SENATE DOCKET, NO. 1543 FILED ON: 1/18/2013

# SENATE . . . . . No. 1641

## The Commonwealth of Massachusetts

PRESENTED BY:

***Gale D. Candaras***

*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 the Massachusetts Bay Transportation Authority .

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Gale D. Candaras* | *First Hampden and Hampshire* |
| *Denise Andrews* | *2nd Franklin* |
| *Bruce E. Tarr* | *First Essex and Middlesex* |

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# SENATE . . . . . No. 1641

By Ms. Candaras, a petition (accompanied by bill, Senate, No. 1641) of Gale D. Candaras, Denise Andrews and Bruce E. Tarr for legislation relative to the Massachusetts Bay Transportation Authority. Transportation.

## The Commonwealth of Massachusetts

**In the Year Two Thousand Thirteen**

An Act relative to the Massachusetts Bay Transportation Authority .

*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. Chapter 161A of the General Laws is hereby amended by inserting after section 7A the following sections:-

Section 7B. (a) There shall be a MBTA Finance Control Board, hereinafter board, which shall consist of 5 members: 3 designees of the secretary of administration and finance, each of whom shall have expertise in emergency fiscal management and restructuring of a governmental agency, and at least 2 of whom shall reside outside the MBTA service area, the secretary of transportation or his designee, and the Chair of the MBTA Board of Directors. The board shall act by a majority vote of all its members. The secretary for administration and finance, hereinafter secretary, may fix stipends to be paid to members of the board other than the Chair of the MBTA Board of Directors and Secretary of Transportation. The board shall initiate and assure the implementation of appropriate measures to secure the financial stability of the MBTA, and shall continue in existence until such time as the board determines that the MBTA has funds sufficient to meet its debt and payment obligations for the next fiscal year and thereafter or for such period as the members may vote to continue its existence, provided, however, that if the board determines that the financial conditions that triggered the existence of the board no longer exist, the board shall file a report with the governor, the speaker of the house and the president of the senate regarding the fiscal stability of the MBTA and requesting reinstatement of a MBTA Board of Directors.

(b) Action by the board under the authority of this act shall in all respects constitute action by the MBTA for all purposes under any general or special law.

(c) Until the board ceases to exist, no appropriation, borrowing authorization, transfer, or other spending authority shall take effect until approved by the board. The board shall approve all appropriations, borrowing authorizations, transfers, or any other spending authorizations, in whole or part.

Section 7C. The board shall have the following powers:

(1) to amend the annual or supplemental budgets of the MBTA including the establishment, increase or decrease of any appropriations and spending authority for all aspects of the MBTA;

(2) to implement and maintain uniform budget guidelines and procedures for all departments;

(3) to amend, formulate and execute capital budgets, including any borrowing authorization, or finance or refinance any debt in accordance with law;

(4) to amortize operational deficits in an amount and for such term as the secretary approves on an annual basis;

(5) to develop and maintain a uniform system for all financial planning and operations in all departments, offices, boards, commissions, committees, agencies or other units of the MBTA;

(6) to review and approve or disapprove all proposed contracts for goods or services;

(7) notwithstanding any general or special law or regulation to the contrary, to establish, increase, or decrease any fee, rate, or charge, for any service, license, permit or other activity, otherwise within the authority of the MBTA;

(8) notwithstanding any general or special law or regulation to the contrary, to appoint, remove, supervise and control all MBTA employees and have control over all personnel matters; the board shall hold all existing powers to hire and fire and set the terms and conditions of employment held by other employees or officers of the MBTA, whether or not elected; the board shall have the authority to exercise all powers otherwise available to the MBTA Board of Directors regarding contractual obligations during a fiscal emergency; and no MBTA employee or officer shall hire, fire, transfer or alter the compensation or benefits of any employee except with the written approval of the board. The board may delegate or otherwise assign these powers with the approval of the secretary;

(9) to alter the compensation of officials of the MBTA to reflect the fiscal emergency and changes in the responsibilities of the officials as provided by this act;

(10) to employ, retain, and supervise such managerial, professional and clerical staff as are necessary to carry out its responsibilities, with the approval of the secretary. The board, with the approval of the secretary, shall have authority to set the compensation, terms, and conditions

55 of employment of its own staff. The compensation of personnel hired pursuant to this subsection
56 shall be determined and fixed by the board. Staff hired under this subsection shall be deemed
57 employees of the commonwealth, except such employees as the board formally designates
58 independent contractors, but chapters 31 and 150E of the General Laws shall not apply to such
59 employees.

60 (11) to reorganize, consolidate or abolish departments, commissions, boards, offices or
61 functions of the MBTA, in whole or in part, and to establish such new departments,
62 commissions, boards, offices or functions as it deems necessary, and to transfer the duties,
63 powers, functions and appropriations of a department, commission, board or other unit to
64 another;

65 (12) to appoint, in consultation with the secretary, persons to fill vacancies on any board,
66 committee, department, or office acting in an advisory capacity to the board;

67 (13) to sell, lease, or otherwise transfer real property and other assets of the MBTA with
68 the approval of the secretary;

69 (14) to purchase, lease, or otherwise acquire property or other assets on behalf of the
70 MBTA with the approval of the secretary;

71 (15) to promulgate rules and regulations governing the operation and administration of
72 the MBTA;

73 (16) to alter or rescind any action or decision of any, employee, board or commission
74 within 14 days after receipt of notice of such action or decision;

75 (17) to suspend in consultation with the secretary such rules and regulations of the
76 MBTA and to promulgate rules and regulations necessary to carry out this act; and

77 (18) to exercise all powers provided pursuant to any general law or special law, that any
78 official of the MBTA may exercise, acting separately or jointly. With respect to any such
79 exercise of powers by the board, the officials of the MBTA shall not rescind or take any action
80 contrary to such action by the board so long as the board continues to exist; and

81 (19) to develop a long range plan for MBTA financial and structural sustainability,
82 included but not limited to an analysis of debt and contemplated expansion, specifically
83 identifying expansion which is strictly necessary as a result of a legally binding agreements and
84 other proposals that may not be financially viable.

85 SECTION 3. Within 30 days after the appointment of the board, the board shall make a
86 preliminary report to the secretary of administration and finance and to the chairs of the house
87 and senate committees on ways and means of the extent of the fiscal crisis of the MBTA and the

88 board's preliminary finance and management plans to address the MBTA's operating and
89 structural deficits.

90 If the board determines that its powers are insufficient to restore fiscal stability to the
91 MBTA, it shall so notify the secretary for administration and finance, and shall forward to him a
92 report outlining any additional authority requested, together with any drafts of proposed
93 legislation, to restore fiscal stability to the MBTA.

94 SECTION 4. Chapter 161A of the General Laws is hereby amended by inserting after
95 section 18 the following section:-

96 Section 18A. In any fiscal year in which the MBTA Board determines that funds will be
97 insufficient to meet the debt service or other payment obligations of the authority, the Board
98 shall submit a letter of notification to the secretary of administration and finance, the secretary of
99 transportation, the house committee on ways and means and the senate committee on ways and
100 means not later than 6 months prior to the end of the fiscal year that the Authority will be
101 requesting financial assistance from the Commonwealth to meet the outstanding debt service
102 and other payment obligations. The MBTA Board shall simultaneously request that the
103 Governor remove the then existing Board and immediately replace the Board with the MBTA
104 Finance Control Board established pursuant to section 1.