

HOUSE No. 2195

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph F. Wagner

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Joseph F. Wagner</i>	<i>8th Hampden</i>	<i>1/16/2015</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>	<i>8/7/2019</i>
<i>RoseLee Vincent</i>	<i>16th Suffolk</i>	<i>8/7/2019</i>
<i>David F. DeCoste</i>	<i>5th Plymouth</i>	<i>8/7/2019</i>
<i>Bradford R. Hill</i>	<i>4th Essex</i>	<i>8/7/2019</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>8/7/2019</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>	<i>8/7/2019</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>	<i>8/7/2019</i>

HOUSE No. 2195

By Mr. Wagner of Chicopee, a petition (accompanied by bill, House, No. 2195) of Joseph F. Wagner and others relative to merging the Massachusetts Bay Transportation Authority Police Department into the Department of State Police. Public Safety and Homeland Security.

The Commonwealth of Massachusetts

**In the One Hundred and Eighty-Ninth General Court
(2015-2016)**

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:

1 SECTION 1. Section 7 of chapter 22C of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out the first sentence and inserting in place
3 thereof the following sentence:- There shall be within the division of special police services 4
4 bureaus, which shall be designated as the bureau of facility security, the bureau of motor vehicle
5 enforcement, the bureau of metropolitan district operations, which shall provide services,
6 including but not limited to, school crossing guards and the protection of watershed properties
7 managed by the department of conservation and recreation, and the bureau of transit operations,
8 which shall provide services, including by not limited to, the protection of the rapid transit, bus,
9 commuter boat and rail lines of the Massachusetts Bay Transportation Authority.

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

12 Section 31A. The colonel shall enter into an agreement with the Massachusetts Bay
13 Transportation Authority for police services to be provided by the department to said authority.
14 The agreement shall fix the legal and fiscal responsibility pertaining to the operation and
15 maintenance of police service and shall include, but not be limited to, a provision for payments
16 to the commonwealth for the cost of retirement, compensation of injured officers, sick leave, and
17 other employee benefits and for a minimum allowance for departmental supervision. The
18 agreement shall also require the continuation of all terms and conditions of employment
19 established under the applicable collective bargaining agreement under chapter 151E of the
20 General Laws and the exclusive bargaining representative of any member of the state police
21 providing police service including, without limitation, the payment by the authority of any
22 benefit or contribution. The agreement shall also include a provision whereby all parties must
23 enter a cost sharing agreement whereby 50% of all expenses incurred by the department in
24 providing police services shall, upon proper requisition, be paid by the authority as expenses are
25 incurred.

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

34 SECTION 3. Sections 64 and 65 of chapter 31 of the General Laws are hereby repealed.

35 SECTION 4. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby
36 amended by striking out, in lines 209 to 213, the words “Employee”, as applied to persons whose
37 regular compensation is paid by the Massachusetts Bay Transportation Authority, shall mean any
38 police officer of the police department of said Authority, established by chapter six hundred and
39 sixty-four of the acts of nineteen hundred and sixty-eight.

40 SECTION 5. Said section 1 of said chapter 32, as so appearing, is hereby further
41 amended by striking out, in lines 324 to 325 the words the Massachusetts Bay Transportation
42 Authority police retirement system,.

43 SECTION 6. Said section 1 of said chapter 32, as so appearing, is hereby further
44 amended by striking out, in lines 532 to 533, the words the Massachusetts Bay Transportation
45 Authority police retirement system,.

46 SECTION 7. Section 2 of said chapter 32, as so appearing, is hereby amended by
47 striking out, in lines 33 to 35, the words an employee of the police department of the
48 Massachusetts Bay Transportation Authority shall be included in the Massachusetts Bay
49 Transportation Authority police retirement system,.

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

53 SECTION 9. Section 20 of said chapter 32, as so appearing, is hereby amended by
54 striking out subdivision (4^{3/4}).

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

57 SECTION 11. Paragraph (c) of subdivision (1) of section 21 of said chapter 32, as so
58 appearing, is hereby amended by striking out, in lines 80 to 81, the words the Massachusetts Bay
59 Transportation Authority,.

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

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

64 SECTION 14. Paragraph (a) of subdivision (2) of section 23 of said chapter 32, as so
65 appearing, is hereby amended by striking out, in lines 22 to 23, the words “the treasurer of the
66 Massachusetts Bay Transportation Authority,”.

67 SECTION 15. Said paragraph (a) of said subdivision (2) of said section 23 of said
68 chapter 32, as so appearing, is hereby further amended by striking out, in line 31, the words the
69 Massachusetts Bay Transportation Authority,.

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

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

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

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

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

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

87 SECTION 22. Chapter 664 of the acts of 1968, as amended by chapter 829 of the acts of
88 1970, is hereby repealed.

89 SECTION 23. Section 19 of chapter 1012 of the acts of 1971 is hereby repealed.

90 SECTION 24. Chapter 412 of the acts of 1991 is hereby amended by adding the
91 following section:-

92 Section 117A. Prior to October 31, 2015, the colonel of the state police shall establish an
93 orientation in-service training program for all persons who shall have been transferred to the
94 department of state police as a uniformed member of the department; provided, however, that the
95 training program shall include, but not be limited to, education of the mission of the department
96 of state police, the jurisdiction of each bureau and each division of the department, the rules and

97 regulations of the department, the policies and procedures of the department and the equipment
98 owned and used by the department. Any person employed as a police officer in the
99 Massachusetts Bay Transportation Authority police department shall have satisfactorily
100 completed the training program prior to his transfer to the department of state police. Any person
101 that does not satisfactorily complete the training program prior to January 31, 2016, shall be
102 prohibited from transferring to the department of state police unless the employee shall have
103 submitted in writing his request for a waiver of the training program and the colonel shall have
104 approved the waiver for the employee.

105 SECTION 25. Section 119 of said chapter 412 is hereby amended by striking out in the
106 first sentence the words “but prior to June thirtieth, nineteen hundred and ninety three” and
107 inserting in place thereof the following words:- January 31, 2016.

108 SECTION 26. Said section 119 of said chapter 412 is hereby further amended by
109 inserting after the words “division of law enforcement of the registry of motor vehicles” the
110 following words:- or an employee of the Massachusetts Bay Transportation Authority police
111 department.

112 SECTION 27. Section 120 of said chapter 412 is hereby amended by inserting after the
113 words “division of law enforcement of the registry of motor vehicles” the following words:- or
114 the Massachusetts Bay Transportation Authority police department.

115 SECTION 28. Section 121 of said chapter 412 is hereby amended by inserting after the
116 words “division of law enforcement of the registry of motor vehicles” the following words:- or
117 the Massachusetts Bay Transportation Authority police department.

118 SECTION 29. Said section 121 of said chapter 412 is hereby further amended by striking
119 out the words “after July fifth, nineteen hundred and ninety-two and prior to October first,
120 nineteen hundred and ninety-two” and inserting in place thereof the following words:- after
121 August 1, 2015 and prior to October 31, 2015

122 SECTION 30. Section 135 of said chapter 412 is hereby amended by inserting after the
123 words “by the chief of the capitol police” the following words:- , by the chief of the
124 Massachusetts Bay Transportation Authority police department.

125 SECTION 31. Chapter 290 of the acts of 1993 is hereby repealed.

126 SECTION 32. The Massachusetts Bay Transportation Authority police department shall
127 be merged into the department of state police. The merger shall begin on August 1, 2015, with a
128 6-month transition period, so that after the transition period the Massachusetts Bay
129 Transportation Authority police department and the department of state police shall be deemed
130 consolidated and merged, and the consolidated police force shall be called the department of
131 state police. The department of state police, so consolidated, shall be deemed to be the police
132 force of the commonwealth and it shall be the force with jurisdictional authority over state
133 property.

134 SECTION 33. The Massachusetts Bay Transportation Authority shall deposit, with the
135 public employee retirement system, funds equal to the contributions for retirement made by the
136 authority and the members, who are present or retired members of the pension funds commonly
137 known either as the MBTA Police Association Retirement Fund or the MBTA Retirement Fund.
138 The transfer of the funds shall be deposited upon agreement of terms between the authority and

139 the commissioner of public employee retirement administration. The agreement shall be entered
140 into no later than October 31, 2015.

141 SECTION 34. All present members of the Massachusetts Bay Transportation Authority
142 police department shall be entered into the public employee retirement system and the
143 commissioner of public employee retirement administration shall credit those members with the
144 creditable service years with the Massachusetts Bay Transportation Authority police department.
145 Members currently retired from the Massachusetts Bay Transportation Authority police
146 department and drawing their pension either partially or in whole from either the MBTA Police
147 Association Retirement Fund or from the MBTA Retirement Fund shall remain members of the
148 MBTA Police Association Retirement Fund or the MBTA Retirement Fund and shall not have
149 any creditable service transferred to the department of state police.

150 SECTION 35. Each member of the Massachusetts Bay Transportation Authority police
151 department shall take all creditable service to the department of state police. For the purpose of
152 retirement, service shall be determined by all creditable service based on contributions to a
153 retirement fund within the state retirement system and the years of creditable service with the
154 Massachusetts Bay Transportation Authority police department. The commissioner of public
155 employee retirement administration shall allow those members with prior creditable service to
156 purchase back those creditable years, not within the MBTA police retirement funds, in the
157 normal and customary manner afforded other public employees.

158 SECTION 36. Any police officer of the Massachusetts Bay Transportation Authority
159 police department not wishing to transfer to the department of state police by October 31, 2015,
160 shall be placed at the top of the eligibility list of the civil service list for the region of his

161 residence. When the officer is appointed to any city or town from the list he shall be credited
162 with all creditable service for the purpose of seniority and retirement in the public employees
163 retirement system.

164 Under this section, any police officer of the Massachusetts Bay Transportation Authority
165 police department wishing to exercise his civil service rights or privileges shall retain
166 employment with the authority until such reasonable time to effect either appointment or lateral
167 transfer to another police department, but no later than October 31, 2015.

168 SECTION 37. A committee shall be appointed by the colonel of state police and the
169 chief of the Massachusetts Bay Transportation Authority police department to study the titles and
170 rank structure of the Massachusetts Bay Transportation Authority police department to determine
171 where the police officers of the authority should be placed in the rank structure of the
172 consolidated department of state police. The committee shall report its findings and
173 recommendations to the colonel on or before October 31, 2015. There shall be no loss of pay, or
174 other accrued benefit, for any member, noncommissioned, commissioned, or staff officer of the
175 Massachusetts Bay Transportation Authority police department who held his rank prior to the
176 enactment of this act.

177 SECTION 38. The colonel of state police is hereby authorized and directed to enter into
178 a memorandum of understanding with the authority to define the terms and conditions for use by
179 the department of property owned or operated by the authority; provided, however, that the
180 transfer shall be in compliance with federal law and no property shall be transferred under the
181 provisions of the memorandum of understanding without legislative approval; and provided
182 further, that the memorandum of understanding be executed on or before October 31, 2015.

183 SECTION 39. The secretary of public safety, in conjunction with the personnel
184 administrator, shall commence an audit of the personnel file of each member of the
185 Massachusetts Bay Transportation Authority police department on the effective date of this act,
186 to ensure that each file shall contain the accurate name, date of birth, current mailing address,
187 and the length of service of each member. Upon the request of the secretary, the state treasurer
188 shall be directed to offer any assistance as the secretary shall deem reasonable to fulfill the
189 requirements of this section. The audit shall be completed on or before October 31, 2015.

190 SECTION 40. The department of state police, for the purposes of collective bargaining,
191 shall only recognize that organization certified by the Massachusetts Labor Relations
192 Commission to represent the members and non-commissioned officers of the department.
193 Members of the Massachusetts Bay Transportation Authority police department transferring to
194 the department of state police shall abide by the collective bargaining agreements between the
195 department and said organization.

196 SECTION 41. Except as authorized in section 37, and notwithstanding the provisions of
197 any general or special law or rule to the contrary, the civil service rights and benefits of any
198 person serving in a position or employed as a police officer in the Massachusetts Bay
199 Transportation Authority accorded under the provisions of chapter 31 of the General Laws shall
200 hereby be abolished as of October 31, 2015. Nothing in this act shall be deemed to prohibit the
201 exclusive bargaining representatives of any such persons from negotiating with the
202 commonwealth in accordance with the provisions of chapter 150E of the General Laws to
203 minimize the effects of the abolition of such rights and benefits.

204 SECTION 42. The commissioner of the public employee retirement administration shall
205 contract with an independent actuary to analyze, study and value the cost of retirement benefit
206 changes made pursuant to the provisions of this act; provided, however, that the commissioner
207 shall make available to the actuary any information as the actuary deems necessary to fully
208 analyze the costs; provided further that the commissioner shall file the report of the actuary with
209 the joint committee on public service and the house and senate committees on ways and means
210 on or before January 31, 2016.

211 SECTION 43. On the effective date of this act, ownership, possession and control of all
212 equipment, papers, plans, books, records and documents which are in the possession of the
213 Massachusetts Bay Transportation Authority police department or any bureau, unit, officer, or
214 employee thereof consolidated in accordance with the provisions of this act shall pass to and be
215 vested in the department of state police without consideration or further evidence of transfer and
216 shall thereafter be in the ownership, possession and control of the department and in compliance
217 with federal law.

218 SECTION 44. All petitions, hearings, appeals, and other proceedings duly brought
219 before, and all prosecutions and legal and other proceedings duly begun by the Massachusetts
220 Bay Transportation Authority police department or any bureau, unit, officer or employee thereof
221 consolidated under the provisions of this act shall continue unabated and remain in force
222 notwithstanding the passage of this act, and shall thereafter be completed by the division, bureau,
223 unit, officer or employee.

224 SECTION 45. Any duly existing contract, lease, or obligation of the Massachusetts Bay
225 Transportation Authority police department or any bureau, unit, officer or employee thereof

226 which shall be consolidated under the provisions of this act which are in force immediately prior
227 to the effective date of this act shall be deemed to be the obligation of the department of state
228 police. No existing right or remedy under any such contract, lease or obligation shall be lost,
229 impaired or affected by the provisions of this act.

230 SECTION 46. Wherever the name of the Massachusetts Bay Transportation Authority
231 police department or any bureau, unit, officer or employee thereof which shall be consolidated
232 under the provisions of this act appears in any general or special law, rule or regulation, the name
233 shall be deemed to mean and shall be construed as referring to the department of state police.

234 SECTION 47. Any function, right, power, duty or other statutory provision which, prior
235 to the effective date of this act, was assigned to, exercised by or performed by the Massachusetts
236 Bay Transportation Authority police department or any bureau, unit, officer or employee thereof
237 which shall be consolidated under the provisions of this act to the department of state police shall
238 be deemed to be assigned to, exercised by or performed by the department of state police.

239 SECTION 48. Notwithstanding the provisions of any general or special law, rule or
240 regulation to the contrary, a police officer of a city or town shall have concurrent powers and
241 duties with police officers of the department of state police on all property which is located
242 within the geographical boundaries of the city or town by which the police officer is employed
243 where the property is under the care and control of the Massachusetts Bay Transportation
244 Authority.

245 SECTION 49. Except where amended by the provisions of this act, all other provisions
246 of chapter 412 of the acts of 1991 shall apply to the consolidated department of state police.