

**SENATE . . . . . No. 2037**

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**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.