

HOUSE No. 5187

The Commonwealth of Massachusetts



CHARLES D. BAKER
GOVERNOR

OFFICE OF THE GOVERNOR
COMMONWEALTH OF MASSACHUSETTS
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KARYN POLITO
LIEUTENANT GOVERNOR

August 10, 2022

To the Honorable Senate and House of Representatives,

Pursuant to Section 5 of Article 63 of the Amendments to the Constitution, I am today signing House Bill 5151, “An Act Relative to Massachusetts Transportation and Climate” (“MassTRAC”) and returning certain portions to you for reconsideration.

This legislation authorizes over \$11 billion to advance and support significant investments in the Commonwealth’s roads, bridges, railways, transit agencies, and environmental infrastructure, including investments made possible by the historic federal Bipartisan Infrastructure Law (BIL) enacted on November 15, 2021. The funding authorized under MassTRAC allows the Commonwealth to take full advantage of increased federal funding opportunities under BIL, including access to an additional \$1.8 billion in Federal Highway formula funds and the opportunity to compete for \$3.5 billion in discretionary federal grants. Overall, this legislation represents a crucial next step implementing critical infrastructure investments designed to modernize the state’s transportation network while supporting carbon reduction and resiliency goals.

Specifically, this legislation enables the Commonwealth to continue to invest in its core transportation infrastructure programs for the Highway, Rail & Transit, and the Aeronautics divisions, ensuring there is authorization in place to support the MassDOT and MBTA capital programs through 2026. It also supports strategic investments in our communities through Complete Streets, Municipal Pavement, and Shared Streets and Spaces programs and provides additional authorization to support the MBTA’s activities to address the FTA safety

recommendations. This legislation also includes funding for initial implementation efforts in support of new East-West passenger rail service. It will also enable us to increase clean energy efforts, including the expansion of our electric vehicle charging infrastructure to facilitate long-distance travel and provide additional convenient charging options.

MassTRAC provides the necessary funding to deliver critical and transformative infrastructure investments in the Commonwealth's vast transportation network while supporting carbon reduction and resiliency goals. However, there are a few sections that include wording or provisions that are inconsistent with MassDOT and MBTA operations and capital planning or will not meet the intended objective.

Accordingly, I am striking wording in items in Sections 2D, 2F and 2G as enumerated in Attachment A of this message.

I am disapproving sections 3, 3A, 25 and 26 itemized in Attachment B for the reasons set forth in that attachment.

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth, I am returning sections 20, 24, 32, 54 and 61 with recommendations for amendment. Our reasons for doing so and the recommended amendments are set forth in separate letters that are dated today and included with this message as Attachments C to G, inclusive.

The remainder of this bill I approve.

Respectfully submitted,

Charles D. Baker,
Governor

Attachment A

"An Act Relative to Massachusetts's Transportation Resources and Climate"

Veto Items: Line Item Accounts

Item Number	Action	Reduce By	Reduce To
Section 2D			
6621-2208	Strike Wording		
I am striking language because it is not consistent with MassDOT and MBTA capital and operations planning.			
Section 2F			
6720-2261	Strike Wording		
I am striking language because it is not consistent with MassDOT and MBTA capital and operations planning.			
Section 2G			
6720-2215	Strike Wording		
I am striking this language because industry experts believe this will create safety issues and reduce productivity on projects.			

Attachment B

"An Act Relative to Massachusetts's Transportation Resources and Climate"

Veto Items: Outside Sections

Section 3 – Owner's Representative Reporting 1

I am vetoing this section which changes the reporting cycle for Owner's Representatives. We believe that these changes are burdensome and unnecessary in light of the existing monthly reports submitted by Owner's Representatives to the public owner and the annual reports filed with the inspector general, the secretary of transportation, the house and senate chairs of the joint committee on transportation and to the state auditor.

Section 3A – Owner's Representative Reporting 2

I am vetoing this section which changes the reporting cycle for Owner's Representatives. We believe that these changes are burdensome and unnecessary in light of the existing monthly reports submitted by Owner's Representatives to the public owner and the annual reports filed with the inspector general, the secretary of transportation, the house and senate chairs of the joint committee on transportation and to the state auditor.

Section 25 – Alternative Commuter Rail Parking

I am vetoing this section which requires the MBTA to provide alternative commuter rail parking during construction based upon 2019 ridership levels. We believe that the current parking needs at these locations do not support this provision and the MBTA will mitigate parking impacts resulting from construction to the extent reasonable and feasible.

Section 26 – Car Sharing Surcharge Exemption

I am vetoing this section as it would end the collection of certain amounts that are currently pledged revenue for the purposes of bonds and would result in a breach of the covenants associated with the bonds.

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ATTACHMENT C

August 10, 2022

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 20 of House Bill 5151, “An Act Relative to Massachusetts Transportation and Climate” (“MassTRAC”).

While I appreciate the Legislature’s consideration of this Section which is intended to improve road safety in highway work zones, as enacted this Section would prohibit the current practice of using flaggers and other flashing lights on commonly used equipment such as trailers without the presence of law enforcement. I am therefore proposing an amendment to clarify the requirement that blue lights can only be permitted on MassDOT vehicles in connection with maintenance or construction activities in highway work zones at which a law enforcement officer is present and only by the authority of a permit issued by the registrar. This will serve to ensure the safety of MassDOT employees and contractors, law enforcement, and the traveling public.

As a result, I am proposing to amend Section 20 by striking out the words “vehicle or equipment” and inserting in place thereof the following words:- motor vehicle.

Respectfully submitted,

Charles D. Baker
Governor

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ATTACHMENT D

August 10, 2022

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 24 of House Bill 5151, “An Act Relative to Massachusetts Transportation and Climate” (“MassTRAC”).

Section 24 sets forth requirements for MBTA safety reporting to the Inspector General. I support the transparency and oversight provided for in this section but believe the requirements should be streamlined to align with existing reporting requirements. I am therefore proposing an amendment that will streamline and align this monthly safety reporting requirement with reports made to the department of public utilities, the federal transit administration, the board of directors of the MBTA, the national transit database and the office of the inspector general. This change will allow for consistent and comprehensive safety data analysis in a single report.

As a result, I am proposing to amend the bill by striking out Section 24 and inserting in place thereof the following section:-

SECTION 24. Section 5 of chapter 161A of the General Laws, as appearing in the 2020 Official Edition, is hereby amended by adding the following subsection:-

(t) Monthly, prior to the fourteenth day of the month, the authority shall submit a safety data analysis report to the office of the inspector general that contains safety performance indicators for bus, heavy rail and light rail on behalf of the authority that: (i) occurred during the immediately preceding month; and (ii) are required to be reported to any state or federal entity pursuant to state or federal law or regulations or any policy or plan of the authority. The authority shall make the report publicly available on the authority's website not later than 3 days following delivery of the report to the office of the inspector general.

Respectfully submitted,

Charles D. Baker
Governor

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ATTACHMENT E

August 10, 2022

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 32 of House Bill 5151, “An Act Relative to Massachusetts Transportation and Climate” (“MassTRAC”).

Section 32 proposes weekly MBTA hiring reports to the legislature. I appreciate the Legislature’s focus on MBTA hiring and the need for regular reporting on the MBTA’s progress, but that reporting should be at a frequency and level of detail that allows for the inclusion of meaningful data and sufficient time for staff to accomplish the hiring and training goals.

I am therefore proposing to amend Section 32 by striking out the section and inserting in place thereof the following section:-

SECTION 32. Not more than 1 month after the effective date of this act and monthly thereafter, the Massachusetts Bay Transportation Authority shall file a report with the joint committee on transportation and shall make the report publicly accessible on the Massachusetts Bay Transportation Authority website. The report shall include: (i) all unfilled job positions, including the position title and number of separations in the prior month broken down by position; and (ii) all positions filled in the prior month.

Respectfully submitted,

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ATTACHMENT F

August 10, 2022

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 54 of House Bill 5151, “An Act Relative to Massachusetts Transportation and Climate” (“MassTRAC”).

Section 54 requires the MBTA to develop commuter rail system plans to maximize ridership returns on investment and meet statewide greenhouse gas emissions limits. I support this planning to make the commuter rail system more productive, equitable and decarbonized. I am proposing changes to ensure the plans incorporate the most up to date technology.

As a result, I am proposing to amend Section 54 in paragraph (1) of subsection (b) by striking out the words “electric locomotive” and inserting in place thereof the following words:- battery electric locomotive.

And by further amending said Section 54 in said paragraph (1) of said subsection (b) by striking out the words “for electrification under this act” and inserting in place thereof the following words:- for battery electrification under this act.

And by further amending said Section 54, in said paragraph (1) of said subsection (b) by striking out the words “purchases necessary to begin the transition to electric service on the rail lines listed in this section and no agreement to purchase commuter rail trains shall be diesel locomotives after December 31, 2030” and inserting in place thereof the following words:- purchases necessary to begin the transition to battery electric service on the rail lines listed in this section.

And by further amending said Section 54, in paragraph (2) of said subsection (b) by striking out the words “electrify the remainder of the” and inserting in place thereof the following words:- utilize a battery electric.

Respectfully submitted,

Charles D. Baker
Governor

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ATTACHMENT G

August 10, 2022

To the Honorable Senate and House of Representatives:

Pursuant to Article LVI, as amended by Article XC, Section 3 of the Amendments to the Constitution of the Commonwealth of Massachusetts, I am returning to you for amendment Section 61 of House Bill 5151, “An Act Relative to Massachusetts Transportation and Climate” (“MassTRAC”).

Section 61 proposes the creation of a special commission on mobility pricing and charges this commission with studying and making recommendations on the implementation of roadway and congestion pricing. I have repeatedly raised concerns about the equity issues associated with congestion pricing, including in our administration’s 2019 Congestion in the Commonwealth report. The changes in traffic and commuting behavior that have come out of the COVID-19 pandemic could further exacerbate those equity issues, as workers who have the financial means to pay a congestion price are best able to adjust their commutes to avoid it, and those who don’t have the financial means to pay a congestion price are those with the least flexibility in their schedules.

I am proposing to amend Section 61 by increasing the membership of the special commission on mobility to include input from important transportation stakeholders as well as groups that represent the workers who would be most impacted by congestion pricing.

Specifically, I am proposing to add the American Automobile Association, Construction Industries of Massachusetts, the American Council of Engineering Companies, the Retailers Association of Massachusetts, the Massachusetts Restaurant Association, the Massachusetts Health and Hospital Association, the Trucking Association of Massachusetts as well as a representative from the hospitality industry.

As a result, I am proposing to amend Section 61, in subsection (b) by striking out the figure “14” and inserting in place thereof the following figure:- 22.

And by further amending said Section 61 by inserting after the words “Worcester Regional Chamber of Commerce,” the following words:-

1 of whom shall be representative of the American Automobile Association, 1 of whom shall be a representative of the Construction Industries of Massachusetts, 1 of whom shall be a representative of the American Council of Engineering Companies, 1 of whom shall be a representative of the Trucking Association of Massachusetts, 1 of whom shall be a representative of the Retailers Association of Massachusetts, 1 of whom shall be a representative of the Massachusetts Restaurant Association, 1 of whom shall be a representative of the Massachusetts Health and Hospital Association and a representative from the hospitality industry.

Respectfully submitted,

Charles D. Baker
Governor

The actions taken by the Governor are delineated on this excerpt from the original parchment:—

I disapprove Sections 3, 3A, 25 and 26.

I disapprove in the following items in Section 2D the wording as indicated:

Section 2D	Wording Stricken
6621-2208	<p>"; provided further, that the Massachusetts Department of Transportation shall reauthorize tourist excursion services on the Berkshire Scenic railway in Southern Berkshire county; provided further, that the Massachusetts Bay Transportation Authority shall restore a bus stop in Danvers Square; provided further, for every planned or unplanned bus route service elimination, the Massachusetts Bay Transportation Authority shall hold a mandatory, thirty-day appeal process during which the Massachusetts Bay Transportation Authority must confer with city or town planning officials to explore alternatives; provided further, that funds allocated for transit electrification in this item shall be prioritized for spending in environmental justice populations; provided further, that all transit electrification vehicle procurements shall be for electric vehicles that include non-combustion vehicles and other vehicles that do not produce tailpipe emissions;"</p> <p>and</p> <p>“provided further, that funds shall be expended on the electrification of commuter rail system and water transportation infrastructure;”</p>

I disapprove in the following items in Section 2F the wording as indicated:

Section 2F	Wording Stricken
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6720-2261 "; provided further, that not later than March 31, 2023, the Massachusetts Department of Transportation shall submit a report to the house and senate ways and means committees detailing (a) the number of full-time equivalent employees, (b) a list of outside consultants engaged in electrification projects and the dollar amount expended towards said contracts, (c) staffing levels of full-time equivalent staff for the previous 10 years in the office of the secretary of transportation, (d) the number of public electric vehicle charging stations in the commonwealth, (e) progress towards complete commuter rail electrification, (f) the number of public transit electric busses in circulation in the commonwealth, and (g) recommendations for the additional resources needed to fulfill the commonwealth's goal of complete public transportation electrification by 2050"

I disapprove in the following items in Section 2G the wording as indicated:

Section 2G Wording Stricken

6720-2215 "; provided further, that, unless the executive office of labor and workforce development certifies that it would create a worker safety risk, as defined by the executive office, on public works projects funded under this item where the amount of construction costs under any contract awarded is likely to exceed \$1,000,000, not less than 20 per cent of the total hours of work of employees receiving an hourly wage who are directly employed on the site of the project by the contractor or a subcontractor and who are subject to the prevailing wage, shall be performed by apprentices in bona fide apprentice training programs as provided in sections 11H and 11I of chapter 23 of the General Laws that are approved by the division of apprentice standards in the executive office of labor and workforce development;"

I return for amendment, pursuant to the authority vested in me by Article 56, as amended by Article 90, Section 3, of the Amendments to the Constitution, Sections 20, 24, 32, 54 and 61. The text of my recommended amendments is set forth in separate letters of this date to the Senate and House of Representatives.

The remainder of this bill I approve.

Approved, August 10, 2022

at o'clock and minutes, .M.

Charles D. Baker

Governor