HOUSE DOCKET, NO. 3312 FILED ON: 1/21/2011

HOUSE . . . . . No. 2922

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 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:
Joseph F. Wagner	*8th Hampden*
Kathi-Anne Reinstein	*16th Suffolk*
Bradley H. Jones, Jr.	*20th Middlesex*
Louis L. Kafka	*8th Norfolk*
Michael F. Rush	*Suffolk and Norfolk*

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HOUSE . . . . . No. 2922

By Mr. Wagner of Chicopee, a petition (accompanied by bill, House, No. 2922) 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.

The Commonwealth of Massachusetts

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:

SECTION 1. Section 7 of chapter 22C of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be within the division of special police services 4 bureaus, which shall be designated as the bureau of facility security, the bureau of motor vehicle enforcement, the bureau of metropolitan district operations, which shall provide services, including but not limited to, school crossing guards and the protection of watershed properties managed by the department of conservation and recreation, and the bureau of transit operations, which shall provide services, including by not limited to, the protection of the rapid transit, bus, commuter boat and rail lines of the Massachusetts Bay Transportation Authority.

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

Section 31A. Massachusetts Bay Transportation Authority; agreement for police service; contents

The colonel shall enter into an agreement with the Massachusetts Bay Transportation Authority for police services to be provided by the department to said authority. Said agreement shall fix the legal and fiscal responsibility pertaining to the operation and maintenance of such police service and shall include, but not be limited to, a provision for payments to the commonwealth for the cost of retirement, compensation of injured officers, sick leave, and other employee benefits and for a minimum allowance for departmental supervision. Said agreement shall also require the continuation of all terms and conditions of employment established under the applicable collective bargaining agreement pursuant to the provisions of chapter 151E by the commonwealth and the exclusive bargaining representative of any member of the state police

23 providing such police service including, without limitation, the payment by the authority of any
24 benefit or contribution therefore. Said agreement shall also include a provision whereby all
25 parties must enter a cost sharing agreement whereby 50% of all expenses incurred by the
26 department in providing such police service shall, upon proper requisition, be paid by the
27 authority as such expenses are incurred.

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

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

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

43 SECTION 5. Said section 1 of said chapter 32, as so appearing, is hereby further
44 amended by striking out, in lines 314 and 315 the words “the Massachusetts Bay Transportation
45 Authority police retirement system,”

46 SECTION 6. Said section 1 of said chapter 32, as so appearing, is hereby further
47 amended by striking out, in lines 507 and 508, the words “the Massachusetts Bay Transportation
48 Authority police retirement system,”.

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

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

56 SECTION 9. Section 20 of said chapter 32, as so appearing, is hereby amended by
57 striking out subdivision (4 ¾).

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

60 SECTION 11. Paragraph (c) of subdivision (1) of section 21 of said chapter 32, as so
61 appearing, is hereby amended by striking out, in line 77, the words "the Massachusetts Bay
62 Transportation Authority,".

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

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

67 SECTION 14. Paragraph (a) of subdivision (2) of section 23 of said chapter 32, as so
68 appearing, is hereby amended by striking out, in lines 11 and 12, the words "the treasurer of the
69 Massachusetts Bay Transportation Authority,".

70 SECTION 15. Said paragraph (a) of said subdivision (2) of said section 23 of said
71 chapter 32, as so appearing, is hereby further amended by striking out, in line 20, the words "the
72 Massachusetts Bay Transportation Authority,".

73 SECTION 16. Subdivision (1) of section 24 of said chapter 32, as so appearing, is
74 hereby amended by striking out, in line 10, the words "the Massachusetts Bay Transportation
75 Authority,".

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

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

81 SECTION 19. Section 94 of said chapter 32, as so appearing, is hereby amended by
82 striking out, in lines 6 and 7, the words: "or of the police force of the Massachusetts Bay
83 Transportation Authority,".

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

87 SECTION 21. Section 10 of chapter 66 of the General Laws, as so appearing, is hereby
88 amended by striking out, in lines 10 and 11, the words "the Massachusetts Bay Transportation
89 Authority police".

90 SECTION 22. Section 73 of chapter 152 of the General Laws, as so appearing, is hereby
91 amended by striking out, in line 9, the words "or any police officer of the Massachusetts Bay
92 Transportation Authority".

93 SECTION 23. Chapter 664 of the acts of 1968, as amended by chapter 829 of the acts of
94 1970, is hereby repealed.

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

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

98 Section 117A. Prior to October 31, 2009, the colonel of the state police shall establish an
99 orientation in-service training program for all persons who shall have been transferred to the
100 department of state police as a uniformed member of said department; provided, however, that
101 such training program shall include, but not be limited to, education of the mission of the said
102 department of state police, the jurisdiction of each bureau and each division of said department,
103 the rules and regulations of said department, the policies and procedures of said department and
104 the equipment owned and used by said department. Any person employed as a police officer in
105 the Massachusetts Bay Transportation Authority police department shall have satisfactorily
106 completed such training program prior to his transfer to the department of state police. Any
107 person who shall not have satisfactorily completed such training program prior to January 31,
108 2010, shall be prohibited from transferring to said department of state police unless said
109 employee shall have submitted in writing his request for a waiver of such training program and
110 said colonel shall have approved such waiver for said employee.

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

114 SECTION 27. Said section 119 of said chapter 412 is hereby further amended by
115 inserting after the words "division of law enforcement of the registry of motor vehicles" the
116 following words:- or an employee of the Massachusetts Bay Transportation Authority police
117 department.

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

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

124 SECTION 30. Said section 121 of said chapter 412 is hereby further amended by striking
125 out the words "after July fifth, nineteen hundred and ninety-two and prior to October first,
126 nineteen hundred and ninety-two" and inserting in place thereof the following words:- after
127 August 1, 2009 and prior to October 31, 2009.

128 SECTION 31. Section 135 of said chapter 412 is hereby amended by inserting after the
129 words "by the chief of the capitol police" the following words:- , by the chief of the
130 Massachusetts Bay Transportation Authority police department.

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

132 SECTION 33. The Massachusetts Bay Transportation Authority police department shall
133 be merged into the department of state police. Such merger shall begin on August 1, 2009, with
134 a 6-month transition period, so that after such transition period the Massachusetts Bay
135 Transportation Authority police department and the department of state police shall be deemed
136 consolidated and merged, and the consolidated police force shall be called the department of
137 state police. The department of state police, so consolidated, shall be deemed to be the police
138 force of the commonwealth and it shall be the force with jurisdictional authority over state
139 property.

140 SECTION 34. The Massachusetts Bay Transportation Authority shall deposit, with the
141 public employee retirement system, funds equal to the contributions for retirement made by the
142 authority and the members, who are present or retired members of the pension funds commonly
143 known either as the MBTA Police Association Retirement Fund or the MBTA Retirement Fund.
144 The transfer of said funds shall be deposited upon agreement of terms between the authority and
145 the commissioner of public employee retirement administration. Said agreement shall be entered
146 into no later than October 31, 2009.

147 SECTION 35. All present members of the Massachusetts Bay Transportation Authority
148 police department shall be entered into the public employee retirement system and the
149 commissioner of public employee retirement administration shall credit those members with the
150 creditable service years with the Massachusetts Bay Transportation Authority police department.
151 Members currently retired from the Massachusetts Bay Transportation Authority police
152 department and drawing their pension either partially or in whole from either the MBTA Police
153 Association Retirement Fund or from the MBTA Retirement Fund shall remain members of the
154 MBTA Police Association Retirement Fund or the MBTA Retirement Fund and shall not have
155 any creditable service transferred to the department of state police.

156 SECTION 36. Each member of the Massachusetts Bay Transportation Authority police
157 department shall take all creditable service to the department of state police. For the purpose of
158 retirement, service shall be determined by all creditable service based on contributions to a
159 retirement fund within the state retirement system and the years of creditable service with the
160 Massachusetts Bay Transportation Authority police department. The commissioner of public

161 employee retirement administration shall allow those members with prior creditable service to
162 purchase back those creditable years, not within the MBTA police retirement funds, in the
163 normal and customary manner afforded other public employees.

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

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

174 SECTION 38. A committee shall be appointed by the colonel of state police and the
175 chief of the Massachusetts Bay Transportation Authority police department to study the titles and
176 rank structure of the Massachusetts Bay Transportation Authority police department to determine
177 where the police officers of the authority should be placed in the rank structure of the
178 consolidated department of state police. The committee shall report its findings and
179 recommendations to said colonel on or before October 31, 2009. There shall be no loss of pay,
180 or other accrued benefit, for any member, noncommissioned, commissioned, or staff officer of
181 the Massachusetts Bay Transportation Authority police department who held his rank prior to the
182 enactment of this act.

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

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

196 SECTION 41. The department of state police, for the purposes of collective bargaining,
197 shall only recognize that organization certified by the Massachusetts Labor Relations

198 Commission to represent the members and non-commissioned officers of the department.
199 Members of the Massachusetts Bay Transportation Authority police department transferring to
200 the department of state police shall abide by the collective bargaining agreements between the
201 department and said organization.

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

210 SECTION 43. The commissioner of the public employee retirement administration shall
211 contract with an independent actuary to analyze, study and valuate the cost of retirement benefit
212 changes made pursuant to the provisions of this act; provided, however, that said commissioner
213 shall make available to such actuary any information as such actuary deems necessary to fully
214 analyze such costs; provided, further that said commissioner shall file the report of such actuary
215 with the joint committee on public service and the house and senate committees on ways and
216 means on or before January 31, 2010.

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

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

230 SECTION 46. Any duly existing contract, lease, or obligation of the Massachusetts Bay
231 Transportation Authority police department or any bureau, unit, officer or employee thereof
232 which shall be consolidated pursuant to the provisions of this act which are in force immediately
233 prior to the effective date of this act shall be deemed to be the obligation of the department of

234 state police. No existing right or remedy under any such contract, lease or obligation shall be
235 lost, impaired or affected by the provisions of this act.

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

241 SECTION 48. Any function, right, power, duty or other statutory provision which, prior
242 to the effective date of this act, was assigned to, exercised by or performed by the Massachusetts
243 Bay Transportation Authority police department or any bureau, unit, officer or employee thereof
244 which shall be consolidated pursuant to the provisions of this act to the department of state police
245 shall be deemed to be assigned to, exercised by or performed by the said department of state
246 police.

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

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