

By Mr. Walsh, a petition (accompanied by bill, Senate, No. 869) of Joseph B. Walsh and the Board of Directors of the Massachusetts Bay Transportation Authority, by James D. Harrington, for legislation to establish a claims and indemnity procedure for the Massachusetts Bay Transportation Authority. The Judiciary.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT ESTABLISHING A CLAIMS AND INDEMNITY PROCEDURE FOR 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:

1 SECTION 1. Section 1 of Chapter 258 of the General Laws,
2 is hereby amended by striking out the definition of "Public
3 employer", as most recently amended by Chapter 403 of the Acts
4 of 1981, and inserting in place thereof the following definition: —
5 "Public employer", the Commonwealth and any county, city,
6 town, educational collaborative, or district, including any public
7 health district or joint district or regional health district or
8 regional health board established pursuant to the provisions of
9 section twenty-seven A or twenty-seven B of Chapter one hundred
10 and eleven, the Massachusetts Bay Transportation Authority, and
11 any department, office, commission, committee, council, board,
12 division, bureau, institution, or agency or authority thereof which
13 exercises direction and control over the public employee, but not
14 a private contractor with any such public employer, the
15 Massachusetts Port Authority, the Massachusetts Turnpike
16 Authority, or any other independent body politic and corporate.
17 With respect to public employees of a school committee of a city
18 or town, the public employer for the purposes of this chapter shall
19 be deemed to be said respective city or town.

1 SECTION 2. Section 1 of said Chapter 258 as appearing in
2 section 15 of Chapter 512 of the Acts of 1978, is hereby amended
3 by striking out the definition of "Public attorney" and inserting
4 in place thereof the following definition: —

5 "Public attorney", the attorney who shall defend all civil actions
6 brought against a public employer pursuant to this chapter. In the
7 case of the Commonwealth he shall be the attorney general; in
8 the case of any county he shall be the district attorney, as
9 designated in sections twelve and thirteen of Chapter twelve; in
10 the case of a city or town he shall be the city solicitor or town
11 counsel, or if the town has no such counsel, an attorney employed
12 for the purpose by the selectmen; in the case of a district he shall
13 be an attorney legally employed by the district for that purpose;
14 in the case of the Massachusetts Bay Transportation Authority
15 he shall be the general counsel. A public attorney may also be
16 an attorney furnished by an insurer obligated under the terms
17 of a policy of insurance to defend the public employer against
18 claims brought pursuant thereto.

1 SECTION 3. Section 21 of Chapter 161A of the General Laws,
2 as appearing in section 18 of Chapter 563 of the Acts of 1964,
3 is hereby amended by striking out said section and inserting in
4 place thereof the following section: —

5 Section 21. The Authority shall be liable for the acts of
6 negligence of the directors and of the servants and employees of
7 the Authority in the management and operation of the Authority
8 and of the properties owned, leased and operated by it to the same
9 extent as though the Authority were a street railway company,
10 but the directors shall not be personally liable except for
11 malfeasance in office.

12 The Authority shall be liable in tort to passengers, and to
13 persons in the exercise of due care who are not passengers or in
14 the employment of the Authority, for personal injury and for
15 death and for damages to property as provided by Chapter two
16 hundred and fifty-eight of the General Laws. The directors shall
17 have charge of and supervise the investigation, settlement and
18 defense of all claims instituted pursuant to Chapter two hundred

19 and fifty-eight of the General Laws and of all other suits or actions
20 relative to the property or arising out the construction, mainten-
21 ance or operation of the Authority.

The first part of the report deals with the general situation of the country and the progress of the work during the year.

The second part contains a detailed account of the work done in each of the various departments.

The third part is devoted to a summary of the results of the work and to a few remarks on the future.

The fourth part contains a list of the names of the persons who have taken part in the work.

The fifth part is a list of the names of the persons who have been appointed to various positions.

The sixth part is a list of the names of the persons who have been elected to various positions.

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