

HOUSE BILL 119

R2

7lr0013

By: **Chair, Environment and Transportation Committee (By Request –
Departmental – Transportation)**

Introduced and read first time: January 18, 2017

Assigned to: Environment and Transportation

A BILL ENTITLED

1 AN ACT concerning

2 **Washington Metropolitan Area Transit Authority – Washington Metrorail Safety**
3 **Commission – Establishment and Compact**

4 FOR the purpose of establishing the Washington Metrorail Safety Commission;
5 establishing the Metrorail Safety Commission Interstate Compact; granting the
6 Commission safety, regulatory, and enforcement authority over the Washington
7 Metropolitan Area Transit Authority Rail System and the power to act as the State
8 safety oversight authority for WMATA; specifying the membership, powers,
9 organization, and duties of the Commission; making the Compact contingent on the
10 adoption of the Compact by certain other jurisdictions; and generally relating to the
11 Metrorail Safety Commission Interstate Compact.

12 BY adding to

13 Article – Transportation

14 Section 10–208

15 Annotated Code of Maryland

16 (2015 Replacement Volume and 2016 Supplement)

17 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
18 That the Laws of Maryland read as follows:

19 **Article – Transportation**

20 **10–208.**

21 **PREAMBLE**

22 **WHEREAS, THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,**
23 **A PARTNERSHIP BETWEEN THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 VIRGINIA, AND THE STATE OF MARYLAND, PROVIDES TRANSPORTATION SERVICES
2 TO MILLIONS OF PEOPLE EACH YEAR AND THE SAFETY OF ITS SYSTEM IS
3 PARAMOUNT; AND

4 WHEREAS, AN EFFECTIVE AND SAFE WASHINGTON METROPOLITAN AREA
5 TRANSIT AUTHORITY SYSTEM IS ESSENTIAL TO THE COMMERCE AND PROSPERITY
6 OF THE NATIONAL CAPITAL REGION; AND

7 WHEREAS, THE TRI-STATE OVERSIGHT COMMITTEE, CREATED BY A
8 MEMORANDUM OF UNDERSTANDING AMONGST THESE THREE JURISDICTIONS, HAS
9 PROVIDED SAFETY OVERSIGHT OF THE WASHINGTON METROPOLITAN AREA
10 TRANSIT AUTHORITY; AND

11 WHEREAS, AN AMENDMENT TO 49 U.S.C. 5329 REQUIRES THE CREATION OF
12 A LEGALLY AND FINANCIALLY INDEPENDENT STATE AUTHORITY FOR SAFETY
13 OVERSIGHT OF ALL FIXED RAIL TRANSIT FACILITIES; AND

14 WHEREAS, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF
15 VIRGINIA, AND THE STATE OF MARYLAND WANT TO CREATE A WASHINGTON
16 METRORAIL SAFETY COMMISSION TO ACT AS THE STATE SAFETY OVERSIGHT
17 AUTHORITY FOR THE WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY
18 SYSTEM UNDER 49 U.S.C. 5329; AND

19 WHEREAS, THIS ACT IS CREATED FOR THE BENEFIT OF THE PEOPLE OF THE
20 DISTRICT OF COLUMBIA, THE COMMONWEALTH OF VIRGINIA, AND THE STATE OF
21 MARYLAND AND FOR THE INCREASE OF THEIR SAFETY, COMMERCE, AND
22 PROSPERITY;

23 NOW, THEREFORE, THE STATE OF MARYLAND, THE COMMONWEALTH OF
24 VIRGINIA, AND THE DISTRICT OF COLUMBIA, HEREAFTER REFERRED TO AS THE
25 SIGNATORIES, COVENANT AND AGREE AS FOLLOWS:

26 ARTICLE I.

27 DEFINITIONS

28 1. AS USED IN THIS TITLE, THE FOLLOWING WORDS AND TERMS SHALL
29 HAVE THE MEANINGS SET FORTH BELOW, UNLESS THE CONTEXT CLEARLY
30 REQUIRES A DIFFERENT MEANING. CAPITALIZED TERMS USED HEREIN, BUT NOT
31 OTHERWISE DEFINED IN THIS ACT, SHALL HAVE THE DEFINITIONS SET FORTH IN
32 REGULATIONS ISSUED UNDER 49 U.S.C. 5329, AS THEY MAY BE REVISED FROM TIME
33 TO TIME.

1 (A) "ALTERNATE MEMBER" MEANS AN ALTERNATE MEMBER OF THE
2 BOARD.

3 (B) "BOARD" MEANS THE BOARD OF DIRECTORS OF THE
4 COMMISSION.

5 (C) "COMMISSION" MEANS THE WASHINGTON METRORAIL SAFETY
6 COMMISSION.

7 (D) "MEMBER" MEANS A MEMBER OF THE BOARD.

8 (E) "MSC COMPACT" MEANS THE METRORAIL SAFETY COMMISSION
9 INTERSTATE COMPACT CREATED BY THIS ACT.

10 (F) "PUBLIC TRANSPORTATION AGENCY SAFETY PLAN" MEANS THE
11 COMPREHENSIVE AGENCY SAFETY PLAN FOR A RAIL TRANSIT AGENCY REQUIRED
12 UNDER 49 U.S.C. 5329.

13 (G) "PUBLIC TRANSPORTATION SAFETY CERTIFICATION TRAINING
14 PROGRAM" MEANS THE FEDERAL CERTIFICATION TRAINING PROGRAM FOR
15 FEDERAL AND STATE EMPLOYEES, OR OTHER DESIGNATED PERSONNEL, WHO
16 CONDUCT SAFETY AUDITS AND EXAMINATIONS OF PUBLIC TRANSPORTATION
17 SYSTEMS, AND EMPLOYEES OF PUBLIC TRANSPORTATION AGENCIES DIRECTLY
18 RESPONSIBLE FOR SAFETY OVERSIGHT AS ESTABLISHED AND AMENDED FROM TIME
19 AND TIME BY APPLICABLE FEDERAL LAWS AND REGULATIONS.

20 (H) "SAFETY SENSITIVE POSITION" MEANS ANY POSITION HELD BY A
21 WMATA EMPLOYEE OR CONTRACTOR DESIGNATED IN THE PUBLIC
22 TRANSPORTATION AGENCY SAFETY PLAN FOR THE WMATA RAIL SYSTEM AS
23 DIRECTLY AFFECTING THE SAFETY OF THE PASSENGERS OR EMPLOYEES OF THE
24 WMATA RAIL SYSTEM.

25 (I) "SIGNATORY" MEANS THE STATE OF MARYLAND, THE
26 COMMONWEALTH OF VIRGINIA, AND THE DISTRICT OF COLUMBIA.

27 (J) "STATE", "STATE", "JURISDICTION", AND "JURISDICTION"
28 INCLUDE THE DISTRICT OF COLUMBIA, THE STATE OF MARYLAND, AND THE
29 COMMONWEALTH OF VIRGINIA.

30 (K) "WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY" OR
31 "WMATA" IS THE ENTITY CREATED BY THE WMATA COMPACT, WHICH IS
32 RESPONSIBLE FOR PROVIDING CERTAIN RAIL FIXED GUIDEWAY PUBLIC
33 TRANSPORTATION SYSTEM SERVICES.

1 **A. WASHINGTON METRORAIL SAFETY COMMISSION.**

2 4. THERE IS HEREBY CREATED THE WASHINGTON METRORAIL SAFETY
3 COMMISSION, AN INSTRUMENTALITY OF EACH SIGNATORY, WHICH SHALL BE A
4 PUBLIC BODY CORPORATE AND POLITIC, AND WHICH SHALL HAVE THE POWERS AND
5 DUTIES SET FORTH IN THIS MSC COMPACT AND SUCH ADDITIONAL POWERS AND
6 DUTIES AS MAY BE CONFERRED UPON IT PURSUANT TO LAW.

7 5. THE COMMISSION SHALL BE FINANCIALLY AND LEGALLY INDEPENDENT
8 FROM WMATA.

9 **B. BOARD OF DIRECTORS.**

10 6. THE COMMISSION SHALL BE GOVERNED BY A BOARD OF SIX MEMBERS
11 APPOINTED AS FOLLOWS:

12 (A) TWO MEMBERS SHALL BE APPOINTED BY THE GOVERNOR OF
13 VIRGINIA;

14 (B) TWO MEMBERS SHALL BE APPOINTED BY THE GOVERNOR OF
15 MARYLAND; AND

16 (C) TWO MEMBERS SHALL BE APPOINTED BY THE MAYOR OF THE
17 DISTRICT OF COLUMBIA.

18 7. THE GOVERNOR OF VIRGINIA, GOVERNOR OF MARYLAND, AND MAYOR
19 OF THE DISTRICT OF COLUMBIA SHALL EACH ALSO APPOINT ONE ALTERNATE
20 MEMBER.

21 8. AN ALTERNATE MEMBER SHALL PARTICIPATE AND TAKE ACTION AS A
22 MEMBER ONLY IN THE ABSENCE OF ONE OR BOTH MEMBERS FROM THE SAME
23 JURISDICTION AS THE ALTERNATE MEMBER'S APPOINTING JURISDICTION AND, IN
24 SUCH INSTANCES, SHALL CAST A SINGLE VOTE.

25 9. MEMBERS AND ALTERNATE MEMBERS SHALL HAVE BACKGROUNDS IN
26 TRANSPORTATION, TRANSIT, SAFETY, PUBLIC FINANCE, OR ENGINEERING.

27 10. NO MEMBER OR ALTERNATE MEMBER SHALL SIMULTANEOUSLY HOLD
28 OTHER ELECTIVE OR APPOINTIVE PUBLIC OFFICE.

29 11. EACH MEMBER AND ALTERNATE MEMBER SHALL SERVE A FOUR-YEAR
30 TERM; EXCEPT THAT, EACH SIGNATORY SHALL MAKE ITS INITIAL APPOINTMENTS AS
31 FOLLOWS:

1 (A) ONE MEMBER SHALL BE APPOINTED FOR A FOUR-YEAR TERM;

2 (B) ONE MEMBER SHALL BE APPOINTED FOR A TWO-YEAR TERM; AND

3 (C) THE ALTERNATE MEMBER SHALL BE APPOINTED FOR A
4 THREE-YEAR TERM.

5 12. ANY PERSON APPOINTED TO FILL A VACANCY SHALL SERVE FOR THE
6 UNEXPIRED TERM.

7 13. MEMBERS AND ALTERNATE MEMBERS SHALL BE ENTITLED TO
8 REIMBURSEMENT FOR REASONABLE AND NECESSARY EXPENSES AND SHALL BE
9 COMPENSATED FOR EACH DAY SPENT ON THE BUSINESS OF THE COMMISSION AT A
10 PER DIEM RATE OF \$200 PER DAY, OR AS MAY BE ADJUSTED BY APPROPRIATIONS
11 APPROVED BY ALL OF THE SIGNATORIES.

12 14. A MEMBER OR AN ALTERNATE MEMBER MAY BE REMOVED OR
13 SUSPENDED FROM OFFICE ONLY FOR CAUSE IN ACCORDANCE WITH THE LAWS OF
14 THE MEMBER'S OR ALTERNATE MEMBER'S APPOINTING JURISDICTION.

15 C. QUORUM AND ACTIONS OF THE BOARD.

16 15. FOUR MEMBERS SHALL CONSTITUTE A QUORUM, AND THE AFFIRMATIVE
17 VOTE OF FOUR MEMBERS IS REQUIRED FOR ACTION OF THE BOARD. QUORUM AND
18 VOTING REQUIREMENTS UNDER THIS SECTION MAY BE MET WITH ONE OR MORE
19 ALTERNATE MEMBERS PURSUANT TO § 8 OF THIS ARTICLE III.

20 16. COMMISSION ACTION SHALL BECOME EFFECTIVE UPON ENACTMENT
21 UNLESS OTHERWISE PROVIDED FOR BY THE COMMISSION.

22 D. OATH OF OFFICE.

23 17. BEFORE ENTERING OFFICE, EACH MEMBER AND ALTERNATE MEMBER
24 SHALL TAKE AND SUBSCRIBE TO THE FOLLOWING OATH (OR AFFIRMATION) OF
25 OFFICE OR ANY SUCH OTHER OATH OR AFFIRMATION AS THE CONSTITUTION OR
26 LAWS OF THE SIGNATORY THE MEMBER REPRESENTS SHALL PROVIDE:

27 "I, _____, HEREBY SOLEMNLY SWEAR (OR AFFIRM) THAT I WILL SUPPORT AND
28 DEFEND THE CONSTITUTION AND THE LAWS OF THE UNITED STATES AS A MEMBER
29 (OR ALTERNATE MEMBER) OF THE BOARD OF THE WASHINGTON METRORAIL
30 SAFETY COMMISSION AND WILL FAITHFULLY DISCHARGE THE DUTIES OF THE
31 OFFICE UPON WHICH I AM ABOUT TO ENTER."

1 **E. ORGANIZATION AND PROCEDURE.**

2 **18. THE BOARD SHALL PROVIDE FOR ITS OWN ORGANIZATION AND**
3 **PROCEDURE. MEETINGS OF THE BOARD SHALL BE HELD AS FREQUENTLY AS THE**
4 **BOARD DETERMINES. THE BOARD SHALL KEEP MINUTES OF ITS MEETINGS AND**
5 **ADOPT RULES AND REGULATIONS GOVERNING ITS TRANSACTIONS AND INTERNAL**
6 **AFFAIRS, INCLUDING POLICIES REGARDING RECORDS RETENTION THAT ARE NOT IN**
7 **CONFLICT WITH APPLICABLE FEDERAL LAW.**

8 **19. THE COMMISSION SHALL KEEP COMMERCIALY REASONABLE RECORDS**
9 **OF ITS FINANCIAL TRANSACTIONS.**

10 **20. THE COMMISSION SHALL ESTABLISH AN OFFICE FOR THE CONDUCT OF**
11 **ITS AFFAIRS AT A LOCATION TO BE DETERMINED BY THE COMMISSION.**

12 **21. MEETINGS OF THE BOARD SHALL BE OPEN TO THE PUBLIC UNLESS**
13 **CLOSED PURSUANT TO ADOPTED BOARD POLICY, AND COMMISSION DOCUMENTS**
14 **SHALL BE AVAILABLE TO THE PUBLIC UNLESS DEEMED CONFIDENTIAL PURSUANT**
15 **TO ADOPTED COMMISSION POLICY. THE COMMISSION SHALL ADOPT OPEN MEETING**
16 **AND FREEDOM OF INFORMATION POLICIES BASED ON THE PRINCIPLES OF**
17 **TRANSPARENCY AND PUBLIC ACCESS CONTAINED IN THE FEDERAL FREEDOM OF**
18 **INFORMATION ACT, 5 U.S.C. 552(A)-(C), AND, THEREFORE, SHALL NOT BE SUBJECT**
19 **TO THE SOMETIMES CONFLICTING OPEN MEETING AND FREEDOM OF INFORMATION**
20 **LAWS OF ANY INDIVIDUAL SIGNATORY.**

21 **22. REPORTS OF INVESTIGATIONS OR INQUIRIES ADOPTED BY THE BOARD**
22 **SHALL BE MADE PUBLICLY AVAILABLE. THE COMMISSION SHALL DEVELOP**
23 **APPROPRIATE POLICIES TO PROTECT THE INTEGRITY OF ITS INVESTIGATIONS AND**
24 **THE SECURITY OF THE WMATA RAIL SYSTEM. THE COMMISSION'S POLICY SHALL**
25 **ENSURE THAT THE MAYOR OF THE DISTRICT OF COLUMBIA AND THE GOVERNORS**
26 **OF MARYLAND AND VIRGINIA AND THEIR DESIGNEES HAVE PROMPT AND FULL**
27 **ACCESS TO ANY AND ALL RECORDS HELD BY THE COMMISSION. INVESTIGATIVE**
28 **REPORTS PREPARED PURSUANT TO 49 C.F.R. 674 MAY NOT BE ADMITTED AS**
29 **EVIDENCE OR USED IN A CIVIL ACTION FOR DAMAGES RESULTING FROM A MATTER**
30 **MENTIONED IN THE REPORT.**

31 **23. THE COMMISSION SHALL ADOPT A POLICY ON CONFLICT OF INTEREST,**
32 **WHICH SHALL BE CONSISTENT WITH THE REGULATIONS ISSUED UNDER 49 U.S.C.**
33 **5329, AS THEY MAY BE REVISED FROM TIME TO TIME, WHICH, AMONG OTHER**
34 **THINGS, PLACES APPROPRIATE SEPARATION BETWEEN MEMBERS, OFFICERS,**
35 **EMPLOYEES, CONTRACTORS, AND AGENTS OF THE COMMISSION AND WMATA.**

1 U.S.C. 5329, AS AMENDED, AND ANY FEDERAL REGULATIONS PROMULGATED
2 THEREUNDER:

3 (A) ADOPT, REVISE, AND DISTRIBUTE A WRITTEN STATE SAFETY
4 OVERSIGHT PROGRAM;

5 (B) REVIEW, APPROVE, OVERSEE, AND ENFORCE THE ADOPTION AND
6 IMPLEMENTATION OF THE WMATA PUBLIC TRANSPORTATION AGENCY SAFETY
7 PLAN;

8 (C) REQUIRE, REVIEW, APPROVE, OVERSEE, AND ENFORCE THE
9 ADOPTION AND IMPLEMENTATION OF ANY CORRECTIVE ACTION PLANS THE
10 COMMISSION DEEMS APPROPRIATE;

11 (D) IMPLEMENT AND ENFORCE RELEVANT FEDERAL AND STATE LAWS
12 AND REGULATIONS RELATING TO SAFETY OF THE WMATA RAIL SYSTEM; AND

13 (E) AUDIT EVERY THREE YEARS THE COMPLIANCE OF WMATA WITH
14 THE PUBLIC TRANSPORTATION AGENCY SAFETY PLAN OR CONDUCT SUCH AN
15 AUDIT ON AN ONGOING BASIS OVER A THREE-YEAR TIME FRAME.

16 31. IN PERFORMING ITS DUTIES, THE COMMISSION, THROUGH ITS BOARD
17 OR DESIGNATED EMPLOYEES OR AGENTS, MAY:

18 (A) CONDUCT, OR CAUSE TO BE CONDUCTED, INSPECTIONS,
19 INVESTIGATIONS, EXAMINATIONS, AND TESTING OF THE PROPERTY, EQUIPMENT,
20 FACILITIES, ROLLING STOCK, AND OPERATIONS OF THE WMATA RAIL SYSTEM,
21 INCLUDING ELECTRONIC INFORMATION AND DATABASES;

22 (B) ENTER UPON THE WMATA RAIL SYSTEM AND, UPON
23 REASONABLE NOTICE AND A FINDING BY THE CHIEF EXECUTIVE OFFICER THAT A
24 NEED EXISTS, UPON ANY LANDS, WATERS, AND PREMISES ADJACENT TO THE
25 WMATA RAIL SYSTEM FOR THE PURPOSE OF CONDUCTING INSPECTIONS,
26 INVESTIGATIONS, EXAMINATIONS, AND TESTING AS THE COMMISSION MAY DEEM
27 NECESSARY TO CARRY OUT THE PURPOSES OF THIS MSC COMPACT, AND THE ENTRY
28 SHALL NOT BE DEEMED A TRESPASS. THE COMMISSION SHALL MAKE REASONABLE
29 REIMBURSEMENT FOR ANY ACTUAL DAMAGE RESULTING TO THE ADJACENT LANDS,
30 WATERS, AND PREMISES AS A RESULT OF SUCH ACTIVITIES;

31 (C) COMPEL COMPLIANCE BY WMATA WITH ANY CORRECTIVE
32 ACTION PLAN OR ORDER OF THE COMMISSION BY MEANS THE COMMISSION DEEMS
33 APPROPRIATE, INCLUDING:

- 1 (1) ISSUING SUBPOENAS;
- 2 (2) TAKING LEGAL ACTION IN A COURT OF COMPETENT
3 JURISDICTION;
- 4 (3) ISSUING CITATIONS OR FINES;
- 5 (4) DIRECTING WMATA TO PRIORITIZE SPENDING ON
6 SAFETY-CRITICAL ITEMS;
- 7 (5) REMOVING A SPECIFIC VEHICLE, INFRASTRUCTURE
8 ELEMENT, OR HAZARD FROM THE WMATA RAIL SYSTEM; AND
- 9 (6) RESTRICTING, SUSPENDING, OR PROHIBITING RAIL
10 SERVICE, WITH APPROPRIATE NOTICE, ON ALL OR PART OF THE WMATA RAIL
11 SYSTEM;

12 (D) DIRECT WMATA TO SUSPEND OR DISQUALIFY FROM
13 PERFORMING IN A SAFETY SENSITIVE POSITION AN INDIVIDUAL WHO HAS
14 VIOLATED SAFETY RULES, REGULATIONS, POLICIES, OR LAWS IN A MANNER THAT
15 THE COMMISSION DETERMINES MAKES THAT INDIVIDUAL UNFIT FOR THE
16 PERFORMANCE IN THE POSITION; AND

17 (E) TAKE ANY OTHER ACTIONS THAT THE COMMISSION DEEMS
18 APPROPRIATE, CONSISTENT WITH ITS PURPOSES AND POWERS.

19 32. THE COMMISSION SHALL COORDINATE ITS ENFORCEMENT ACTIVITIES
20 WITH APPROPRIATE FEDERAL AND STATE GOVERNMENTAL AUTHORITIES.

21 B. GENERAL POWERS.

22 33. IN ADDITION TO THE POWERS AND DUTIES SET FORTH ABOVE, THE
23 COMMISSION MAY:

24 (A) SUE AND BE SUED;

25 (B) ADOPT, AMEND, AND REPEAL RULES AND REGULATIONS
26 RESPECTING THE EXERCISE OF THE POWERS CONFERRED BY THIS MSC COMPACT;

27 (C) CREATE AND ABOLISH OFFICES, EMPLOYMENTS, AND POSITIONS
28 (OTHER THAN THOSE SPECIFICALLY PROVIDED FOR IN THIS MSC COMPACT) AS IT
29 DEEMS NECESSARY OR DESIRABLE FOR THE PURPOSES OF THE COMMISSION;

1 **A. ANNUAL SAFETY REPORT.**

2 **35. THE COMMISSION SHALL MAKE AND PUBLISH ANNUALLY A STATUS**
3 **REPORT ON THE SAFETY OF THE WMATA RAIL SYSTEM. A COPY OF EACH REPORT**
4 **SHALL BE PROVIDED TO THE ADMINISTRATOR OF THE FEDERAL TRANSIT**
5 **ADMINISTRATION, THE GOVERNOR OF VIRGINIA, THE GOVERNOR OF MARYLAND,**
6 **THE MAYOR OF THE DISTRICT OF COLUMBIA, AND THE GENERAL MANAGER AND**
7 **EACH MEMBER OF THE BOARD OF DIRECTORS OF WMATA.**

8 **36. THE COMMISSION MAY PREPARE, PUBLISH, AND DISTRIBUTE ANY**
9 **OTHER SAFETY REPORTS THAT IT DEEMS NECESSARY OR DESIRABLE.**

10 **B. ANNUAL PROGRAMS, OPERATIONS, AND FINANCES REPORT AND OTHER**
11 **REPORTS.**

12 **37. THE COMMISSION SHALL MAKE AND PUBLISH AN ANNUAL REPORT ON**
13 **ITS PROGRAMS, OPERATIONS, AND FINANCES, WHICH SHALL BE DISTRIBUTED IN**
14 **THE SAME MANNER PROVIDED BY § 35 OF THIS ARTICLE V FOR THE ANNUAL SAFETY**
15 **REPORT.**

16 **38. THE COMMISSION MAY ALSO PREPARE, PUBLISH, AND DISTRIBUTE ANY**
17 **OTHER PUBLIC REPORTS AND INFORMATIONAL MATERIALS THAT IT DEEMS**
18 **NECESSARY OR DESIRABLE.**

19 **C. ANNUAL AUDIT.**

20 **39. AN INDEPENDENT ANNUAL AUDIT SHALL BE MADE OF THE FINANCIAL**
21 **ACCOUNTS OF THE COMMISSION. THE AUDIT SHALL BE MADE BY QUALIFIED**
22 **CERTIFIED PUBLIC ACCOUNTANTS SELECTED BY THE BOARD, WHO SHALL HAVE NO**
23 **PERSONAL INTEREST, DIRECT OR INDIRECT, IN THE FINANCIAL AFFAIRS OF THE**
24 **COMMISSION OR ANY OF ITS OFFICERS OR EMPLOYEES. THE REPORT OF AUDIT**
25 **SHALL BE PREPARED IN ACCORDANCE WITH GENERALLY ACCEPTED AUDITING**
26 **PRINCIPLES AND SHALL BE DISTRIBUTED IN THE SAME MANNER PROVIDED BY § 35**
27 **OF THIS ARTICLE V FOR THE ANNUAL SAFETY REPORT. MEMBERS, EMPLOYEES,**
28 **AGENTS, AND CONTRACTORS OF THE COMMISSION SHALL PROVIDE ACCESS TO**
29 **INFORMATION NECESSARY OR DESIRABLE FOR THE CONDUCT OF THE ANNUAL**
30 **AUDIT.**

31 **D. FUNDING.**

32 **40. COMMISSION OPERATIONS SHALL BE FUNDED, INDEPENDENTLY OF**
33 **WMATA, BY THE SIGNATORY JURISDICTIONS AND, WHEN AVAILABLE, BY FEDERAL**
34 **FUNDS.**

1 **41. THE SIGNATORY JURISDICTIONS SHALL UNANIMOUSLY AGREE ON**
2 **ADEQUATE FUNDING LEVELS FOR THE COMMISSION AND MAKE EQUAL FUNDING**
3 **CONTRIBUTIONS, SUBJECT TO ANNUAL APPROPRIATION, TO COVER THE PORTION**
4 **OF COMMISSION OPERATIONS NOT FUNDED BY FEDERAL FUNDS.**

5 **42. THE COMMISSION MAY BORROW IN ANTICIPATION OF RECEIPTS, FROM**
6 **ANY LAWFUL LENDING INSTITUTION FOR ANY PURPOSE OF THIS COMPACT,**
7 **INCLUDING ADMINISTRATIVE EXPENSES. THE LOANS SHALL BE FOR A TERM NOT TO**
8 **EXCEED TWO YEARS, OR A LONGER TERM APPROVED BY EACH JURISDICTION**
9 **PURSUANT TO THEIR LAWS AS EVIDENCED BY THE WRITTEN AUTHORIZATION OF THE**
10 **MAYOR OF THE DISTRICT OF COLUMBIA AND THE GOVERNORS OF MARYLAND AND**
11 **VIRGINIA AND AT THE RATES OF INTEREST THAT ARE ACCEPTABLE TO THE**
12 **COMMISSION.**

13 **43. WITH RESPECT TO THE DISTRICT OF COLUMBIA, THE COMMITMENT OR**
14 **OBLIGATION TO RENDER FINANCIAL ASSISTANCE TO THE COMMISSION SHALL BE**
15 **CREATED, FOR EACH FISCAL PERIOD, BY APPROPRIATION OR IN SUCH OTHER**
16 **MANNER, OR BY SUCH OTHER LEGISLATION, AS THE DISTRICT OF COLUMBIA SHALL**
17 **DETERMINE, PROVIDED THAT ANY COMMITMENT MUST BE APPROVED BY THE**
18 **FEDERAL GOVERNMENT PURSUANT TO SECTION 603 OF THE DISTRICT OF**
19 **COLUMBIA HOME RULE ACT, APPROVED DECEMBER 24, 1973, 87 STAT. 790, PUB.**
20 **L. 93-198, D.C. OFFICIAL CODE § 1-206.03 (2012 REPL.).**

21 **44. PURSUANT TO THE PROVISIONS OF (I) THE FEDERAL ANTI-DEFICIENCY**
22 **ACT, 31 U.S.C. §§ 1341, 1342, 1349-1351, AND 1511-1519 (2008) (THE “FEDERAL**
23 **ADA”), AND D.C. OFFICIAL CODE §§ 1-206.03(E) AND 47-105; (II) THE DISTRICT**
24 **OF COLUMBIA ANTI-DEFICIENCY ACT, D.C. OFFICIAL CODE §§ 47-355.01 – 355.08**
25 **(THE “D.C. ADA” AND (I) AND (II) COLLECTIVELY, AS AMENDED FROM TIME TO**
26 **TIME, THE “ANTI-DEFICIENCY ACTS”); AND (III) SECTION 446 OF THE DISTRICT OF**
27 **COLUMBIA HOME RULE ACT, D.C. OFFICIAL CODE § 1-204.46, THE DISTRICT OF**
28 **COLUMBIA CANNOT OBLIGATE ITSELF TO ANY FINANCIAL COMMITMENT IN ANY**
29 **PRESENT OR FUTURE YEAR UNLESS THE NECESSARY FUNDS TO PAY THAT**
30 **COMMITMENT HAVE BEEN APPROPRIATED BY THE CONGRESS OF THE UNITED**
31 **STATES (THE “CONGRESS”) AND ARE LAWFULLY AVAILABLE FOR THE PURPOSE**
32 **COMMITTED. THUS, PURSUANT TO THE ANTI-DEFICIENCY ACTS, NOTHING IN THIS**
33 **MSC COMPACT CREATES AN OBLIGATION OF THE DISTRICT OF COLUMBIA IN**
34 **ANTICIPATION OF AN APPROPRIATION BY CONGRESS FOR SUCH PURPOSE, AND THE**
35 **DISTRICT OF COLUMBIA’S LEGAL LIABILITY FOR THE PAYMENT OF ANY AMOUNT**
36 **UNDER THIS MSC COMPACT DOES NOT AND MAY NOT ARISE OR OBTAIN IN ADVANCE**
37 **OF THE LAWFUL AVAILABILITY OF APPROPRIATED FUNDS FOR THE APPLICABLE**
38 **FISCAL YEAR AS APPROVED BY CONGRESS.**

1 IF, PRIOR TO SUCH COMMITMENT BEING MADE BY OR ON BEHALF OF THE
2 DISTRICT OF COLUMBIA, LEGISLATION IS ENACTED BY THE CONGRESS GRANTING
3 THE GOVERNING BODY OF THE DISTRICT OF COLUMBIA PLENARY POWER TO
4 CREATE OBLIGATIONS, THE COMMITMENT BY THE DISTRICT OF COLUMBIA SHALL
5 BE BY CONTRACT OR AGREEMENT BETWEEN THE GOVERNING BODY OF THE
6 DISTRICT OF COLUMBIA AND THE COMMISSION TO UNDERTAKE ITS ROLE IN SAFETY
7 OVERSIGHT.

8 **E. EXERCISE OF POWERS.**

9 45. THE EXERCISE OF THE POWERS GRANTED BY THIS MSC COMPACT
10 SHALL IN ALL RESPECTS BE FOR THE BENEFIT OF THE PEOPLE OF THE DISTRICT OF
11 COLUMBIA, COMMONWEALTH OF VIRGINIA, AND STATE OF MARYLAND AND FOR
12 THE INCREASE OF THEIR SAFETY, COMMERCE, AND PROSPERITY, AND AS THE
13 ACTIVITIES ASSOCIATED WITH THIS MSC COMPACT SHALL CONSTITUTE THE
14 PERFORMANCE OF ESSENTIAL GOVERNMENTAL FUNCTIONS, THE COMMISSION
15 SHALL NOT BE REQUIRED TO PAY ANY TAXES OR ASSESSMENTS UPON THE SERVICES
16 OR ANY PROPERTY ACQUIRED OR USED BY THE COMMISSION UNDER THE
17 PROVISIONS OF THIS MSC COMPACT OR UPON THE INCOME THEREFROM, AND
18 SHALL AT ALL TIMES BE FREE FROM TAXATION WITHIN THE DISTRICT OF
19 COLUMBIA, COMMONWEALTH OF VIRGINIA, AND STATE OF MARYLAND.

20 **F. WMATA RIGHT TO PETITION COMMISSION.**

21 46. WMATA SHALL HAVE THE RIGHT TO PETITION THE COMMISSION FOR
22 RECONSIDERATION OF AN ORDER BASED ON RULES AND PROCEDURES DEVELOPED
23 BY THE COMMISSION.

24 47. CONSISTENT WITH § 16 OF ARTICLE III, THE FILING OF A PETITION FOR
25 RECONSIDERATION SHALL NOT ACT AS A STAY UPON THE EXECUTION OF A
26 COMMISSION ORDER, OR ANY PART OF IT, UNLESS THE COMMISSION ORDERS
27 OTHERWISE.

28 **G. COURTS OF JURISDICTION.**

29 48. THE UNITED STATES DISTRICT COURTS FOR THE EASTERN DISTRICT
30 OF VIRGINIA, ALEXANDRIA DIVISION, UNITED STATES DISTRICT COURTS FOR
31 MARYLAND, SOUTHERN DIVISION, AND UNITED STATES DISTRICT COURTS FOR
32 THE DISTRICT OF COLUMBIA SHALL HAVE EXCLUSIVE AND ORIGINAL JURISDICTION
33 OVER ALL ACTIONS BROUGHT BY OR AGAINST THE COMMISSION AND TO ENFORCE
34 SUBPOENAS UNDER THIS MSC COMPACT.

1 **49. THE COMMENCEMENT OF A JUDICIAL PROCEEDING SHALL NOT**
2 **OPERATE AS A STAY OF A COMMISSION ORDER UNLESS SPECIFICALLY ORDERED BY**
3 **THE COURT.**

4 **H. LIABILITY OF COMMISSION AND ITS MEMBERS, OFFICERS, AGENTS,**
5 **EMPLOYEES, OR REPRESENTATIVES.**

6 **50. THE COMMISSION AND ITS MEMBERS, ALTERNATE MEMBERS,**
7 **OFFICERS, AGENTS, EMPLOYEES, OR REPRESENTATIVES SHALL NOT BE LIABLE FOR**
8 **SUIT OR ACTION OR FOR ANY JUDGMENT OR DECREE FOR DAMAGES, LOSS, OR**
9 **INJURY RESULTING FROM ACTION TAKEN WITHIN THE SCOPE OF THEIR**
10 **EMPLOYMENT OR DUTIES UNDER THIS MSC COMPACT, NOR REQUIRED IN ANY CASE**
11 **ARISING OR ANY APPEAL TAKEN UNDER THIS MSC COMPACT TO GIVE A**
12 **SUPERSEDEAS BOND OR SECURITY FOR DAMAGES. NOTHING IN THIS PARAGRAPH**
13 **SHALL BE CONSTRUED TO PROTECT A PERSON FROM SUIT OR LIABILITY FOR**
14 **DAMAGE, LOSS, INJURY, OR LIABILITY CAUSED BY THE INTENTIONAL OR WILLFUL**
15 **AND WANTON MISCONDUCT OF THE PERSON.**

16 **51. THE COMMISSION SHALL BE LIABLE FOR ITS CONTRACTS AND FOR ITS**
17 **TORTS AND THOSE OF ITS MEMBERS, ALTERNATE MEMBERS, OFFICERS, AGENTS,**
18 **EMPLOYEES, AND REPRESENTATIVES COMMITTED IN THE CONDUCT OF ANY**
19 **PROPRIETARY FUNCTION, IN ACCORDANCE WITH THE LAW OF THE APPLICABLE**
20 **SIGNATORY (INCLUDING, WITHOUT LIMITATION, RULES ON CONFLICT OF LAWS) BUT**
21 **SHALL NOT BE LIABLE FOR ANY TORTS OCCURRING IN THE PERFORMANCE OF A**
22 **GOVERNMENTAL FUNCTION. THE EXCLUSIVE REMEDY FOR A BREACH OF CONTRACT**
23 **OR TORT FOR WHICH THE COMMISSION SHALL BE LIABLE, AS HEREIN PROVIDED,**
24 **SHALL BE BY SUIT AGAINST THE COMMISSION. NOTHING CONTAINED IN THIS MSC**
25 **COMPACT SHALL BE CONSTRUED AS A WAIVER BY THE DISTRICT OF COLUMBIA,**
26 **MARYLAND, OR VIRGINIA OF ANY IMMUNITY FROM SUIT.**

27 **I. PLEDGE OF FAITHFUL COOPERATION BY SIGNATORIES.**

28 **52. EACH OF THE SIGNATORIES PLEDGES TO EACH OTHER FAITHFUL**
29 **COOPERATION IN PROVIDING SAFETY OVERSIGHT FOR THE WMATA RAIL SYSTEM,**
30 **AND, TO EFFECT SUCH PURPOSES, AGREES TO CONSIDER IN GOOD FAITH AND**
31 **REQUEST ANY NECESSARY LEGISLATION TO ACHIEVE THE OBJECTIVES OF THIS**
32 **MSC COMPACT.**

33 **J. AMENDMENTS AND SUPPLEMENTS TO COMPACT.**

34 **53. AMENDMENTS AND SUPPLEMENTS TO THIS MSC COMPACT SHALL BE**
35 **ADOPTED BY LEGISLATIVE ACTION OF EACH OF THE SIGNATORIES AND THE**
36 **CONSENT OF CONGRESS. WHEN ONE SIGNATORY ADOPTS AN AMENDMENT OR**

1 SUPPLEMENT TO AN EXISTING SECTION OF THIS MSC COMPACT, THAT AMENDMENT
2 OR SUPPLEMENT SHALL NOT BE IMMEDIATELY EFFECTIVE, AND THE PREVIOUSLY
3 ENACTED PROVISION OR PROVISIONS SHALL REMAIN IN EFFECT IN EACH
4 JURISDICTION UNTIL THE AMENDMENT OR SUPPLEMENT IS APPROVED BY THE
5 OTHER SIGNATORIES AND IS CONSENTED TO BY CONGRESS.

6 **K. WITHDRAWAL FROM COMPACT BY SIGNATORY.**

7 **54. ANY SIGNATORY MAY WITHDRAW FROM THIS MSC COMPACT, WHICH**
8 **ACTION SHALL CONSTITUTE A TERMINATION OF THIS MSC COMPACT.**

9 **55. WITHDRAWAL FROM THIS MSC COMPACT SHALL BE BY THE**
10 **ENACTMENT OF LEGISLATION REPEALING THE STATUTORY AUTHORITY FOR THIS**
11 **MSC COMPACT, BUT THE REPEAL MAY NOT TAKE EFFECT UNTIL ONE YEAR AFTER**
12 **THE EFFECTIVE DATE OF THE LEGISLATION AND UNTIL WRITTEN NOTICE OF THE**
13 **WITHDRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE TO THE EXECUTIVE OF**
14 **EACH OTHER MEMBER JURISDICTION. IN THE EVENT OF A WITHDRAWAL OF ONE OF**
15 **THE SIGNATORIES FROM THE WMATA COMPACT, THIS MSC COMPACT SHALL BE**
16 **TERMINATED AS OF THE SAME DATE.**

17 **56. PRIOR TO TERMINATION OF THIS MSC COMPACT, THE COMMISSION**
18 **SHALL PROVIDE EACH SIGNATORY:**

19 **(A) A MECHANISM FOR CONCLUDING THE OPERATIONS OF THE**
20 **COMMISSION;**

21 **(B) A PROPOSAL TO MAINTAIN STATE SAFETY OVERSIGHT OF THE**
22 **WMATA RAIL SYSTEM; AND**

23 **(C) A PLAN TO RETURN SURPLUS FUNDS THAT MAY EXIST UPON THE**
24 **TERMINATION OF THIS MSC COMPACT AFTER THE PAYMENT OF, AND THE**
25 **RESERVATION OF FUNDS FOR PAYMENT OF, ALL OF ITS DEBTS AND OBLIGATIONS.**

26 **L. LIBERAL CONSTRUCTION.**

27 **57. THIS MSC COMPACT SHALL BE LIBERALLY CONSTRUED TO**
28 **EFFECTUATE THE PURPOSES FOR WHICH IT IS CREATED.**

29 **58. IF ANY PART OR PROVISION OF THIS MSC COMPACT OR ITS**
30 **APPLICATION TO ANY PERSON OR CIRCUMSTANCES IS ADJUDGED INVALID BY ANY**
31 **COURT OF COMPETENT JURISDICTION, THE JUDGMENT SHALL BE CONFINED IN ITS**
32 **OPERATION TO THE PART, PROVISION, OR APPLICATION DIRECTLY INVOLVED IN**
33 **THE CONTROVERSY IN WHICH THE JUDGMENT SHALL HAVE BEEN RENDERED AND**

1 SHALL NOT AFFECT OR IMPAIR THE VALIDITY OF THE REMAINDER OF THIS MSC
2 COMPACT OR ITS APPLICATION TO OTHER PERSONS OR CIRCUMSTANCES, AND THE
3 SIGNATORIES HEREBY DECLARE THAT THEY WOULD HAVE ENTERED INTO THIS MSC
4 COMPACT OR THE REMAINDER OF THE COMPACT HAD THE INVALIDITY OF THE
5 PROVISION OR ITS APPLICATION BEEN APPARENT.

6 **M. MANNER OF ADOPTION OF COMPACT.**

7 **59. THIS MSC COMPACT SHALL BE ADOPTED BY THE SIGNATORIES IN THE**
8 **MANNER PROVIDED BY LAW THEREFOR AND SHALL BE SIGNED AND SEALED IN FOUR**
9 **DUPLICATE ORIGINAL COPIES. ONE COPY SHALL BE FILED WITH THE SECRETARY**
10 **OF STATE OF THE STATE OF MARYLAND, ONE COPY WITH THE SECRETARY OF THE**
11 **COMMONWEALTH OF VIRGINIA, AND ONE COPY WITH THE SECRETARY OF THE**
12 **DISTRICT OF COLUMBIA IN ACCORDANCE WITH THE LAWS OF EACH JURISDICTION.**
13 **ONE COPY SHALL BE FILED AND RETAINED IN THE ARCHIVES OF THE COMMISSION**
14 **UPON ITS ORGANIZATION. THIS MSC COMPACT SHALL BECOME EFFECTIVE UPON**
15 **THE ENACTMENT OF CONCURRING LEGISLATION BY THE DISTRICT OF COLUMBIA,**
16 **MARYLAND, AND VIRGINIA, AND CONSENT BY THE CONGRESS OF THE UNITED**
17 **STATES AND WHEN ALL OTHER ACTS OR ACTIONS HAVE BEEN TAKEN, INCLUDING,**
18 **WITHOUT LIMITATION, THE SIGNING AND EXECUTION OF THIS MSC COMPACT BY**
19 **THE GOVERNORS OF MARYLAND AND VIRGINIA AND THE MAYOR OF THE DISTRICT**
20 **OF COLUMBIA.**

21 **N. CONFLICT OF LAWS.**

22 **60. ANY CONFLICT BETWEEN ANY AUTHORITY GRANTED HEREIN, OR THE**
23 **EXERCISE OF THE AUTHORITY, AND THE PROVISIONS OF THE WMATA COMPACT**
24 **SHALL BE RESOLVED IN FAVOR OF THE EXERCISE OF THE AUTHORITY BY THE**
25 **COMMISSION.**

26 **61. ALL OTHER GENERAL OR SPECIAL LAWS INCONSISTENT WITH THIS MSC**
27 **COMPACT ARE HEREBY DECLARED TO BE INAPPLICABLE TO THE COMMISSION OR**
28 **ITS ACTIVITIES.**

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act may not take effect
30 until a similar Act is enacted by the Commonwealth of Virginia and by the District of
31 Columbia; that the Commonwealth of Virginia and the District of Columbia each is
32 requested to concur in this Act of the General Assembly of Maryland by the enactment of a
33 similar Act; that the Department of Legislative Services shall notify the appropriate
34 officials of the Commonwealth of Virginia, the District of Columbia, and the United States
35 Congress of the enactment of this Act; and that upon the concurrence in this Act by the
36 Commonwealth of Virginia and by the District of Columbia and approval by the United
37 States Congress, the Governor of the State of Maryland shall issue a proclamation declaring

1 this Act valid and effective and shall forward a copy of the proclamation to the Director of
2 the Department of Legislative Services.

3 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this
4 Act, this Act shall take effect June 1, 2017.