agreements, bond
144 resolutions and other instruments pertaining to such bonds and other obligations secured

145 thereunder so long as such bonds and other obligations shall remain outstanding. The board shall
146 not control and shall not have the power to alter or otherwise impair the trust imposed in the third
147 paragraph of subsection (a) of section 35T of chapter 10 of the General Laws and shall not have
148 the power to alter or otherwise impair the other commonwealth covenants set forth in said third
149 paragraph of said subsection (a) of said section 35T of said chapter 10. The commonwealth
150 hereby re-affirms such trust and other covenants.

151 Section 3. Said Chapter 6C is hereby further amended by striking out section 2 paragraph
152 b, as appearing in the 2016 Official Edition and inserting in place thereof the following section:-

153 b) The department shall be governed and its corporate powers shall be exercised by a
154 board of directors. The board shall consist of 13 members, including the secretary of
155 transportation, who shall serve ex officio as chair. The governor shall appoint 12 members: 1 of
156 whom shall be a rider, as defined in section 1 of chapter 161A; 1 of whom shall have experience
157 in the field of public or private finance; 1 of whom shall have experience in transportation
158 planning and policy; 1 of whom shall have experience in civil engineering; 1 of whom shall have
159 experience in the field of public or private finance or transportation planning and policy; 1 of
160 whom shall have municipal government experience in 1 of the fourteen cities and towns, as
161 defined in said section 1 of said chapter 161A; 1 of whom shall have municipal government
162 experience in 1 of the 51 cities and towns, as defined in said section 1 of said chapter 161A; 1 of
163 whom shall have municipal government experience in 1 of the other served communities, as
164 defined in said section 1 of said chapter 161A; 2 of whom shall have experience in operation,
165 administration or service on an advisory board of a regional transit authority as defined in said
166 section 2 of said chapter 161B; 1 of whom shall have municipal government experience in a city
167 or town not part of the area constituting the authority, as defined in said section 1 of said chapter

168 161A; and 1 of whom shall be a representative of a labor organization selected from a list of 3
169 nominees provided by the Massachusetts State Labor Council, AFL-CIO. Four of the members,
170 other than the chair, shall serve for terms that are coterminous with the governor; provided,
171 however, that at least 3 of the coterminous members shall have experience in transportation
172 policy, public finance or civil engineering and at least 1 of the coterminous members shall be a
173 rider. The 6 remaining members appointed by the governor shall serve for terms of 4 years.

174 SECTION 4. section 1 shall take effect upon passage of this act.

175 SECTION 5. section 2 shall take effect upon passage of this act.