

HOUSE No. 2204

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 bill:

An Act to increase the homeland security of the Commonwealth by merging the Massachusetts Bay Transportation Authority police department into the department of state police.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Joseph F. Wagner</i>	<i>8th Hampden</i>
<i>Louis L. Kafka</i>	<i>8th Norfolk</i>
<i>Michael F. Rush</i>	<i>Norfolk and Suffolk</i>
<i>Sean Garballey</i>	<i>23rd Middlesex</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Kathi-Anne Reinstein</i>	<i>16th Suffolk</i>
<i>Patricia A. Haddad</i>	<i>5th Bristol</i>

HOUSE No. 2204

By Mr. Wagner of Chicopee, a petition (accompanied by bill, House, No. 2204) of Joseph F. Wagner and others relative to merging the Massachusetts Bay Transportation Authority police department into the department of state police. Public Safety and Homeland Security.

[SIMILAR MATTER FILED IN PREVIOUS SESSION

SEE

□ HOUSE
□ , NO. 2922 OF 2011-2012.]

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act to increase the homeland security of the Commonwealth by merging the Massachusetts Bay Transportation Authority police department into the department of state police.

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. Section 7 of chapter 22C of the General Laws, as appearing in the 2006
2 Official Edition, is hereby amended by striking out the first sentence and inserting in place
3 thereof the following sentence:- There shall be within the division of special police services 4
4 bureaus, which shall be designated as the bureau of facility security, the bureau of motor vehicle
5 enforcement, the bureau of metropolitan district operations, which shall provide services,
6 including but not limited to, school crossing guards and the protection of watershed properties
7 managed by the department of conservation and recreation, and the bureau of transit operations,
8 which shall provide services, including by not limited to, the protection of the rapid transit, bus,
9 commuter boat and rail lines of the Massachusetts Bay Transportation Authority.

10 □
11 □SECTION 2. Said chapter 22C, as so appearing, is hereby amended by inserting after section
12 31 the following section:-

13 □
14 □Section 31A. Massachusetts Bay Transportation Authority; agreement for police service;
15 contents

16

17 The colonel shall enter into an agreement with the Massachusetts Bay Transportation Authority
18 for police services to be provided by the department to said authority. Said agreement shall fix
19 the legal and fiscal responsibility pertaining to the operation and maintenance of such police
20 service and shall include, but not be limited to, a provision for payments to the commonwealth
21 for the cost of retirement, compensation of injured officers, sick leave, and other employee
22 benefits and for a minimum allowance for departmental supervision. Said agreement shall also
23 require the continuation of all terms and conditions of employment established under the
24 applicable collective bargaining agreement pursuant to the provisions of chapter 151E by the
25 commonwealth and the exclusive bargaining representative of any member of the state police
26 providing such police service including, without limitation, the payment by the authority of any
27 benefit or contribution therefore. Said agreement shall also include a provision whereby all
28 parties must enter a cost sharing agreement whereby 50% of all expenses incurred by the
29 department in providing such police service shall, upon proper requisition, be paid by the
30 authority as such expenses are incurred.

31

32 Said agreement shall also provide for the appointment under section 10 and assignment of such
33 members of the state police as deemed necessary to meet the requirements of said authority;
34 provided that such appointment and assignment of any such member of the state police by the
35 colonel shall not be considered a violation of any provision of chapter 29; and provided, further,
36 that during such assignment and except as the colonel shall determine that an emergency exists
37 or is threatened, such officers, in the performance of their duties, shall be subject to the
38 operational control of the authority, and the chairman of the authority, but shall at all times be
39 under the administrative and disciplinary control of the colonel.

40

41 SECTION 3. Chapter 31 of the General Laws, as so appearing, is hereby amended by striking
42 out sections 64 and 65.

43

44 SECTION 4. Section 1 of chapter 32 of the General Laws, as so appearing, is hereby amended
45 by striking out, in lines 204 to 208, inclusive, the words " "Employee", as applied to persons
46 whose regular compensation is paid by the Massachusetts Bay Transportation Authority, shall
47 mean any police officer of the police department of said Authority, established by chapter six
48 hundred and sixty-four of the acts of nineteen hundred and sixty-eight".

49

50 SECTION 5. Said section 1 of said chapter 32, as so appearing, is hereby further amended by
51 striking out, in lines 314 and 315 the words "the Massachusetts Bay Transportation Authority
52 police retirement system,"

53

54 SECTION 6. Said section 1 of said chapter 32, as so appearing, is hereby further amended by
55 striking out, in lines 507 and 508, the words "the Massachusetts Bay Transportation Authority

56 police retirement system.”.

57

58 SECTION 7. Section 2 of said chapter 32, as so appearing, is hereby amended by striking out,
59 in lines 31 to 33, inclusive, the words “an employee of the police department of the
60 Massachusetts Bay Transportation Authority shall be included in the Massachusetts Bay
61 Transportation Authority police retirement system.”.

62

63 SECTION 8. Section 3 of said chapter 32, as so appearing, is amended by striking out, in lines
64 279 and 280, the words “any police officer of the Massachusetts Bay Transportation Authority;”.

65

66 SECTION 9. Section 20 of said chapter 32, as so appearing, is hereby amended by striking out
67 subdivision (4 ³/₄).

68

69 SECTION 10. Paragraph (i) of subdivision (5) of said section 20 of said chapter 32, as so
70 appearing, is hereby amended by striking out the eleventh sentence.

71

72 SECTION 11. Paragraph (c) of subdivision (1) of section 21 of said chapter 32, as so
73 appearing, is hereby amended by striking out, in line 77, the words “the Massachusetts Bay
74 Transportation Authority;”.

75

76 SECTION 12. Subdivision (2) of said section 21 of said chapter 32, as so appearing is hereby
77 amended by striking out the fifth sentence.

78

79 SECTION 13. Subdivision (7) of section 22 of said chapter 32, as so appearing is hereby
80 amended by striking out paragraph (f).

81

82 SECTION 14. Paragraph (a) of subdivision (2) of section 23 of said chapter 32, as so
83 appearing, is hereby amended by striking out, in lines 11 and 12, the words “the treasurer of the
84 Massachusetts Bay Transportation Authority;”.

85

86 SECTION 15. Said paragraph (a) of said subdivision (2) of said section 23 of said chapter 32,
87 as so appearing, is hereby further amended by striking out, in line 20, the words “the
88 Massachusetts Bay Transportation Authority;”.

89

90 SECTION 16. Subdivision (1) of section 24 of said chapter 32, as so appearing, is hereby
91 amended by striking out, in line 10, the words “the Massachusetts Bay Transportation
92 Authority;”.

93

94 SECTION 17. Subdivision (4) of section 25 of said chapter 32, as so appearing, is hereby
95 amended by striking out, in lines 96 and 97, the words “the Massachusetts Bay Transportation

96 Authority,”.

97

98 SECTION 18. Section 28 of said chapter 32, as so appearing, is hereby amended by striking
99 out subdivision (7).

100

101 SECTION 19. Section 94 of said chapter 32, as so appearing, is hereby amended by striking
102 out, in lines 6 and 7, the words: “or of the police force of the Massachusetts Bay Transportation
103 Authority,”.

104

105 SECTION 20. Section 100 of said chapter 32, as so appearing, is hereby amended by striking
106 out, in lines 83 to 85, inclusive, the words “or by the Massachusetts Bay Transportation
107 Authority police retirement board;”.

108

109 SECTION 21. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby
110 amended by striking out, in lines 10 and 11, the words “the Massachusetts Bay Transportation
111 Authority police”.

112

113 SECTION 22. Section 73 of chapter 152 of the General Laws, as so appearing, is hereby
114 amended by striking out, in line 9, the words “or any police officer of the Massachusetts Bay
115 Transportation Authority”.

116

117 SECTION 23. Chapter 664 of the acts of 1968, as amended by chapter 829 of the acts of 1970,
118 is hereby repealed.

119

120 SECTION 24. Section 19 of chapter 1012 of the acts of 1971 is hereby repealed.

121

122 SECTION 25. Chapter 412 of the acts of 1991 is hereby amended by adding the following
123 section:-

124

125 Section 117A. Prior to October 31, 2009, the colonel of the state police shall establish an
126 orientation in-service training program for all persons who shall have been transferred to the
127 department of state police as a uniformed member of said department; provided, however, that
128 such training program shall include, but not be limited to, education of the mission of the said
129 department of state police, the jurisdiction of each bureau and each division of said department,
130 the rules and regulations of said department, the policies and procedures of said department and
131 the equipment owned and used by said department. Any person employed as a police officer in
132 the Massachusetts Bay Transportation Authority police department shall have satisfactorily
133 completed such training program prior to his transfer to the department of state police. Any
134 person who shall not have satisfactorily completed such training program prior to January 31,
135 2010, shall be prohibited from transferring to said department of state police unless said

136 employee shall have submitted in writing his request for a waiver of such training program and
137 said colonel shall have approved such waiver for said employee.

138

139 SECTION 26. Section 119 of said chapter 412 is hereby amended by striking out in the first
140 sentence the words “but prior to June thirtieth, nineteen hundred and ninety three” and inserting
141 in place thereof the following words:- January 31, 2010.

142

143 SECTION 27. Said section 119 of said chapter 412 is hereby further amended by inserting
144 after the words “division of law enforcement of the registry of motor vehicles” the following
145 words:- or an employee of the Massachusetts Bay Transportation Authority police department.

146

147 SECTION 28. Section 120 of said chapter 412 is hereby amended by inserting after the words
148 “division of law enforcement of the registry of motor vehicles” the following words:- or the
149 Massachusetts Bay Transportation Authority police department.

150

151 SECTION 29. Section 121 of said chapter 412 is hereby amended by inserting after the words
152 “division of law enforcement of the registry of motor vehicles” the following words:- or the
153 Massachusetts Bay Transportation Authority police department.

154

155 SECTION 30. Said section 121 of said chapter 412 is hereby further amended by striking out
156 the words “after July fifth, nineteen hundred and ninety-two and prior to October first, nineteen
157 hundred and ninety-two” and inserting in place thereof the following words:- after August 1,
158 2009 and prior to October 31, 2009.

159

160 SECTION 31. Section 135 of said chapter 412 is hereby amended by inserting after the words
161 “by the chief of the capitol police” the following words:- , by the chief of the Massachusetts Bay
162 Transportation Authority police department.

163

164 SECTION 32. Chapter 290 of the acts of 1993 is hereby repealed.

165

166 SECTION 33. The Massachusetts Bay Transportation Authority police department shall be
167 merged into the department of state police. Such merger shall begin on August 1, 2009, with a
168 6-month transition period, so that after such transition period the Massachusetts Bay
169 Transportation Authority police department and the department of state police shall be deemed
170 consolidated and merged, and the consolidated police force shall be called the department of
171 state police. The department of state police, so consolidated, shall be deemed to be the police
172 force of the commonwealth and it shall be the force with jurisdictional authority over state
173 property.

174

175 SECTION 34. The Massachusetts Bay Transportation Authority shall deposit, with the public

176 employee retirement system, funds equal to the contributions for retirement made by the
177 authority and the members, who are present or retired members of the pension funds commonly
178 known either as the MBTA Police Association Retirement Fund or the MBTA Retirement Fund.
179 The transfer of said funds shall be deposited upon agreement of terms between the authority and
180 the commissioner of public employee retirement administration. Said agreement shall be entered
181 into no later than October 31, 2009.

182

183 SECTION 35. All present members of the Massachusetts Bay Transportation Authority police
184 department shall be entered into the public employee retirement system and the commissioner of
185 public employee retirement administration shall credit those members with the creditable service
186 years with the Massachusetts Bay Transportation Authority police department. Members
187 currently retired from the Massachusetts Bay Transportation Authority police department and
188 drawing their pension either partially or in whole from either the MBTA Police Association
189 Retirement Fund or from the MBTA Retirement Fund shall remain members of the MBTA
190 Police Association Retirement Fund or the MBTA Retirement Fund and shall not have any
191 creditable service transferred to the department of state police.

192

193 SECTION 36. Each member of the Massachusetts Bay Transportation Authority police
194 department shall take all creditable service to the department of state police. For the purpose of
195 retirement, service shall be determined by all creditable service based on contributions to a
196 retirement fund within the state retirement system and the years of creditable service with the
197 Massachusetts Bay Transportation Authority police department. The commissioner of public
198 employee retirement administration shall allow those members with prior creditable service to
199 purchase back those creditable years, not within the MBTA police retirement funds, in the
200 normal and customary manner afforded other public employees.

201

202 SECTION 37. Any police officer of the Massachusetts Bay Transportation Authority police
203 department not wishing to transfer to the department of state police by October 31, 2009, shall be
204 placed at the top of the eligibility list of the civil service list for the region of his residence.
205 When said officer is appointed to any city or town from said list he shall be credited with all
206 creditable service for the purpose of seniority and retirement in the public employees retirement
207 system.

208

209 Pursuant to this section, any police officer of the Massachusetts Bay Transportation Authority
210 police department wishing to exercise his civil service rights or privileges shall retain
211 employment with the authority until such reasonable time to effect either appointment or lateral
212 transfer to another police department, but no later than October 31, 2009.

213 SECTION 38. A committee shall be appointed by the colonel of state police and the chief of
214 the Massachusetts Bay

215 Transportation Authority police department to study the titles and rank structure of the

216 Massachusetts Bay Transportation Authority police department to determine where the police
217 officers of the authority should be placed in the rank structure of the consolidated department of
218 state police. The committee shall report its findings and recommendations to said colonel on or
219 before October 31, 2009. There shall be no loss of pay, or other accrued benefit, for any
220 member, noncommissioned, commissioned, or staff officer of the Massachusetts Bay
221 Transportation Authority police department who held his rank prior to the enactment of this act.
222

223 SECTION 39. The colonel of state police is hereby authorized and directed to enter into a
224 memorandum of understanding with the authority to define the terms and conditions for use by
225 the department of property owned or operated by the authority; provided, however, that the
226 transfer shall be in compliance with federal law and no such property shall be transferred under
227 the provisions of the memorandum of understanding without legislative approval; and provided,
228 further, that said memorandum of understanding be executed on or before October 31, 2009.
229

230 SECTION 40. The secretary of public safety, in conjunction with the personnel administrator,
231 shall commence an audit of the personnel file of each member of the Massachusetts Bay
232 Transportation Authority police department on the effective date of this act, to ensure that each
233 file shall contain the accurate name, date of birth, current mailing address, and the length of
234 service of each member. Upon the request of the secretary, the state treasurer shall be directed to
235 offer any assistance as the secretary shall deem reasonable to fulfill the requirements of this
236 section. Said audit shall be completed on or before October 31, 2009.
237

238 SECTION 41. The department of state police, for the purposes of collective bargaining, shall
239 only recognize that organization certified by the Massachusetts Labor Relations Commission to
240 represent the members and non-commissioned officers of the department. Members of the
241 Massachusetts Bay Transportation Authority police department transferring to the department of
242 state police shall abide by the collective bargaining agreements between the department and said
243 organization.
244

245 SECTION 42. Except as authorized in section 37, and notwithstanding the provisions of any
246 general or special law or rule to the contrary, the civil service rights and benefits of any person
247 serving in a position or employed as a police officer in the Massachusetts Bay Transportation
248 Authority accorded pursuant to the provisions of chapter 31 shall hereby be abolished as of
249 October 31, 2009. Nothing in this act shall be deemed to prohibit the exclusive bargaining
250 representatives of any such persons from negotiating with the commonwealth in accordance with
251 the provisions of chapter 150E to minimize the effects of the abolition of such rights and
252 benefits.
253

254 SECTION 43. The commissioner of the public employee retirement administration shall
255 contract with an independent actuary to analyze, study and value the cost of retirement benefit

256 changes made pursuant to the provisions of this act; provided, however, that said commissioner
257 shall make available to such actuary any information as such actuary deems necessary to fully
258 analyze such costs; provided, further that said commissioner shall file the report of such actuary
259 with the joint committee on public service and the house and senate committees on ways and
260 means on or before January 31, 2010.

261

262 SECTION 44. On the effective date of this act, ownership, possession and control of all
263 equipment, papers, plans, books, records and documents which are in the possession of the
264 Massachusetts Bay Transportation Authority police department or any bureau, unit, officer, or
265 employee thereof consolidated in accordance with the provisions of this act shall pass to and be
266 vested in the department of state police without consideration or further evidence of transfer and
267 shall thereafter be in the ownership, possession and control of the department and in compliance
268 with federal law.

269

270 SECTION 45. All petitions, hearings, appeals, and other proceedings duly brought before, and
271 all prosecutions and legal and other proceedings duly begun by the Massachusetts Bay
272 Transportation Authority police department or any bureau, unit, officer or employee thereof
273 consolidated pursuant to the provisions of this act shall continue unabated and remain in force
274 notwithstanding the passage of this act, and shall thereafter be completed by such division,
275 bureau, unit, officer or employee.

276

277 SECTION 46. Any duly existing contract, lease, or obligation of the Massachusetts Bay
278 Transportation Authority police department or any bureau, unit, officer or employee thereof
279 which shall be consolidated pursuant to the provisions of this act which are in force immediately
280 prior to the effective date of this act shall be deemed to be the obligation of the department of
281 state police. No existing right or remedy under any such contract, lease or obligation shall be
282 lost, impaired or affected by the provisions of this act.

283

284 SECTION 47. Wherever the name of the Massachusetts Bay Transportation Authority police
285 department or any bureau, unit, officer or employee thereof which shall be consolidated pursuant
286 to the provisions of this act appears in any general or special law, rule or regulation, such name
287 shall be deemed to mean and shall be construed as referring to the department of state police.

288

289 SECTION 48. Any function, right, power, duty or other statutory provision which, prior to the
290 effective date of this act, was assigned to, exercised by or performed by the Massachusetts Bay
291 Transportation Authority police department or any bureau, unit, officer or employee thereof
292 which shall be consolidated pursuant to the provisions of this act to the department of state police
293 shall be deemed to be assigned to, exercised by or performed by the said department of state
294 police.

295

296 SECTION 49. Notwithstanding the provisions of any general or special law, rule or regulation
297 to the contrary a police officer of a city or town shall have concurrent powers and duties with
298 police officers of the department of state police on all property which is located within the
299 geographical boundaries of the city or town by which said police officer is employed where said
300 property is under the care and control of the Massachusetts Bay Transportation Authority.

301

302 SECTION 50. Except where amended by the provisions of this act all other provisions of
303 chapter 412 of the acts of 1991 shall apply to the consolidated department of state police.

304