

HOUSE No. 1605

By Messrs. Rowan and Jordan of Revere, petition of Raymond E. Carey, William H. J. Rowan and Peter J. Jordan that the Boston Metropolitan District be empowered to purchase the assets, property and franchises of the Boston Elevated Railway Company under the existing option and to operate the same. Metropolitan Affairs.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Forty-One.

AN ACT PROVIDING FOR THE PURCHASE BY THE BOSTON METROPOLITAN DISTRICT OF THE WHOLE ASSETS, PROPERTY AND FRANCHISES OF THE BOSTON ELEVATED RAILWAY COMPANY UNDER THE EXISTING OPTION AND FOR THE OPERATION OF THE TRANSPORTATION SYSTEM SO PURCHASED.

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. The Boston metropolitan district,
2 hereinafter called the district, a political subdivision
3 of the commonwealth created by chapter three hun-
4 dred and eighty-three of the acts of nineteen hundred
5 and twenty-nine, is hereby empowered to purchase the
6 whole assets, property and franchises of the Boston
7 Elevated Railway Company, hereinafter called the
8 company, by the exercise of the option set forth in

9 section seventeen of chapter three hundred and thirty-
10 three of the acts of nineteen hundred and thirty-one
11 in accordance with the provisions thereof. The trus-
12 tees of the district are hereby authorized and directed
13 in the name and on the behalf of the district, to notify
14 the company that the district elects, as of a day not
15 later than the day of , nineteen
16 hundred and , to exercise such option, and
17 said trustees are authorized to take any action in
18 their judgment necessary, proper or advisable in order
19 to effectuate said purchase by the district. In case
20 of any disagreement between the district and the com-
21 pany as to the purchase price, it shall be determined
22 by the department of public utilities, subject to re-
23 view by the supreme judicial court sitting within and
24 for Suffolk county, on petition of either party filed
25 within days after the rendition of the de-
26 partment's decision.

1 SECTION 2. For the purpose of providing the funds
2 necessary to effect said purchase and to pay indebt-
3 edness and liabilities assumed as part of the terms
4 thereof, the district shall issue its bonds under and in
5 the manner provided in section ten of chapter three
6 hundred and eighty-three of the acts of nineteen hun-
7 dred and twenty-nine, and section two of chapter
8 one hundred and forty-seven of the acts of nineteen
9 hundred and thirty-two, and the provisions of said
10 sections shall apply thereto in the same manner and
11 to the same extent as if such bonds of the district
12 were specifically authorized in said chapter three hun-
13 dred and eighty-three. The provisions of section
14 eleven of said chapter three hundred and eighty-three
15 shall not apply to receipts from or on account of any

16 property or properties acquired under authority of
17 this act or from the operation thereof. There shall be
18 established for the payment of the bonds issued under
19 authority of this section a sinking fund into which
20 there shall annually be paid as a part of the current
21 expenses of the district such amount as the trustees
22 of the district in their discretion shall annually deter-
23 mine to be sufficient to provide for the payment of
24 the principal amount of each issue of such bonds
25 then outstanding, at the expiration of years
26 from the date of issue.

1 SECTION 3. When the purchase provided for by
2 section one is consummated, the board of trustees of
3 the Boston Elevated Railway Company shall become
4 officers of the district under the title of the board of
5 transportation of the district. Upon the expiration
6 of the terms of office of members of said board or in
7 case of any vacancy therein, their successors shall be
8 appointed and qualified in the same manner and for
9 the same term as provided in chapter one hundred
10 and fifty-nine of the Special Acts of nineteen hun-
11 dred and eighteen, and the provisions of said chapter
12 relative to removal of such a member and to organ-
13 ization and action by the board shall apply. The
14 members of said board shall continue to receive the
15 same compensation as heretofore, but payable by the
16 district instead of by the company. When the pur-
17 chase provided for by section one is consummated,
18 all officers and employees of the company, except the
19 board of directors and employees of said board, shall
20 become officers and employees of the district, subject
21 to supervision, control and removal by or under the
22 authority of the board of transportation.

1 SECTION 4. Said board of transportation shall take
2 and have possession on behalf of the district of all
3 properties purchased or acquired under authority of
4 this act, and shall have authority, which shall be ex-
5 clusive, in the name and behalf of the district to sell
6 and convey or lease or let any of such property or any
7 interest therein which in its opinion is not required or
8 cannot advantageously be used in the operation of
9 the transportation system so acquired.

10 Said board shall keep account of all receipts and
11 expenditures divided as between income receipts and
12 expenditures and capital receipts and expenditures,
13 and in other respects as required by the laws of the
14 commonwealth applicable to street railway companies,
15 and shall file like reports with the department of
16 public utilities as required of such companies.

17 It shall be authorized to expend moneys received
18 by it from the sale of capital assets, and such amounts
19 as are charged to cost of service for depreciation,
20 obsolescence and losses in respect to property sold,
21 destroyed or abandoned, for the purchase, construc-
22 tion or acquisition of substitute or additional prop-
23 erties for use in connection with the transportation
24 system so acquired.

1 SECTION 5. The board of transportation of the
2 district, in the name and on behalf thereof, shall
3 manage and operate the transportation system and
4 all properties purchased or acquired by the district
5 as herein provided, and for such purposes may exer-
6 cise all the powers heretofore vested in and exercised
7 by the board of trustees of the company, but in the
8 name and behalf of the district instead of the com-
9 monwealth or the company; provided, that no new

10 rapid transit extension and no new surface street rail-
11 way line more than one thousand feet in length shall
12 be constructed, and no contract for the use or opera-
13 tion or lease of any subways, elevated or surface street
14 railway lines in addition to those included in any such
15 contract in force on the effective date hereof shall be
16 entered into, unless authorized by the general court.
17 Except as herein otherwise provided, said board shall
18 continue to manage and operate the transportation
19 system and other property or properties so acquired
20 in all respects in the same manner and with the same
21 powers as immediately prior to said effective date,
22 and said district acting through said board shall have
23 and exercise all franchises of and powers conferred by
24 general or special laws upon the company with respect
25 to the construction, operation, maintenance and repair
26 of transportation facilities or to properties appurte-
27 nant or incidental thereto or so acquired.

1 SECTION 6. The board shall from time to time fix
2 such rates of fare and charges for services furnished or
3 operated as in its judgment is best adapted to ensure
4 sufficient income to meet the cost of the service which
5 shall include operating expenses, taxes, rentals, inter-
6 est on all indebtedness of the company assumed by
7 the district and still outstanding, and interest (includ-
8 ing amortization of discount or premium) on bonds or
9 notes of the district issued under this act, such allow-
10 ance as it may deem necessary or advisable for depre-
11 ciation of property and for obsolescence and losses
12 in respect to property sold, destroyed or abandoned,
13 and all other expenditures and charges which under
14 the laws of the commonwealth now or hereafter in
15 effect applicable to street railway companies are prop-

16 erly chargeable against income or surplus, subject,
17 however, to the authority granted to the metropolitan
18 transit council by section three of chapter three hun-
19 dred and thirty-three of the acts of nineteen hundred
20 and thirty-one.

21 Said board shall have the right to regulate and fix
22 fares, including the issue, granting and withdrawal of
23 transfers and the imposition of charges therefor, and
24 shall determine the character and extent of the serv-
25 ices and facilities to be furnished, and in these respects
26 their authority shall be exclusive and shall not be
27 subject to the approval, control or direction of any
28 state, municipal or other board or commission.

1 SECTION 7. Except as herein otherwise provided,
2 the provisions of chapter one hundred and fifty-nine
3 of the Special Acts of nineteen hundred and eighteen,
4 as amended, with reference to payments from and
5 into the reserve fund, to determination, certification
6 and payment of the amount of deficiencies or deficits
7 in the cost of the service, and to assessment and col-
8 lection thereof, shall govern the financing of the
9 operation by the district of the transportation system
10 acquired under authority of this act; provided, that
11 wherever in such provisions the word "company"
12 appears, it shall, for the purposes of this act, be con-
13 strued to refer to the district. If at any time the
14 board of transportation, in its opinion, has not suf-
15 ficient cash to make the payments required in the
16 course of its management and operation, the trustees
17 of the district shall upon request of said board forth-
18 with issue notes of the district and borrow such
19 amount as may be so requested, the proceeds whereof
20 shall be paid over to said board. The trustees of the

21 district shall temporarily borrow money and issue
22 notes of the district therefor in the manner provided
23 in section ten of chapter three hundred and eighty-
24 three of the acts of nineteen hundred and twenty-nine.

1 SECTION 8. The real estate acquired by such pur-
2 chase, in so far as it is subject to local taxation on the
3 effective date of this act, shall continue to be so sub-
4 ject to taxation.

1 SECTION 9. It shall constitute an essential part of
2 the contract or agreement of the district with the
3 holders of the bonds issued for such purchase that the
4 provisions of this act relative to the management and
5 operation of the transportation system acquired here-
6 under shall not be varied except upon petition of the
7 trustees of the Boston metropolitan district and upon
8 the filing of a certificate of the department of public
9 utilities in its office stating that such variation is in
10 its opinion in the public interest. Such bonds, if
11 otherwise negotiable, shall not be rendered non-
12 negotiable by anything in this act contained.

