HOUSE DOCKET, NO. 3448 FILED ON: 1/21/2011

HOUSE . . . . . No. 3096

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 passage of the accompanying:

An Act relative to the Massachusetts Department of Transportation.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Joseph F. Wagner	*8th Hampden*

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HOUSE . . . . . No. 3096

By Mr. Wagner of Chicopee, a petition (accompanied by bill, House, No. 3096) of Joseph F. Wagner relative to the Massachusetts Department of Transportation. Transportation.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act relative to the Massachusetts Department of Transportation.

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. Said section 2 of said chapter 6C, as so appearing, is hereby further amended by striking out, in the first sentence of subsection (b), the word "four" and inserting in place thereof the following words:- A majority of.

SECTION 2. Section 27 of said chapter 6C, as so appearing, is hereby amended by inserting the following subsection:-

(c) Notwithstanding section 168 of chapter 175 or any other general or special law to the contrary, the department shall be exempt from any fees or taxes associated with surplus lines insurance; provided, however, that the exemption shall extend to any insurance broker for any insurance premium tax or surplus lines tax being incurred or having been incurred by the insurance broker as a result of the insurance having been procured, placed, negotiated, continued or renewed for or on behalf of the department.

SECTION 3. The second sentence of subsection (c) of section 29 of said chapter 6C, as so appearing, is hereby amended by inserting after the word 'determine' the following words:- ", in accordance with section 46C of chapter 30,".

SECTION 4. Section 37 of said chapter 6C, as so inserted, is hereby amended by striking out said section, and inserting in place thereof the following section:-

There shall be within the department a highway division, which shall perform such functions as the secretary may determine in relation to the administration, implementation and enforcement of the department's authority over state highways. The division shall be under the supervision and control of the administrator. The administrator shall be the executive and

21 administrative head of the division and shall be responsible for administering and enforcing the
22 provisions of law relative to the division and to each administrative unit thereof. The duties given
23 to the administrator in this chapter and in any other general or special law shall be exercised and
24 discharged subject to the direction, control and supervision of the secretary.

25 The administrator shall be exempt from chapter 31 and the position of administrator shall
26 be classified in accordance with section 45 of chapter 30. The administrator shall be appointed
27 with due regard to his fitness, by reason of his experience in matters relating to transportation
28 infrastructure, including roads and bridges, such as the construction, operations or financing
29 thereof, or such other relevant experience to assist in the efficient exercise of his powers and
30 duties. The administrator shall administer this section and the General and Special Laws, rules
31 and regulations that grant powers to or impose duties upon the division, subject to the
32 supervision of the secretary.

33 SECTION 5. Section 51 of said chapter 6C, as so appearing, is hereby amended by
34 striking out said section and inserting in place thereof the following section:-

35 Section 51. As used in sections 52 to 54, inclusive, the following words shall, unless the
36 context clearly requires otherwise, have the following meanings:-

37 "Division", the rail and transit division.

38 "Administrator", the administrator for the rail and transit division.

39 SECTION 6. Section 52 of said chapter 6C, as so appearing, is hereby amended by
40 striking out said section and inserting in place thereof the following section:-

41 Section 52. There shall be within the department a rail and transit division, which shall
42 perform such functions as the secretary may determine in relation to the administration,
43 implementation and enforcement of the department's authority over mass transit systems. The
44 division shall be under the supervision and control of the administrator. The administrator shall
45 be the executive and administrative head of the division and shall be responsible for
46 administering and enforcing the provisions of law relative to the division and to each
47 administrative unit thereof. The duties of the administrator in this chapter and in any other
48 general or special law shall be exercised and discharged subject to the direction, control and
49 supervision of the secretary.

50 The administrator shall be exempt from chapter 31 and the position of administrator shall
51 be classified in accordance with section 45 of chapter 30. The administrator shall be appointed
52 with due regard to his fitness, by reason of his experience in matters relating to rail transportation
53 and mass transit, including the development of rail and transit properties and infrastructure, and
54 the operations or financing thereof, or such other relevant experience to assist in the efficient
55 exercise of his powers and duties. The administrator shall administer this section and the General

56 and Special Laws, rules and regulations that grant powers to or impose duties upon the division,
57 subject to the supervision of the secretary.

58 SECTION 7. Section 53 of said chapter 6C, as so appearing, is hereby amended by
59 striking out the third sentence, and inserting in place thereof the following sentence:-

60 The division shall oversee and coordinate the activities of the Massachusetts Bay
61 Transportation Authority established pursuant to chapter 161A and the regional transit
62 authorities and regional transit authority council established pursuant to chapter 161B.

63 SECTION 8. Section 54 of said chapter 6C, as so appearing, is hereby amended by
64 striking out said section and inserting in place thereof the following section:-

65 Section 54. The administrator may from time to time, subject to the approval of the
66 secretary, establish within the division such administrative units as may be necessary for the
67 efficient and economical administration of the division and, when necessary for such purpose,
68 may abolish any such administrative unit or may merge any 2 or more units, as the administrator
69 deems advisable. Each such unit shall be under the direction, control and supervision of the
70 director. The director shall assign to all officials, agents and employees of the units their
71 respective duties. The administrator shall prepare and keep current a statement of the
72 organization of the division, of the assignment of its functions to its various administrative units,
73 offices and employees, and of the places at which and the methods whereby the public may
74 receive information or make requests. Such statement shall be known as the division's
75 description of organization.

76 SECTION 9. Section 55 of said chapter 6C, as so appearing, is hereby amended by
77 striking out said section and inserting in place thereof the following section:-

78 Section 55. As used in sections 56 to 57, inclusive, the following words shall, unless the
79 context clearly requires otherwise, have the following meanings:-

80 "Registry", the registry of motor vehicles division.

81 "Administrator", the administrator for the registry of motor vehicles division, who shall
82 also be known as the registrar of motor vehicles.

83 SECTION 10. Section 56 of said chapter 6C, as so appearing, is hereby amended by
84 striking out said section and inserting in place thereof the following section:-

85 Section 56. There shall be within the department a registry of motor vehicles division,
86 which shall perform such functions as the secretary may determine in relation to the
87 administration, implementation and enforcement of the department's authority over motor
88 vehicles. The registry shall be under the supervision and control of the administrator. The
89 administrator shall be the executive and administrative head of the registry and shall be

90 responsible for administering and enforcing the provisions of law relative to the registry and to
91 each administrative unit thereof. The duties given to the administrator in this chapter and in any
92 other general or special law shall be exercised and discharged subject to the direction, control
93 and supervision of the secretary. The administrator shall appoint a deputy registrar, assistant to
94 the registrar, hearings officers and supervising inspectors and may appoint such other officers
95 and employees as may be necessary to carry out the work of the registry. In the event of a
96 vacancy in the office of registrar, his powers and duties shall be exercised and performed by the
97 deputy registrar until a registrar is duly qualified.

98 The administrator shall be exempt from chapter 31 and the position of administrator shall
99 be classified in accordance with section 45 of chapter 30. The administrator shall be appointed
100 with due regard to his fitness, by reason of his experience in matters relating to motor vehicle
101 laws, or by reason of his training, experience, capacity, and interest in the field of administration
102 or administering the laws relating to motor vehicles, or such other relevant experience to assist in
103 the efficient exercise of his powers and duties. The administrator shall administer this section
104 and the General and Special Laws, rules and regulations that grant powers to or impose duties
105 upon the division, subject to the supervision of the secretary.

106 SECTION 11. Section 7 of chapter 161A of the General Laws, as most recently amended
107 by section 108 of chapter 25 of the acts of 2009, is hereby amended by striking out said section,
108 and inserting in place thereof the following section:-

109 Section 7. The authority shall be governed and its corporate powers exercised by the
110 board of directors of the Massachusetts Department of Transportation.

111 Notwithstanding the foregoing, terms of the initial November 1, 2009 appointments to
112 the board shall be staggered, as provided in section 160 of chapter 25 of the acts of 2009, as
113 amended by section 44 of chapter 120 of the acts of 2009.

114 SECTION 12. Section 139 of said chapter 25 of the acts of 2009 is hereby amended by
115 striking out said section and inserting in place thereof the following section:-

116 Section 139. Notwithstanding the provisions of any general or special law to the contrary,
117 employees of the Massachusetts Department of Transportation as defined in Section 1 of chapter
118 6C of the General Laws who are hired after the effective date of this act shall become members
119 of the Massachusetts State Employee's retirement system, and notwithstanding the provisions of
120 any general or special law to the contrary including, but not limited to, paragraph (c) of
121 subdivision (8) of attributable to said service of such employees. The liabilities attributable to
122 any other service of such employees shall be recoverable by the commonwealth pursuant to the
123 terms of paragraph (c) of subdivision (8) of section 3 of chapter 32 of the General Laws.

124 SECTION 13. Section 150 of chapter 25 of the acts of 2009 is hereby amended by
125 striking out subsections (e) and (f) and inserting in place thereof the following three subsections:-

126 (e) Ownership, possession and control of all books, papers, records, documents,
127 equipment, buildings, facilities, cash and other property, both personal and real, including all
128 such property held in trust, which immediately before the effective date of this act are in the
129 custody of each transferor agency shall pass to, and be vested in, the Massachusetts Department
130 of Transportation without consideration or further evidence of transfer and shall thereafter be in
131 the possession and control of the Massachusetts Department of Transportation.

132 (f) All duly existing contracts, leases and obligations of each transferor agency shall
133 continue in effect but shall be assumed by the Massachusetts Department of Transportation. No
134 existing right or remedy of any character shall be lost, impaired or affected by this act. The
135 Massachusetts Department of Transportation shall have authority to exercise all rights and enjoy
136 all interests conferred upon each transferor agency by the contracts, leases or obligations.

137 (g) The transfer of the assets, liabilities, obligations and debt of each transferor agency to
138 the Massachusetts Department of Transportation under this act shall be effective upon the
139 effective date of this act and shall bind all persons with or without notice and without any further
140 action or documentation.

141 SECTION 14. Section 159 of chapter 25 of the acts of 2009 is hereby amended by
142 striking out said section and inserting in place thereof the following section:-

143 Section 159. (a) Effective upon the date of dissolution of the Massachusetts Turnpike
144 Authority: (1) the Massachusetts Turnpike Authority employees' retirement system shall be
145 dissolved; (2) all members of the Massachusetts Turnpike Authority Employees' Retirement
146 System shall become members of the Massachusetts State Employees' Retirement System; (3)
147 the management of benefits of the dissolved Massachusetts Turnpike Authority employees'
148 retirement system shall be transferred to the state board of retirement in section 18 of chapter 10
149 of the General Laws which board shall have with respect thereto the general powers and duties
150 set forth in subdivision (5) of section 20 of said chapter 32; (4) all data, files, papers and records
151 and other materials of the Massachusetts Turnpike Authority retirement board provided for in
152 paragraph (b) of subdivision (41/2) of said section 20 of said chapter 32 shall be transferred to
153 and held by the state board of retirement; (5) ownership and control of all the assets of the
154 dissolved Massachusetts Turnpike Authority Employees' Retirement System in the custody of
155 the secretary-treasurer of the authority shall be transferred to the Pension Reserves Investment
156 Management Board and be made assets of the Massachusetts State Employees' Retirement
157 System; (6) the Massachusetts Turnpike authority retirement board in said paragraph (b) of
158 subdivision (4 1/2) of said section 20 of said chapter 43 shall be abolished; provided, however,
159 that the members and officers thereof shall continue to be authorized to do all such things and
160 take all such action as may be necessary or desirable to be done or taken by them to effectuate
161 the transfers to be made pursuant to this section; and (7) the public employee retirement
162 administration commission shall conduct an audit related to the dissolution of the Massachusetts
163 Turnpike Authority Employees' Retirement System and the transfer of its assets.

164 (b) Effective upon the date of dissolution of the Massachusetts Turnpike Authority, the
165 payment of all annuities, pensions, retirement allowances and refunds of accumulated total
166 deductions and of any other benefits granted under the sections 1 to 28, inclusive, of said chapter
167 32 are hereby made obligations of the commonwealth.

168 SECTION 15. Section 160 of chapter 25 of the acts of 2009, as most recently amended
169 by section 44 of chapter 120 of the acts of 2009, is hereby amended by striking out said section,
170 and inserting in place thereof the following section:-

171 Section 160. Notwithstanding any general or special law to the contrary, in making
172 initial appointments to the boards of directors of the Massachusetts Department of Transportation
173 established in chapter 6C and Massachusetts Bay Transportation Authority established pursuant
174 to chapter 161A of the General Laws, the governor shall appoint 1 member for a term of 1 year,
175 1 member for a term of 2 years, 1 member for a term of 3 years, 1 member for a term of 4 years
176 and 1 member for a term of 5 years.