

SENATE No. 1946

Text of the amendment (199) (offered by Messrs. Tarr, McGee, Hedlund, Ross, Humason, deMacedo and Fattman, Mrs. L'Italien, Mr. Montigny, Ms. O'Connor Ives, Mr. Donnelly, Ms. Lovely, Mr. Moore, Ms. Donoghue, Mr. Brownsberger, Ms. Forry, Messrs. Barrett, Keenan and Pacheco) to the Ways and Means amendment (Senate, No. 3) to the House Bill making appropriations for the fiscal year 2016 for the maintenance of the departments, boards, commissions, institutions and certain activities of the Commonwealth, for interest, sinking fund and serial bond requirements and for certain permanent improvements

The Commonwealth of Massachusetts

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

1 by inserting after section 80 the following 5 new sections:-

2 SECTION 80A. (a) There shall be within the department of transportation, and reporting
3 to the secretary of transportation, a Massachusetts Bay Transportation Authority fiscal and
4 management control board (in this section, the "board"). The secretary of transportation may fix
5 stipends to be paid to members of the board from department of transportation funds.

6 (b) The board shall consist of 7 members appointed by the governor, 1 of whom shall be
7 an individual referred to the governor by the president of the senate, and 1 of whom shall be an
8 individual referred to the governor by the speaker of the house. 1 of the members appointed by
9 the governor shall have municipal experience in 1 of the 101 cities and towns in the MBTA
10 service area, as that term is defined in section 1 of chapter 161A, and 1 of the members shall be
11 from a list of 3 nominees provided by the Massachusetts State Labor Council, AFL-CIO. Each
12 member shall serve for the entire time that the board is in existence, unless removed with or

13 without cause by the governor. Any vacancy in the board shall be filled by the governor in the
14 same manner as the original appointment of the member who is being replaced.

15 (c) Notwithstanding the provisions of any general or special law, and during its existence,
16 the board shall be afforded all powers, responsibilities, and obligations relative to the
17 Massachusetts Bay Transportation Authority that are vested in the department of transportation
18 board by chapter 161A of the general laws and any special law, except as otherwise provided in
19 this act, and those powers, responsibilities, and obligations set forth in this act.

20 (d) Meetings of the board shall be subject to sections 18 to 25, inclusive, of chapter 30A.
21 Records pertaining to the board shall be subject to section 10 of chapter 66.

22 (e) The board shall initiate and assure the implementation of appropriate measures to
23 secure the fiscal and management stability of the Massachusetts Bay Transportation Authority,
24 and shall continue in existence until June 30, 2018, and thereafter for such period as the members
25 may determine, and the secretary of transportation may agree, is necessary to achieve the
26 performance metrics established by the board for the authority; provided, however, that the board
27 shall not continue beyond June 30, 2020.

28 (f) Following the dissolution of the board, the board established by section 7 of chapter
29 161A shall resume governance of the Massachusetts Bay Transportation Authority.

30 SECTION 80B. (a) Once the fiscal and management control board has been established
31 as provided in section 80A, the governor shall appoint a chief administrator of the Massachusetts
32 Bay Transportation Authority. Notwithstanding the provisions of any general or special law, the
33 chief administrator shall assume the role of the general manager of the Massachusetts Bay
34 Transportation Authority during the existence of the fiscal and management control board.

35 (b) The chief administrator shall serve at the pleasure of the governor and report to the
36 fiscal management and control board, except insofar as the fiscal and management control board
37 and the chief administrator agree upon an employment contract that provides otherwise, in which
38 case the employment contract shall control.

39 (c) The fiscal and management control board shall have the authority to delegate any
40 powers, responsibilities, and obligations afforded to it to the chief administrator, unless
41 otherwise provided in this act.

42 (d) The chief administrator shall, at least monthly, provide the fiscal and management
43 control board with information on the status of the revenues and expenses for the operating
44 budget and on the status of revenues, contracting/procurement and spending for the capital
45 program. The chief administrator shall, at least quarterly, provide the fiscal and management
46 control board with data on progress toward achieving key performance management targets.

47 SECTION 80C. The fiscal and management control board shall formulate and
48 implement a plan, and adopt performance metrics to measure progress in achieving that plan, to
49 stabilize and strengthen the finances, management, operations and asset condition of the
50 Massachusetts Bay Transportation Authority with the following objectives:

51 (a) to provide a safe, reliable, and sustainable transit system that is well integrated into
52 the Commonwealth's transportation system;

53 (b) to establish fiscal stability, including short- and long-term planning to ensure that the
54 authority's budgets are aligned with its operational and capital needs;

55 (c) to reorient the agency to focus on providing better service to its current riders and on
56 attracting future riders;

57 (d) to facilitate sound management and a safe and effective workplace;

58 (e) to develop a financially responsible, long-range approach to preserving and
59 modernizing the authority's assets and meeting future needs for regional transit facilities and
60 services consistent with the program for mass transportation required by paragraph g of section 5
61 of chapter 161A of the General Laws; and

62 (f) to utilize the powers afforded to the authority under chapter 161A of the General
63 Laws, any special law, and the provisions of this act to accomplish the foregoing objectives.

64 SECTION 80D. In addition to those powers referenced in subsection (c) of section 80A
65 of this act, the powers and responsibilities of the fiscal and management control board shall
66 include, but not be limited to, the following:

67 (e) to establish separate operating and capital budgets, each with clearly designated
68 revenue sources and uses, and to establish policies and procedures to ensure that the authority
69 maintains complete separation between its operating and capital budgets;

70 (f) To establish 1- and 5-year operating budgets under section 20 of chapter 161A,
71 beginning in fiscal year 2017, which are balanced primarily through a combination of internal
72 cost controls and increase in own-source revenues and which assume that additional contract
73 assistance in the form of appropriations from the commonwealth transportation fund and/or
74 general fund will be no greater than the sum of debt payments associated with debt incurred by
75 the Massachusetts Bay Transportation Authority before fiscal year 2000, debt associated with

76 transit mitigation commitments for the central artery project, so-called, and any amount provided
77 to facilitate the transfer of all authority employees from the capital budget to the operating
78 budget;

79 (c) to establish 5- and 20-year capital plans, addressing, among other things, a phased
80 program for the complete restoration of the physical assets of the authority including its vehicle
81 fleet, a plan to address the failings within the existing capital program and recommendations for
82 the level of funding needed to meet the region's transit needs;

83 (d) to establish a rigorous performance management system and performance metrics and
84 targets that address, among other things, maximizing of own-source revenues, increasing
85 ridership, reducing absenteeism, addressing vacancies and attrition, achieving procurement and
86 contracting improvements and improving customer focus and orientation (including a public
87 scorecard tracking performance with respect to customer-oriented metrics);

88 (e) notwithstanding the provisions of any general or special law, to reorganize,
89 consolidate, or abolish departments, divisions, or entities of the authority, except the
90 Metropolitan Boston Transit Parking Corporation, in whole or in part, and to establish such new
91 departments, divisions, or entities as it deems necessary, and to transfer the duties, powers,
92 functions, and appropriations of one department, division, or entity, except the duties, powers,
93 functions, and appropriations of the Metropolitan Boston Transit Parking Corporation, to
94 another;

95 (f) to amend any borrowing authorization or to finance or refinance any debt in
96 accordance with law; provided, however, that the board shall not delegate this authority;

97 (g) to review any contract for the provision of services entered into by the authority,
98 including contracts entered into before the establishment of the board, and including but not
99 limited to commuter rail and paratransit services, and to amend said contracts, as necessary, in
100 accordance with their terms;

101 (h) to establish, increase, or decrease any fare, fee, rate, or charge, for any service,
102 license, or activity within the scope of the authority; provided, however, that the board shall not
103 delegate this authority

104 (i) to approve appropriations necessary to fund a decision by an arbitrator pursuant to
105 section 32 of Chapter 161A of the General Laws; provided, however, that the board shall not
106 delegate this authority; and

107 (j) to employ, retain, and supervise such managerial, professional, and clerical staff as are
108 necessary to carry out its responsibilities. The fiscal and management control board shall have
109 the authority to set the compensation, terms, and conditions of employment of its own staff.
110 Staff hired under this subsection shall be employees of the authority, except such employees as
111 the fiscal and management control board formally designates independent contractors, except
112 that they shall be treated as executives under section 26 of chapter 161A.

113 SECTION 80E. (a) Within 120 days after all of the members of the fiscal and
114 management control board have been appointed, the board shall submit a preliminary report to
115 the secretary of administration and finance and the chairpersons of the house and senate
116 committees on ways and means. The report shall include a preliminary analysis of, and
117 management plans to address, the authority's structural operating deficit and its capital and
118 maintenance needs over the 5 years following the effective date of this act.

119 (b) On or before December 1 during each year of its existence, the fiscal and management
120 control board shall report on its fare policy, operating budget, capital plan and progress toward
121 meeting performance metrics and targets to the secretary of transportation, the secretary of
122 administration and finance and the chairpersons of the house and senate committees on ways and
123 means.

124 (c) On or before January 1, 2018, the fiscal and management control board shall report to
125 the secretary of transportation and the chairpersons of the house and senate committees on ways
126 and means and the chairpersons of the joint committee on transportation as to whether its powers
127 have been sufficient to restore fiscal stability and reliable performance to the authority. If the
128 board concludes that fiscal stability and reliable performance has been achieved, the report shall
129 include recommendations regarding its view on the governance structure that should be
130 established to govern the Massachusetts Bay Transportation Authority following the dissolution
131 of the fiscal and management control board. If the board concludes that its powers are
132 insufficient, such report shall include a statement of reasons why it has been unable to restore
133 fiscal stability and reliable performance and a recommendation as to what measures the board
134 believes to be necessary. The report shall address whether the board established by section 7 of
135 chapter 161A should govern the Massachusetts Bay Transportation Authority going forward.

136 (d) Notwithstanding the provisions of any general or special law, the fiscal and
137 management control board may determine, with 30 days' notice to the respective clerks of the
138 house and the senate, that the foregoing reporting requirements are substantially equivalent to
139 other reporting requirements imposed on it by law and, upon said determination and notice, shall
140 be required to meet only those requirements set forth in this section.