

# SENATE NO. 1388

## **AN ACT** TO INCREASE THE HOMELAND SECURITY OF THE COMMONWEALTH BY MERGING THE MASSACHUSETTS BAY TRANSPORTATION AUTHORITY POLICE DEPARTMENT INTO THE DEPARTMENT OF THE 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 2004 Official Edition,  
2 is hereby amended by striking out the first sentence and inserting in place thereof the following  
3 sentence:- There shall be within the division of special police services 4 bureaus, which shall be  
4 designated as the bureau of facility security, the bureau of motor vehicle enforcement, the bureau of  
5 metropolitan district operations, which shall provide services, including but not limited to, school  
6 crossing guards and the protection of watershed properties managed by the department of conservation  
7 and recreation, and the bureau of transit operations, which shall provide services, including by not  
8 limited to, the protection of the rapid transit, bus, commuter boat and rail lines of the Massachusetts  
9 Bay Transportation Authority.

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

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

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

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

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

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

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

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

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

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

54 SECTION 9. Section 20 of said chapter 32, as so appearing, is hereby amended by striking out  
55 subdivision (4  $\frac{3}{4}$ ).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

91           Section 117A. Prior to October 31, 2007, the colonel of the state police shall establish an  
92 orientation in-service training program for all persons who shall have been transferred to the  
93 department of state police as a uniformed member of said department; provided, however, that such  
94 training program shall include, but not be limited to, education of the mission of the said department of  
95 state police, the jurisdiction of each bureau and each division of said department, the rules and  
96 regulations of said department, the policies and procedures of said department and the equipment  
97 owned and used by said department. Any person employed as a police officer in the Massachusetts  
98 Bay Transportation Authority police department shall have satisfactorily completed such orientation  
99 in-service training program prior to his transfer to the department of state police. Any person who  
100 shall not have satisfactorily completed such training program prior to January 31, 2008, shall be  
101 prohibited from transferring to said department of state police unless said employee shall have

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

104 SECTION 26. Section 119 of chapter 412 of the acts of 1991 is hereby amended by striking out in the  
105 first sentence the words “but prior to June thirtieth, nineteen hundred and ninety three” and inserting in  
106 place thereof the following words:- January 31, 2008.

107 SECTION 27. Said section 119 of chapter 412 of the acts of 1991 is hereby further amended by  
108 inserting after the words “division of law enforcement of the registry of motor vehicles” the following  
109 words:- or an employee of the Massachusetts Bay Transportation Authority police department.

110 SECTION 28. Section 120 of chapter 412 of the acts of 1991 is hereby amended by inserting after the  
111 words “division of law enforcement of the registry of motor vehicles” the following words:- or the  
112 Massachusetts Bay Transportation Authority police department.

113 SECTION 29. Section 121 of chapter 412 of the acts of 1991 is hereby amended by inserting after the  
114 words “division of law enforcement of the registry of motor vehicles” the following words:- or the  
115 Massachusetts Bay Transportation Authority police department.

116 SECTION 30. Said section 121 of chapter 412 of the acts of 1991 is hereby further amended by  
117 striking out the words “after July fifth nineteen hundred and ninety-two and prior to October first,  
118 nineteen hundred and ninety-two” and inserting in place thereof the following words:- after August 1,  
119 2007 and prior to October 31, 2007.

120 SECTION 31. Section 135 of chapter 412 of the acts of 1991 is hereby amended by inserting after the  
121 words “by the chief of the capitol police” the following words:- , by the chief of the Massachusetts  
122 Bay Transportation Authority police department.

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

124 SECTION 33. The Massachusetts Bay Transportation Authority police department shall be merged  
125 into the department of state police. Such merger shall begin on August 1, 2007, with a 6-month  
126 transition period, so that after such transition period the Massachusetts Bay Transportation Authority  
127 police department and the department of state police shall be deemed consolidated and merged, and  
128 the consolidated police force shall be called the department of state police. The department of state  
129 police, so consolidated, shall be deemed to be the police force of the commonwealth and it shall be the  
130 force with jurisdictional authority over state property.

131 SECTION 34. The Massachusetts Bay Transportation Authority shall deposit, with the public  
132 employee retirement system, funds equal to the contributions for retirement made by the authority and  
133 the members, who are present or retired members of the pension funds commonly known either as the  
134 MBTA Police Association Retirement Fund or the MBTA Retirement Fund. The transfer of said  
135 funds shall be deposited upon agreement of terms between the authority and the commissioner of  
136 public employee retirement administration. Said agreement shall be entered into no later than October  
137 31, 2007.

138 SECTION 35. All present members of the Massachusetts Bay Transportation Authority police  
139 department shall be entered into the public employee retirement system and the commissioner of  
140 public employee retirement administration shall credit those members with the creditable service years  
141 with the Massachusetts Bay Transportation Authority police department. Members currently retired  
142 from the Massachusetts Bay Transportation Authority police department and drawing their pension  
143 either partially or in whole from either the MBTA Police Association Retirement Fund or from the  
144 MBTA Retirement Fund shall remain members of the MBTA Police Association Retirement Fund or  
145 the MBTA Retirement Fund and shall not have any creditable service transferred to the department of  
146 state police.

147 SECTION 36. Each member of the Massachusetts Bay Transportation Authority police department  
148 shall take all creditable service to the department of state police. For the purpose of retirement, service  
149 shall be determined by all creditable service based on contributions to a retirement fund within the  
150 state retirement system and the years of creditable service with the Massachusetts Bay Transportation  
151 Authority police department. The commissioner of the public employee retirement administration  
152 shall allow those members with prior creditable service to purchase back those creditable years, not  
153 within the MBTA police retirement funds, in the normal and customary manner afforded other public  
154 employees.

155 SECTION 37. Any police officer of the Massachusetts Bay Transportation Authority police  
156 department not wishing to transfer to the department of state police by October 31, 2007, shall be  
157 placed at the top of the eligibility list of the civil service list for the region of his residence. When said  
158 officer is appointed to any city or town from said list he shall be credited with all creditable service for  
159 the purpose of seniority and retirement in the public employees retirement system.

160 Pursuant to this section, any police officer of the Massachusetts Bay Transportation Authority  
161 police department wishing to exercise his civil service rights or privileges shall retain employment  
162 with the authority until such reasonable time to effect either appointment or lateral transfer to another  
163 police department, but no later than October 31, 2007.

164 SECTION 38. A committee shall be appointed by the colonel of state police and the chief of the  
165 Massachusetts Bay Transportation Authority police department to study the titles and rank structure of  
166 the Massachusetts Bay Transportation Authority police department to determine where the police  
167 officers of the authority should be placed in the rank structure of the consolidated department of state  
168 police. The committee shall report its findings and recommendations to said colonel on or before  
169 October 31, 2007. There shall be no loss of pay, or other accrued benefit, for any member,

170 noncommissioned, commissioned, or staff officer of the Massachusetts Bay Transportation Authority  
171 police department who held his rank prior to the enactment of this act.

172 SECTION 39. The colonel of state police is hereby authorized and directed to enter into a  
173 memorandum of understanding with the authority to define the terms and conditions for use by the  
174 department of property owned or operated by the authority; provided, however, that the transfer shall  
175 be in compliance with federal law and no such property shall be transferred under the provisions of the  
176 memorandum of understanding without legislative approval; and provided further, that said  
177 memorandum of understanding be executed on or before October 31, 2007.

178 SECTION 40. The secretary of public safety, in conjunction with the personnel administrator, shall  
179 commence an audit of the personnel file of each member of the Massachusetts Bay Transportation  
180 Authority police department on the effective date of this act, to ensure that each file shall contain the  
181 accurate name, date of birth, current mailing address, and the length of service of each member. Upon  
182 the request of the secretary, the state treasurer shall be directed to offer any assistance as the secretary  
183 shall deem reasonable to fulfill the requirements of this section. Said audit shall be completed on or  
184 before October 31, 2007.

185 SECTION 41. The department of state police, for the purposes of collective bargaining, shall only  
186 recognize that organization certified by the Massachusetts Labor Relations Commission to represent  
187 the members and non-commissioned officers of the department. Members of the Massachusetts Bay  
188 Transportation Authority police department transferring to the department of state police shall abide  
189 by the collective bargaining agreements between the department and said organization.

190 SECTION 42. Except as authorized in section 37, and notwithstanding the provisions of any general  
191 or special law or rule to the contrary, the civil service rights and benefits of any person serving in a  
192 position or employed as a police officer in the Massachusetts Bay Transportation Authority accorded

193 pursuant to the provisions of chapter 31 shall hereby be abolished as of October 31, 2007. Nothing in  
194 this act shall be deemed to prohibit the exclusive bargaining representatives of any such persons from  
195 negotiating with the commonwealth in accordance with the provisions of chapter 150E to minimize the  
196 effects of the abolition of such rights and benefits.

197 SECTION 43. The commissioner of the public employee retirement administration shall contract with  
198 an independent actuary to analyze, study and value the cost of retirement benefit changes made  
199 pursuant to the provisions of this act; provided, however, that said commissioner shall make available  
200 to such actuary any information as such actuary deems necessary to fully analyze such costs; provided,  
201 further that said commissioner shall file the report of such actuary with the joint committee on public  
202 service and the house and senate committees on ways and means on or before January 31, 2008.

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

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

214 SECTION 46. Any duly existing contract, lease, or obligation of the Massachusetts Bay  
215 Transportation Authority police department or any bureau, unit, officer or employee thereof which

216 shall be consolidated pursuant to the provisions of this act which are in force immediately prior to the  
217 effective date of this act shall be deemed to be the obligation of the department of state police. No  
218 existing right or remedy under any such contract, lease or obligation shall be lost, impaired or affected  
219 by the provisions of this act.

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

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

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

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