

HOUSE No. 6800

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, July 1, 1980.

The committee on Ways and Means, to whom was referred the Bill relating to the improvement of the management of the Massachusetts Bay Transportation Authority (House, No. 6554), reports that the same ought to pass, with an amendment, substituting therefor the accompanying bill (House, No. 6800).

For the committee,

LINCOLN P. COLE, JR.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty.

AN ACT RELATING TO THE IMPROVEMENT OF THE MANAGEMENT OF 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. Chapter 161A of the General Laws is hereby
2 amended by striking out paragraph (d) of section 3 thereof and
3 inserting therein the following new paragraph: —

4 (d) (i) to direct, appoint, assign employ and promote officers,
5 agents and employees and to determine the standards therefor.

6 (ii) (A) to transfer, discipline, discharge and terminate em-
7 ployees subject to the provisions of clauses B and C of this subpara-
8 graph:

9 (B) No action set forth in clause A of this sub-paragraph shall be
10 sustained if, in a proceeding invoked in accordance with the provi-
11 sions of clause C of this sub-paragraph, the employee shall estab-
12 lish by a preponderance of the evidence that it was based upon race,
13 color, religion, sex, age, national origin, handicapping condition,
14 material status, or political affiliation of the employee; a reprisal
15 against the employee for disclosure of information by an employee
16 which the employee reasonably believes evidences a violation of
17 any law, rule or regulation or mismanagement, a gross waste of
18 funds, or abuse of authority; a reprisal against any employee for
19 the refusal of any person to engage in political activity; or was
20 based upon a violation of paragraph (a) of section 10 of Chapter
21 150E of the General Laws.

22 (C) The parties may include in any written agreement a grievance
23 procedure culminating in final and binding arbitration which may
24 be invoked in the event any employee of the Authority is aggrieved
25 by any action taken under clause A of this sub-paragraph.

26 (iii) to plan and determine the levels of service provided by the
27 Authority.

28 (iv) to direct, supervise, control and evaluation the departments,
29 units and programs of the Authority: to classify the various posi-
30 tions of the Authority and ascribe duties and standards of produc-
31 tivity therefor.

32 (v) to develop and determine levels of staffing, and training
33 provided however the Authority may bargain for levels of staffing
34 when such levels directly affect the health or safety of employees.

35 (vi) to determine whether goods or services should be made,
36 leased, contracted for, or purchased on either a temporary or
37 permanent basis.

38 (vii) to determine the assignment and apportionment of over-
39 time, provided however, that no employee shall receive any pen-
40 sion benefit payment, and no pension benefit payment shall be
41 paid, with respect to amounts earned as overtime; and to hire
42 part-time employees.

43 (viii) the authority may bind itself by contract to employ not
44 more than five senior officers but no such contract shall be for a
45 period of more than five years.

46 (ix) the authority shall annually, on or before January first,
47 submit a schedule of salaries of all its employees and any proposed
48 increases therein to the secretary of administration for his review.
49 Said secretary may make recommendations to the authority on
50 said salary structure and shall advise the authority of the prevailing
51 rates that the commonwealth pays for similar services.

1 SECTION 2. Section 19 of Chapter 161A of the General Laws
2 is amended by inserting after the word "employees" at the end of
3 the first sentence thereof the following: "provided however the
4 directors shall have no authority to bargain collectively with re-
5 spect to matters of inherent management rights which shall include
6 those rights set forth in section 3 of this Chapter."

1 SECTION 3. Section 19F of Chapter 161A of the General Laws
2 is hereby further amended by inserting at the end of paragraph
3 number 8 after the word "Commonwealth" the following: — ", and
4 which are not precluded from bargaining under section nineteen of
5 this chapter."

1 SECTION 4. Chapter 161A of the General Laws is hereby
2 further amended by striking out section 29 and inserting the fol-
3 lowing:—

4 *Section 29.* The Authority is authorized and directed from time
5 to time to take all necessary action to secure any federal assistance
6 which is or may become available to the Commonwealth or any of
7 its subdivisions for any of the purposes of this chapter. If any
8 federal law, administrative regulations' or practice requires any
9 action relating to such federal assistance to be taken by any depart-
10 ment or instrumentality of the commonwealth other than the
11 Authority, such other department or instrumentality is authorized
12 and directed to take all such action, including without limitation
13 filing applications for assistance, supervising the expenditure of
14 federal grants or loans to the foregoing, and the Authority is
15 authorized and directed to take all actions necessary to permit such
16 other department or instrumentality to comply with all federal
17 requirements. If the provisions of any federal law, administrative
18 regulation, or practice governing federal assistance for the pur-
19 poses of this chapter are inconsistent with any provisions of this
20 chapter to the extent that the commonwealth or its subdivisions are
21 prohibited or potentially prohibited from receiving such assist-
22 ance, the chairman of the Authority shall, within 30 days after the
23 federal government has notified him that an inconsistency may
24 exist, notify the governor, and the clerks of the house and senate of
25 such inconsistency.

1 SECTION 5. Chapter 161A of the General Laws is hereby
2 amended by adding the following new section 19H after section
3 19G:—

4 *Section 19H.* (a) For the purpose of this section the following
5 terms shall have the following meaning:

6 *Honorary Member* — the Honorary Member, as described in
7 Article VI of the Agreement.

8 *Agreement* — The Document entitled "Pension Agreement"
9 dated January 1, 1973 by and between the Massachusetts Bay
10 Transportation Authority and Local Division 589, Amalgamated
11 Transit Union, AFL-CIO, CLC and any successor agreement
12 thereto.

13 (b) (1) The Honorary Member shall be elected to the Retirement
14 Board of the Massachusetts Bay Transportation Authority Pen-
15 sion Fund, for such period as the Retirement Board shall deter-
16 mine, by the other six members of the Retirement Board with the
17 first election to take place immediately upon the effective date of
18 this act.

19 (2) If after the expiration of sixty days from the effective date of
20 this act, an Honorary Member shall not have been appointed the
21 Honorary Member acting as such on January 17th, 1977 shall be
22 deemed to have been appointed.

23 The Honorary Member appointed under this sub-paragraph
24 shall serve for a term of one year and until his successor is qualified;
25 pursuant to sub-paragraph (b) (1) and the Agreement.

26 (3) If the position of Honorary Member shall be vacant for a
27 period of 90 days following his death, resignation, disability, dis-
28 charge, failure to take office, or otherwise then the position shall be
29 filled as follows:

30 i) By the designee of the Honorary Member, designated in
31 writing by him and filed with the Retirement Board prior to his
32 death, resignation, or disability.

33 ii) In the event of the failure to designate or the failure of the
34 designee to serve, by the designee of the Governor.

35 The Honorary Member appointed under this sub-paragraph
36 shall serve for a term of one year and until his successor is qualified;
37 pursuant to sub-paragraph (b) (1) and the Agreement.

38 (c) The Honorary Member shall have such duties and shall serve
39 upon such terms and conditions, not in conflict with this section, as
40 are set forth in the Agreement. In the event of a conflict between
41 this section and any of the terms of the Agreement this section shall
42 prevail.

1 SECTION 6. The provisions of clause (vii) of section one of this
2 act, in so far as they pertain to the inclusion of amounts earned as
3 overtime in determining the pension benefits of an employee shall
4 only apply to persons hired on or after the effective date of this act.



