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HOUSE . . . . . No. 2296

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act to increase the homeland security of the commonwealth by merging the Massachusetts Bay Transportation Authority police department into the department of state police..

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. Section 7 of chapter 22C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be within the division of special police services 4 bureaus, which shall be designated as the bureau of facility security, the bureau of motor vehicle enforcement, the bureau of metropolitan district operations, which shall provide services, including but not limited to, school crossing guards and the protection of watershed properties managed by the department of conservation and recreation, and the bureau of transit operations, which shall provide services, including by not limited to, the protection of the rapid transit, bus, commuter boat and rail lines of the Massachusetts Bay Transportation Authority.

SECTION 2. Said chapter 22C, as so appearing, is hereby amended by inserting after section 31 the following section:-

Section 31A. Massachusetts Bay Transportation Authority; agreement for police service; contents

The colonel shall enter into an agreement with the Massachusetts Bay Transportation Authority for police services to be provided by the department to said authority. Said agreement shall fix the legal and fiscal responsibility pertaining to the operation and maintenance of such police service and shall include, but not be limited to, a provision for payments to the commonwealth for the cost of retirement, compensation of injured officers, sick leave, and other employee benefits and for a minimum allowance for departmental supervision. Said agreement shall also require the continuation of all terms and conditions of employment established under the applicable collective bargaining agreement pursuant to the provisions of chapter 151E by the commonwealth and the exclusive bargaining representative of any member of the state police providing such police service including, without limitation, the payment by the authority of any benefit or contribution therefore. Said agreement shall also include a provision whereby all parties must enter a cost sharing agreement whereby 50% of all expenses incurred by the department in providing such police service shall, upon proper requisition, be paid by the authority as such expenses are incurred.

Said agreement shall also provide for the appointment under section 10 and assignment of such members of the state police as deemed necessary to meet the requirements of said authority; provided that such appointment and assignment of any such member of the state police by the colonel shall not be considered a violation of any provision of chapter 29; and provided, further, that during such assignment and except as the colonel shall determine that an emergency exists or is threatened, such officers, in the performance of their duties, shall be subject to the operational control of the authority, and the chairman of the authority, but shall at all times be under the administrative and disciplinary control of the colonel.

SECTION 3. Chapter 31 of the General Laws, as so appearing, is hereby amended by striking out sections 64 and 65.

SECTION 4. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended by striking out, in lines 204 to 208, inclusive, the words " “Employee”, as applied to persons whose regular compensation is paid by the Massachusetts Bay Transportation Authority, shall mean any police officer of the police department of said Authority, established by chapter six hundred and sixty-four of the acts of nineteen hundred and sixty-eight”.

SECTION 5. Said section 1 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 314 and 315 the words “the Massachusetts Bay Transportation Authority police retirement system,”

SECTION 6. Said section 1 of said chapter 32, as so appearing, is hereby further amended by striking out, in lines 507 and 508, the words “the Massachusetts Bay Transportation Authority police retirement system,”.

SECTION 7. Section 2 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 31 to 33, inclusive, the words “an employee of the police department of the Massachusetts Bay Transportation Authority shall be included in the Massachusetts Bay Transportation Authority police retirement system,”.

SECTION 8. Section 3 of said chapter 32, as so appearing, is amended by striking out, in lines 279 and 280, the words “any police officer of the Massachusetts Bay Transportation Authority;”.

SECTION 9. Section 20 of said chapter 32, as so appearing, is hereby amended by striking out subdivision (4 ¾).

SECTION 10. Paragraph (i) of subdivision (5) of said section 20 of said chapter 32, as so appearing, is hereby amended by striking out the eleventh sentence.

SECTION 11. Paragraph (c) of subdivision (1) of section 21 of said chapter 32, as so appearing, is hereby amended by striking out, in line 77, the words “the Massachusetts Bay Transportation Authority,”.

SECTION 12. Subdivision (2) of said section 21 of said chapter 32, as so appearing is hereby amended by striking out the fifth sentence.

SECTION 13. Subdivision (7) of section 22 of said chapter 32, as so appearing is hereby amended by striking out paragraph (f).

SECTION 14. Paragraph (a) of subdivision (2) of section 23 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 11 and 12, the words “the treasurer of the Massachusetts Bay Transportation Authority,”.

SECTION 15. Said paragraph (a) of said subdivision (2) of said section 23 of said chapter 32, as so appearing, is hereby further amended by striking out, in line 20, the words “the Massachusetts Bay Transportation Authority,”.

SECTION 16. Subdivision (1) of section 24 of said chapter 32, as so appearing, is hereby amended by striking out, in line 10, the words “the Massachusetts Bay Transportation Authority,”.

SECTION 17. Subdivision (4) of section 25 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 96 and 97, the words “the Massachusetts Bay Transportation Authority,”.

SECTION 18. Section 28 of said chapter 32, as so appearing, is hereby amended by striking out subdivision (7).

SECTION 19. Section 94 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words: “or of the police force of the Massachusetts Bay Transportation Authority,”.

SECTION 20. Section 100 of said chapter 32, as so appearing, is hereby amended by striking out, in lines 83 to 85, inclusive, the words “or by the Massachusetts Bay Transportation Authority police retirement board;”.

SECTION 21. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words “the Massachusetts Bay Transportation Authority police”.

SECTION 22. Section 73 of chapter 152 of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the words “or any police officer of the Massachusetts Bay Transportation Authority”.

SECTION 23. Chapter 664 of the acts of 1968, as amended by chapter 829 of the acts of 1970, is hereby repealed.

SECTION 24. Section 19 of chapter 1012 of the acts of 1971 is hereby repealed.

SECTION 25. Chapter 412 of the acts of 1991 is hereby amended by adding the following section:-

Section 117A. Prior to October 31, 2009, the colonel of the state police shall establish an orientation in-service training program for all persons who shall have been transferred to the department of state police as a uniformed member of said department; provided, however, that such training program shall include, but not be limited to, education of the mission of the said department of state police, the jurisdiction of each bureau and each division of said department, the rules and regulations of said department, the policies and procedures of said department and the equipment owned and used by said department. Any person employed as a police officer in the Massachusetts Bay Transportation Authority police department shall have satisfactorily completed such training program prior to his transfer to the department of state police. Any person who shall not have satisfactorily completed such training program prior to January 31, 2010, shall be prohibited from transferring to said department of state police unless said employee shall have submitted in writing his request for a waiver of such training program and said colonel shall have approved such waiver for said employee.

SECTION 26. Section 119 of said chapter 412 is hereby amended by striking out in the first sentence the words “but prior to June thirtieth, nineteen hundred and ninety three” and inserting in place thereof the following words:- January 31, 2010.

SECTION 27. Said section 119 of said chapter 412 is hereby further amended by inserting after the words “division of law enforcement of the registry of motor vehicles” the following words:- or an employee of the Massachusetts Bay Transportation Authority police department.

SECTION 28. Section 120 of said chapter 412 is hereby amended by inserting after the words “division of law enforcement of the registry of motor vehicles” the following words:- or the Massachusetts Bay Transportation Authority police department.

SECTION 29. Section 121 of said chapter 412 is hereby amended by inserting after the words “division of law enforcement of the registry of motor vehicles” the following words:- or the Massachusetts Bay Transportation Authority police department.

SECTION 30. Said section 121 of said chapter 412 is hereby further amended by striking out the words “after July fifth, nineteen hundred and ninety-two and prior to October first, nineteen hundred and ninety-two” and inserting in place thereof the following words:- after August 1, 2009 and prior to October 31, 2009.

SECTION 31. Section 135 of said chapter 412 is hereby amended by inserting after the words “by the chief of the capitol police” the following words:- , by the chief of the Massachusetts Bay Transportation Authority police department.

SECTION 32. Chapter 290 of the acts of 1993 is hereby repealed.

SECTION 33. The Massachusetts Bay Transportation Authority police department shall be merged into the department of state police. Such merger shall begin on August 1, 2009, with a 6-month transition period, so that after such transition period the Massachusetts Bay Transportation Authority police department and the department of state police shall be deemed consolidated and merged, and the consolidated police force shall be called the department of state police. The department of state police, so consolidated, shall be deemed to be the police force of the commonwealth and it shall be the force with jurisdictional authority over state property.

SECTION 34. The Massachusetts Bay Transportation Authority shall deposit, with the public employee retirement system, funds equal to the contributions for retirement made by the authority and the members, who are present or retired members of the pension funds commonly known either as the MBTA Police Association Retirement Fund or the MBTA Retirement Fund. The transfer of said funds shall be deposited upon agreement of terms between the authority and the commissioner of public employee retirement administration. Said agreement shall be entered into no later than October 31, 2009.

SECTION 35. All present members of the Massachusetts Bay Transportation Authority police department shall be entered into the public employee retirement system and the commissioner of public employee retirement administration shall credit those members with the creditable service years with the Massachusetts Bay Transportation Authority police department. Members currently retired from the Massachusetts Bay Transportation Authority police department and drawing their pension either partially or in whole from either the MBTA Police Association Retirement Fund or from the MBTA Retirement Fund shall remain members of the MBTA Police Association Retirement Fund or the MBTA Retirement Fund and shall not have any creditable service transferred to the department of state police.

SECTION 36. Each member of the Massachusetts Bay Transportation Authority police department shall take all creditable service to the department of state police. For the purpose of retirement, service shall be determined by all creditable service based on contributions to a retirement fund within the state retirement system and the years of creditable service with the Massachusetts Bay Transportation Authority police department. The commissioner of public employee retirement administration shall allow those members with prior creditable service to

purchase back those creditable years, not within the MBTA police retirement funds, in the normal and customary manner afforded other public employees.

SECTION 37. Any police officer of the Massachusetts Bay Transportation Authority police department not wishing to transfer to the department of state police by October 31, 2009, shall be placed at the top of the eligibility list of the civil service list for the region of his residence. When said officer is appointed to any city or town from said list he shall be credited with all creditable service for the purpose of seniority and retirement in the public employees retirement system.

Pursuant to this section, any police officer of the Massachusetts Bay Transportation Authority police department wishing to exercise his civil service rights or privileges shall retain employment with the authority until such reasonable time to effect either appointment or lateral transfer to another police department, but no later than October 31, 2009.

SECTION 38. A committee shall be appointed by the colonel of state police and the chief of the Massachusetts Bay Transportation Authority police department to study the titles and rank structure of the Massachusetts Bay Transportation Authority police department to determine where the police officers of the authority should be placed in the rank structure of the consolidated department of state police. The committee shall report its findings and recommendations to said colonel on or before October 31, 2009. There shall be no loss of pay, or other accrued benefit, for any member, noncommissioned, commissioned, or staff officer of the Massachusetts Bay Transportation Authority police department who held his rank prior to the enactment of this act.

SECTION 39. The colonel of state police is hereby authorized and directed to enter into a memorandum of understanding with the authority to define the terms and conditions for use by the department of property owned or operated by the authority; provided, however, that the transfer shall be in compliance with federal law and no such property shall be transferred under the provisions of the memorandum of understanding without legislative approval; and provided, further, that said memorandum of understanding be executed on or before October 31, 2009.

SECTION 40. The secretary of public safety, in conjunction with the personnel administrator, shall commence an audit of the personnel file of each member of the Massachusetts Bay Transportation Authority police department on the effective date of this act, to ensure that each file shall contain the accurate name, date of birth, current mailing address, and the length of service of each member. Upon the request of the secretary, the state treasurer shall be directed to offer any assistance as the secretary shall deem reasonable to fulfill the requirements of this section. Said audit shall be completed on or before October 31, 2009.

SECTION 41. The department of state police, for the purposes of collective bargaining, shall only recognize that organization certified by the Massachusetts Labor Relations Commission to represent the members and non-commissioned officers of the department. Members of the Massachusetts Bay Transportation Authority police department transferring to the department of state police shall abide by the collective bargaining agreements between the department and said organization.

SECTION 42. Except as authorized in section 37, and notwithstanding the provisions of any general or special law or rule to the contrary, the civil service rights and benefits of any person serving in a position or employed as a police officer in the Massachusetts Bay

Transportation Authority accorded pursuant to the provisions of chapter 31 shall hereby be abolished as of October 31, 2009. Nothing in this act shall be deemed to prohibit the exclusive bargaining representatives of any such persons from negotiating with the commonwealth in accordance with the provisions of chapter 150E to minimize the effects of the abolition of such rights and benefits.

SECTION 43. The commissioner of the public employee retirement administration shall contract with an independent actuary to analyze, study and valuate the cost of retirement benefit changes made pursuant to the provisions of this act; provided, however, that said commissioner shall make available to such actuary any information as such actuary deems necessary to fully analyze such costs; provided, further that said commissioner shall file the report of such actuary with the joint committee on public service and the house and senate committees on ways and means on or before January 31, 2010.

SECTION 44. On the effective date of this act, ownership, possession and control of all equipment, papers, plans, books, records and documents which are in the possession of the Massachusetts Bay Transportation Authority police department or any bureau, unit, officer, or employee thereof consolidated in accordance with the provisions of this act shall pass to and be vested in the department of state police without consideration or further evidence of transfer and shall thereafter be in the ownership, possession and control of the department and in compliance with federal law.

SECTION 45. All petitions, hearings, appeals, and other proceedings duly brought before, and all prosecutions and legal and other proceedings duly begun by the Massachusetts Bay Transportation Authority police department or any bureau, unit, officer or employee thereof

consolidated pursuant to the provisions of this act shall continue unabated and remain in force notwithstanding the passage of this act, and shall thereafter be completed by such division, bureau, unit, officer or employee.

SECTION 46. Any duly existing contract, lease, or obligation of the Massachusetts Bay Transportation Authority police department or any bureau, unit, officer or employee thereof which shall be consolidated pursuant to the provisions of this act which are in force immediately prior to the effective date of this act shall be deemed to be the obligation of the department of state police. No existing right or remedy under any such contract, lease or obligation shall be lost, impaired or affected by the provisions of this act.

SECTION 47. Wherever the name of the Massachusetts Bay Transportation Authority police department or any bureau, unit, officer or employee thereof which shall be consolidated pursuant to the provisions of this act appears in any general or special law, rule or regulation, such name shall be deemed to mean and shall be construed as referring to the department of state police.

SECTION 48. Any function, right, power, duty or other statutory provision which, prior to the effective date of this act, was assigned to, exercised by or performed by the Massachusetts Bay Transportation Authority police department or any bureau, unit, officer or employee thereof which shall be consolidated pursuant to the provisions of this act to the department of state police shall be deemed to be assigned to, exercised by or performed by the said department of state police.

SECTION 49. Notwithstanding the provisions of any general or special law, rule or regulation to the contrary a police officer of a city or town shall have concurrent powers and

duties with police officers of the department of state police on all property which is located within the geographical boundaries of the city or town by which said police officer is employed where said property is under the care and control of the Massachusetts Bay Transportation Authority.

SECTION 50. Except where amended by the provisions of this act all other provisions of chapter 412 of the acts of 1991 shall apply to the consolidated department of state police.