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S. J. RES. 22

Granting the consent and approval of Congress to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into a compact relating to the establishment of the Washington Metrorail Safety Commission.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 15, 2017

Mr. KAINE (for himself, Mr. WARNER, Mr. CARDIN, and Mr. VAN HOLLEN) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JOINT RESOLUTION

Granting the consent and approval of Congress to the Commonwealth of Virginia, the State of Maryland, and the District of Columbia to enter into a compact relating to the establishment of the Washington Metrorail Safety Commission.

Whereas the Washington Metropolitan Area Transit Authority, an interstate compact agency of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland, provides transportation services to millions of people each year, the safety of whom is paramount;

Whereas an effective and safe Washington Metropolitan Area Transit Authority system is essential to the commerce and prosperity of the National Capital region;

Whereas the Tri-State Oversight Committee, created by a memorandum of understanding amongst these 3 jurisdictions, has provided safety oversight of the Washington Metropolitan Area Transit Authority;

Whereas section 5329 of title 49, United States Code, requires the creation of a legally and financially independent State authority for safety oversight of all fixed rail transit facilities;

Whereas the District of Columbia, the Commonwealth of Virginia, and the State of Maryland intend to create a Washington Metrorail Safety Commission to act as the State safety oversight authority for the Washington Metropolitan Area Transit Authority system under section 5329 of title 49, United States Code; and

Whereas this compact is created for the benefit of the people of the District of Columbia, the Commonwealth of Virginia, and the State of Maryland and for the increase of their safety, commerce, and prosperity: Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*
 2 *of the United States of America in Congress assembled,*
 3 That the consent and approval of Congress is hereby given
 4 to the District of Columbia, the Commonwealth of Vir-
 5 ginia, and the State of Maryland to enter into a compact,
 6 substantially as follows, for the safety oversight of the
 7 Washington Metropolitan Area Transit Authority system,
 8 which compact, known as the Metrorail Safety Commis-
 9 sion Interstate Compact, has been negotiated by rep-

1 representatives of the District of Columbia, the Common-
 2 wealth of Virginia, and the State of Maryland:

3 “ARTICLE I

4 “DEFINITIONS

5 “1. As used in this MSC Compact, the following
 6 words and terms shall have the meanings set forth below,
 7 unless the context clearly requires a different meaning.
 8 Capitalized terms used herein, but not otherwise defined
 9 in this MSC Compact, shall have the definitions set forth
 10 in regulations issued under section 5329 of title 49,
 11 United States Code, as they may be revised from time to
 12 time.

13 “(a) ‘Alternate Member’ means an alternate
 14 member of the Board;

15 “(b) ‘Board’ means the board of directors of
 16 the Commission;

17 “(c) ‘Commission’ means the Washington Met-
 18 rorail Safety Commission;

19 “(d) ‘Member’ means a member of the Board;

20 “(e) ‘MSC Compact’ means this Washington
 21 Metrorail Safety Commission Interstate Compact;

22 “(f) ‘Public Transportation Agency Safety Plan’
 23 means the comprehensive agency safety plan for a
 24 rail transit agency required by section 5329 of title
 25 49, United States Code, and the regulations issued

1 thereunder, as may be amended or revised from time
2 to time;

3 “(g) ‘Public Transportation Safety Certification
4 Training Program’ means the Federal certification
5 training program, as established and amended from
6 time to time by applicable Federal laws and regula-
7 tions, for Federal and State employees, or other des-
8 ignated personnel, who conduct safety audits and ex-
9 aminations of public transportation systems, and
10 employees of public transportation agencies directly
11 responsible for safety oversight;

12 “(h) ‘Safety Sensitive Position’ means any posi-
13 tion held by a WMATA employee or contractor des-
14 ignated in the Public Transportation Agency Safety
15 Plan for the WMATA Rail System and approved by
16 the Commission as directly or indirectly affecting the
17 safety of the passengers or employees of the
18 WMATA Rail System;

19 “(i) ‘Signatory’ means the State of Maryland,
20 the Commonwealth of Virginia, and the District of
21 Columbia;

22 “(j) ‘State’ or ‘jurisdiction’ means the District
23 of Columbia, the State of Maryland, or the Com-
24 monwealth of Virginia;

“(k) ‘Washington Metropolitan Area Transit Authority’ or ‘WMATA’ is the entity created by the WMATA Compact, which entity is responsible for providing certain rail fixed guideway public transportation system services;

6 “(l) ‘WMATA Compact’ means the Washington
7 Metropolitan Area Transit Authority Compact (Pub-
8 lic Law 89–774; 80 Stat. 1324); and

9 “(m) ‘WMATA Rail System’ or ‘Metrorail’
10 means the rail fixed guideway public transportation
11 system and all other real and personal property
12 owned, leased, operated, or otherwise used by
13 WMATA rail services and shall include WMATA rail
14 projects under design or construction by owners
15 other than WMATA.

16 “ARTICLE II

17 “PURPOSE AND FUNCTIONS

18 “2. The Signatories to the WMATA Compact hereby
19 adopt this MSC Compact pursuant to section 5329 of title
20 49, United States Code. The Commission created here-
21 under shall have safety regulatory and enforcement au-
22 thority over the WMATA Rail System and shall act as
23 the State safety oversight authority for WMATA under
24 section 5329 of title 49, United States Code, as may be

1 amended from time to time. WMATA shall be subject to
2 the Commission's rules, regulations, actions, and orders.

3 “3. The purpose of this MSC Compact is to create
4 a State safety oversight authority for the WMATA Rail
5 System, pursuant to the mandate of Federal law, as a
6 common agency of each Signatory, empowered in the man-
7 ner hereinafter set forth to review, approve, oversee, and
8 enforce the safety of the WMATA Rail System, including,
9 without limitation, to—

10 “(a) have exclusive safety oversight authority
11 and responsibility over the WMATA Rail System
12 pursuant to Federal law, including, without limita-
13 tion, the power to restrict, suspend, or prohibit rail
14 service on all or part of the WMATA Rail System
15 as set forth in this MSC Compact;

16 “(b) develop and adopt a written State safety
17 oversight program standard;

18 “(c) review and approve the WMATA Public
19 Transportation Agency Safety Plan;

20 “(d) investigate hazards, incidents, and acci-
21 dents on the WMATA Rail System;

22 “(e) require, review, approve, oversee, and en-
23 force Corrective Action Plans developed by WMATA;
24 and

1 “(f) meet other requirements of Federal and
2 State law relating to safety oversight of the
3 WMATA Rail System.

4 “ARTICLE III

5 “ESTABLISHMENT AND ORGANIZATION

6 “A. Washington Metrorail Safety Commission

7 “4. The Commission is hereby created as an instru-
8 mentality of each Signatory, which shall be a public body
9 corporate and politic, and which shall have the powers and
10 duties set forth in this MSC Compact.

11 “5. The Commission shall be financially and legally
12 independent from WMATA.

13 “B. Board Membership

14 “6. The Commission shall be governed by a Board
15 of 6 Members with 2 Members appointed or reappointed
16 (including to fill an unexpired term) by each Signatory
17 pursuant to the Signatory’s applicable laws.

18 “7. Each Signatory shall also appoint or reappoint
19 (including to fill an unexpired term) one Alternate Mem-
20 ber pursuant to the Signatory’s applicable laws.

21 “8. An Alternate Member shall participate and take
22 action as a Member only in the absence of one or both
23 Members appointed from the same jurisdiction as the Al-
24 ternate Member’s appointing jurisdiction and, in such in-
25 stances, may cast a single vote.

1 “9. Members and Alternate Members shall have back-
2 grounds in transit safety, transportation, relevant engi-
3 neering disciplines, or public finance.

4 “10. No Member or Alternate Member shall simulta-
5 neously hold an elected public office, serve on the WMATA
6 board of directors, be employed by WMATA, or be a con-
7 tractor to WMATA.

8 “11. Each Member and Alternate Member shall serve
9 a 4-year term and may be reappointed for additional
10 terms, except that each Signatory shall make its initial
11 appointments as follows:

12 “(a) One Member shall be appointed for a 4-
13 year term.

14 “(b) One Member shall be appointed for a 2-
15 year term.

16 “(c) The Alternate Member shall be appointed
17 for a 3-year term.

18 “12. Any person appointed to fill a vacancy shall
19 serve for the unexpired term.

20 “13. Members and Alternate Members shall be enti-
21 tled to reimbursement for reasonable and necessary ex-
22 penses and shall be compensated for each day spent meet-
23 ing on the business of the Commission at a rate of \$200
24 per day or at such other rate as may be adjusted in appro-
25 priations approved by all of the Signatories.

1 “14. A Member or an Alternate Member may be re-
 2 moved or suspended from office only for cause in accord-
 3 ance with the laws of such Member’s or Alternate Mem-
 4 ber’s appointing jurisdiction.

5 “C. Quorum and Actions of the Board.

6 “15. Four Members shall constitute a quorum, and
 7 the affirmative vote of 4 Members is required for action
 8 of the Board. Quorum and voting requirements under this
 9 section may be met with one or more Alternate Members
 10 pursuant to section 8.

11 “16. The Commission action shall become effective
 12 upon enactment unless otherwise provided for by the Com-
 13 mission.

14 “D. Oath of Office

15 “17. Before entering office, each Member and Alter-
 16 nate Member shall take and subscribe to the following
 17 oath (or affirmation) of office or any such other oath or
 18 affirmation as the constitution or laws of the Signatory
 19 he or she represents shall provide:

20 “I, _____, hereby solemnly
 21 swear (or affirm) that I will support and defend the Con-
 22 stitution and the laws of the United States as a Member
 23 (or Alternate Member) of the Board of the Washington
 24 Metrorail Safety Commission and will faithfully discharge
 25 the duties of the office upon which I am about to enter.

1 “E. Organization and Procedure

2 “18. The Board shall provide for its own organization
3 and procedure. Meetings of the Board shall be held as fre-
4 quently as the Board determines, but in no event less than
5 quarterly. The Board shall keep minutes of its meetings
6 and establish rules and regulations governing its trans-
7 actions and internal affairs, including, without limitation,
8 policies regarding records retention that are not in conflict
9 with applicable Federal record retention laws.

10 “19. The Commission shall keep commercially rea-
11 sonable records of its financial transactions in accordance
12 with accounting principles generally accepted in the
13 United States of America.

14 “20. The Commission shall establish an office for the
15 conduct of its affairs at a location to be determined by
16 the Commission.

17 “21. The Commission shall adopt subsections (a)
18 through (d) and subsection (g) of section 552 of title 5,
19 United States Code (commonly known as the ‘Freedom
20 of Information Act’) and section 552b of title 5, United
21 States Code (commonly known as the ‘Government in
22 Sunshine Act’), as both may be amended from time to
23 time, as its freedom of information policy and open meet-
24 ing policy, respectively, and shall not be subject to the
25 comparable laws or policies of any Signatory.

1 “22. Reports of investigations or inquiries adopted by
2 the Board shall be made publicly available.

3 “23. The Commission shall adopt a policy on conflict
4 of interest that shall be consistent with the regulations
5 issued under section 5329 of title 49, United States Code,
6 as they may be revised from time to time, which, among
7 other things, places appropriate separation between Mem-
8 bers, officers, employees, contractors, and agents of the
9 Commission and WMATA.

10 “24. The Commission shall adopt and utilize its own
11 administrative procedure and procurement policies in con-
12 formance with applicable Federal regulations and shall not
13 be subject to the administrative procedure or procurement
14 laws of any Signatory.

15 “F. Officers and Employees

16 “25. The Board shall elect a Chairman, Vice Chair-
17 man, Secretary, and Treasurer from among its Members,
18 each for a 2-year term and shall prescribe their powers
19 and duties.

20 “26. The Board shall appoint and fix the compensa-
21 tion and benefits of a chief executive officer who shall be
22 the chief administrative officer of the Commission and who
23 shall have expertise in transportation safety and one or
24 more industry-recognized transportation safety certifi-
25 cations.

1 “27. Consistent with section 5329 of title 49, United
2 States Code, as may be amended from time to time, the
3 Commission may employ, under the direction of the chief
4 executive officer, such other technical, legal, clerical, and
5 other employees on a regular, part-time, or as-needed
6 basis as it determines necessary or desirable for the dis-
7 charge of its duties.

8 “28. The Commission shall not be bound by any stat-
9 ute or regulation of any Signatory in the employment or
10 discharge of any officer or employee of the Commission,
11 but shall develop its own policies in compliance with Fed-
12 eral law. The MSC shall, however, consider the laws of
13 the Signatories in devising its employment and discharge
14 policies, and when it deems it practical, devise policies con-
15 sistent with the laws of the Signatories.

16 “29. The Board may fix and provide policies for the
17 qualification, appointment, removal, term, tenure, com-
18 pensation benefits, worker’s compensation, pension, and
19 retirement rights of its employees subject to Federal law.
20 The Board may also establish a personnel system based
21 on merit and fitness and, subject to eligibility, participate
22 in the pension, retirement, and worker’s compensation
23 plans of any Signatory or agency or political subdivision
24 thereof.

1 “ARTICLE IV

2 “POWERS

3 “A. Safety Oversight Power.

4 “30. In carrying out its purposes, the Commission,
5 through its Board or designated employees or agents,
6 shall, consistent with Federal law—

7 “(a) adopt, revise, and distribute a written
8 State Safety Oversight Program;

9 “(b) review, approve, oversee, and enforce the
10 adoption and implementation of WMATA’s Public
11 Transportation Agency Safety Plan;

12 “(c) require, review, approve, oversee, and en-
13 force the adoption and implementation of any Cor-
14 rective Action Plans that the Commission deems ap-
15 propriate;

16 “(d) implement and enforce relevant Federal
17 and State laws and regulations relating to safety of
18 the WMATA Rail System; and

19 “(e) audit every 3 years the compliance of
20 WMATA with WMATA’s Public Transportation
21 Agency Safety Plan or conduct such an audit on an
22 ongoing basis over a 3-year time frame.

23 “31. In performing its duties, the Commission,
24 through its Board or designated employees or agents, may
25 do the following:

1 “(a) Conduct, or cause to be conducted, inspec-
2 tions, investigations, examinations, and testing of
3 WMATA personnel and contractors, property, equip-
4 ment, facilities, rolling stock, and operations of the
5 WMATA Rail System, including, without limitation,
6 electronic information and databases through rea-
7 sonable means, which may include issuance of sub-
8 poenas.

9 “(b) Enter upon the WMATA Rail System and,
10 upon reasonable notice and a finding by the chief ex-
11 ecutive officer that a need exists, upon any lands,
12 waters, and premises adjacent to the WMATA Rail
13 System, including, without limitation, property
14 owned or occupied by the Federal Government, for
15 the purpose of making inspections, investigations,
16 examinations, and testing as the Commission may
17 deem necessary to carry out the purposes of this
18 MSC Compact, and such entry shall not be deemed
19 a trespass. The Commission shall make reasonable
20 reimbursement for any actual damage resulting to
21 any such adjacent lands, waters, and premises as a
22 result of such activities.

23 “(c) Compel WMATA’s compliance with any
24 Corrective Action Plan or order of the Commission

1 by such means as the Commission deems appro-
2 priate, including, without limitation, by—

3 “(1) taking legal action in a court of com-
4 petent jurisdiction;

5 “(2) issuing citations or fines with funds
6 going into an escrow account for spending by
7 WMATA on Commission-directed safety meas-
8 ures;

9 “(3) directing WMATA to prioritize spend-
10 ing on safety-critical items;

11 “(4) removing a specific vehicle, infrastruc-
12 ture element, or hazard from the WMATA Rail
13 System; and

14 “(5) compelling WMATA to restrict, sus-
15 pend, or prohibit rail service on all or part of
16 the WMATA Rail System with an appropriate
17 notice period dictated by the circumstances.

18 “(d) Direct WMATA to suspend or disqualify
19 from performing in any Safety Sensitive Position an
20 individual who is alleged to or has violated safety
21 rules, regulations, policies, or laws.

22 “(e) Compel WMATA’s Office of the Inspector
23 General, created under WMATA Board Resolution
24 2006–18, or any successor WMATA office or organi-
25 zation having similar duties, to conduct safety-re-

1 lated audits or investigations and to provide its find-
2 ings to the Commission.

3 “(f) Take such other actions as the Commission
4 may deem appropriate consistent with its purpose
5 and powers.

6 “32. Action by the Board under section 31(c)(5) shall
7 require the unanimous vote of all Members present and
8 voting. The Commission shall coordinate its enforcement
9 activities with appropriate Federal and State govern-
10 mental authorities.

11 “B. General Powers

12 “33. In addition to the powers and duties set forth
13 above, the Commission may—

14 “(a) sue and be sued;

15 “(b) adopt, amend, and repeal rules and regula-
16 tions respecting the exercise of the powers conferred
17 by this MSC Compact;

18 “(c) create and abolish offices, employments,
19 and positions (other than those specifically provided
20 for in this MSC Compact) necessary or desirable for
21 the purposes of the Commission;

22 “(d) determine a staffing level for the Commis-
23 sion that is commensurate with the size and com-
24 plexity of the WMATA Rail System, and require
25 that employees and other designated personnel of

1 the Commission, who are responsible for safety over-
2 sight, be qualified to perform such functions through
3 appropriate training, including, without limitation,
4 successful completion of the Public Transportation
5 Safety Certification Training Program;

6 “(e) contract for or employ consulting attor-
7 neys, inspectors, engineers, and such other experts
8 necessary or desirable and, within the limitations
9 prescribed in this MSC Compact, prescribe their
10 powers and duties and fix their compensation;

11 “(f) enter into and perform contracts, leases,
12 and agreements necessary or desirable in the per-
13 formance of its duties and in the execution of the
14 powers granted under this MSC Compact;

15 “(g) apply for, receive, and accept such pay-
16 ments, appropriations, grants, gifts, loans, advances,
17 and other funds, properties, and services as may be
18 transferred or made available to it by the United
19 States government or any other public or private en-
20 tity or individual, subject to the limitations specified
21 in section 42;

22 “(h) adopt an official seal and alter the same
23 at its pleasure;

24 “(i) adopt and amend by-laws, policies, and pro-
25 cedures governing the regulation of its affairs;

1 “(j) appoint one or more advisory committees;
2 and

3 “(k) do such other acts necessary or desirable
4 for the performance of its duties and the execution
5 of its powers under this MSC Compact.

6 “34. Consistent with this MSC Compact, the Com-
7 mission shall promulgate rules and regulations to carry
8 out the purposes of this MSC Compact.

9 “ARTICLE V

10 “GENERAL PROVISIONS

11 “A. Annual Safety Report

12 “35. The Commission shall make and publish annu-
13 ally a status report on the safety of the WMATA Rail Sys-
14 tem, which shall include, among other requirements estab-
15 lished by the Commission and Federal law, status updates
16 of outstanding Corrective Action Plans, Commission direc-
17 tives, and on-going investigations. A copy of each such re-
18 port shall be provided to—

19 “(a) the Administrator of the Federal Transit
20 Administration;

21 “(b) the Governor of Virginia, the Governor of
22 Maryland, and the Mayor of the District of Colum-
23 bia;

24 “(c) the Chairman of the Council of the District
25 of Columbia;

1 “(d) the President of the Maryland Senate and
2 the Speaker of the Maryland House of Delegates;

3 “(e) the President of the Virginia Senate and
4 the Speaker of the Virginia House of Delegates; and

5 “(f) the General Manager and each member of
6 the board of directors of WMATA.

7 “36. The Commission may prepare, publish, and dis-
8 tribute such other safety reports that it deems necessary
9 or desirable.

10 “B. Annual Report of Operations

11 “37. The Commission shall make and publish an an-
12 nual report on its programs, operations, and finances,
13 which shall be distributed in the same manner provided
14 by section 35.

15 “38. The Commission may also prepare, publish, and
16 distribute such other public reports and informational ma-
17 terials as it deems necessary or desirable.

18 “C. Annual Independent Audit

19 “39. An independent annual audit shall be made of
20 the financial accounts of the Commission. The audit shall
21 be made by qualified certified public accountants selected
22 by the Board, who shall have no personal interest, direct
23 or indirect, in the financial affairs of the Commission or
24 any of its officers or employees. The report of audit shall
25 be prepared in accordance with generally accepted audit-

1 ing principles and shall be distributed in the same manner
2 provided by section 35. Members, employees, agents, and
3 contractors of the Commission shall provide access to in-
4 formation necessary or desirable for the conduct of the
5 annual audit.

6 “D. Financing

7 “40. The Commission’s operations shall be funded,
8 independently of WMATA, by the Signatory jurisdictions
9 and, when available, by Federal funds. The Commission
10 shall have no authority to levy taxes.

11 “41. The Signatories shall unanimously agree on ade-
12 quate funding levels for the Commission and make equal
13 contributions of such funding, subject to annual appro-
14 priation, to cover the portion of Commission operations
15 not funded by Federal funds.

16 “42. The Commission may borrow up to 5 percent
17 of its last annual appropriations budget in anticipation of
18 receipts, or as otherwise set forth in the appropriations
19 budget approved by all of the Signatories, from any lawful
20 lending institution for any purpose of this MSC Compact,
21 including, without limitation, for administrative expenses.
22 Such loans shall be for a term not to exceed 2 years, or
23 at such longer term approved by each Signatory pursuant
24 to its laws as evidenced by the written authorization by
25 the Mayor of the District of Columbia and the Governors

1 of Maryland and Virginia, and at such rates of interest
2 as shall be acceptable to the Commission.

3 “43. With respect to the District of Columbia, the
4 commitment or obligation to render financial assistance to
5 the Commission shall be created, by appropriation or in
6 such other manner, or by such other legislation, as the
7 District of Columbia shall determine; provided, that any
8 such commitment or obligation shall be approved by Con-
9 gress pursuant to the District of Columbia Home Rule Act
10 (Public Law 93–198; 87 Stat. 774).

11 “44. Pursuant to the requirements of sections 1341,
12 1342, 1349, 1350, 1351, 1511, and 1519 of title 31,
13 United States Code, and sections 47–105 and 47–355.01
14 to 355.08 of the D.C. Official Code (collectively referred
15 to in this section as the ‘Anti-Deficiency Acts’), the Dis-
16 trict of Columbia cannot obligate itself to any financial
17 commitment in any present or future year unless the nec-
18 essary funds to pay that commitment have been appro-
19 priated and are lawfully available for the purpose com-
20 mitted. Thus, pursuant to the Anti-Deficiency Acts, noth-
21 ing in the MSC Compact creates an obligation of the Dis-
22 trict of Columbia in anticipation of an appropriation for
23 such purpose, and the District of Columbia’s legal liability
24 for the payment of any amount under this MSC Compact
25 does not and may not arise or obtain in advance of the

1 lawful availability of appropriated funds for the applicable
2 fiscal year.

3 “E. Tax Exemption

4 “45. The exercise of the powers granted by this MSC
5 Compact shall in all respects be for the benefit of the peo-
6 ple of the District of Columbia, the Commonwealth of Vir-
7 ginia, and the State of Maryland and for the increase of
8 their safety, commerce, and prosperity, and as the activi-
9 ties associated with this MSC Compact shall constitute the
10 performance of essential governmental functions, the
11 Commission shall not be required to pay any taxes or as-
12 sessments upon the services or any property acquired or
13 used by the Commission under the provisions of this MSC
14 Compact or upon the income therefrom, and shall at all
15 times be free from taxation within the District of Colum-
16 bia, the Commonwealth of Virginia, and the State of
17 Maryland.

18 “F. Reconsideration of Commission Orders

19 “46. WMATA shall have the right to petition the
20 Commission for reconsideration of an order based on rules
21 and procedures developed by the Commission.

22 “47. Consistent with section 16, the filing of a peti-
23 tion for reconsideration shall not act as a stay upon the
24 execution of a Commission order, or any part of it, unless
25 the Commission orders otherwise. WMATA may appeal

1 any adverse action on a petition for reconsideration as set
2 forth in section 48.

3 “G. Judicial Matters

4 “48. The United States District Court for the East-
5 ern District of Virginia, Alexandria Division, the United
6 States District Court for the District of Maryland, South-
7 ern Division, and the United States District Court for the
8 District of Columbia shall have exclusive and original ju-
9 risdiction of all actions brought by or against the Commis-
10 sion and to enforce subpoenas under this MSC Compact.

11 “49. The commencement of a judicial proceeding
12 shall not operate as a stay of a Commission order unless
13 specifically ordered by the court.

14 “H. Liability and Indemnification

15 “50. The Commission and its Members, Alternate
16 Members, officers, agents, employees, or representatives
17 shall not be liable for suit or action or for any judgment
18 or decree for damages, loss, or injury resulting from action
19 taken within the scope of their employment or duties
20 under this MSC Compact, nor required in any case arising
21 or any appeal taken under this MSC Compact to give a
22 supersedeas bond or security for damages. Nothing in this
23 section shall be construed to protect such person from suit
24 or liability for damage, loss, injury, or liability caused by

1 the intentional or willful and wanton misconduct of such
2 person.

3 “51. The Commission shall be liable for its contracts
4 and for its torts and those of its Members, Alternate Mem-
5 bers, officers, agents, employees, and representatives com-
6 mitted in the conduct of any proprietary function, in ac-
7 cordance with the law of the applicable Signatory (includ-
8 ing, without limitation, rules on conflict of laws) but shall
9 not be liable for any torts occurring in the performance
10 of a governmental function. The exclusive remedy for such
11 breach of contract or tort for which the Commission shall
12 be liable, as herein provided, shall be by suit against the
13 Commission. Nothing contained in this MSC Compact
14 shall be construed as a waiver by the District of Columbia,
15 the Commonwealth of Virginia, or the State of Maryland
16 of any immunity from suit.

17 “I. Commitment of Parties

18 “52. Each of the Signatories pledges to each other
19 faithful cooperation in providing safety oversight for the
20 WMATA Rail System, and, to affect such purposes, agrees
21 to consider in good faith and request any necessary legisla-
22 tion to achieve the objectives of this MSC Compact.

23 “J. Amendments and Supplements

24 “53. Amendments and supplements to this MSC
25 Compact shall be adopted by legislative action of each of

1 the Signatories and the consent of Congress. When one
 2 Signatory adopts an amendment or supplement to an ex-
 3 isting section of this MSC Compact, that amendment or
 4 supplement shall not be immediately effective, and the pre-
 5 viously enacted provision or provisions shall remain in ef-
 6 fect in each jurisdiction until the amendment or supple-
 7 ment is approved by the other Signatories and is con-
 8 sented to by Congress.

9 “K. Withdrawal and Termination

10 “54. Any Signatory may withdraw from this MSC
 11 Compact, which action shall constitute a termination of
 12 this MSC Compact.

13 “55. Withdrawal from this MSC Compact shall be by
 14 a Signatory’s repeal of this MSC Compact from its laws,
 15 but such repeal shall not take effect until 2 years after
 16 the effective date of the repealed statute and written no-
 17 tice of the withdrawal being given by the withdrawing Sig-
 18 natory to the governors or mayor, as appropriate, of the
 19 other Signatories.

20 “56. Prior to termination of this MSC Compact, the
 21 Commission shall provide each Signatory—

22 “(a) a mechanism for concluding the operations
 23 of the Commission;

1 “(b) a proposal to maintain State safety over-
 2 sight of the WMATA Rail System in compliance
 3 with applicable Federal law;

4 “(c) a plan to hold surplus funds in a trust for
 5 a successor regulatory entity for 4 years after the
 6 termination of this MSC Compact; and

7 “(d) a plan to return any surplus funds that re-
 8 main 4 years after the creation of the trust.

9 “L. Construction and Severability

10 “57. This MSC Compact shall be liberally construed
 11 to effectuate the purposes for which it is created.

12 “58. If any part or provision of this MSC Compact
 13 or the application thereof to any person or circumstances
 14 be adjudged invalid by any court of competent jurisdiction,
 15 such judgment shall be confined in its operation to the
 16 part, provision, or application directly involved in the con-
 17 troversy in which such judgment shall have been rendered
 18 and shall not affect or impair the validity of the remainder
 19 of this MSC Compact or the application thereof to other
 20 persons or circumstances, and the Signatories hereby de-
 21 clare that they would have entered into this MSC Compact
 22 or the remainder thereof had the invalidity of such provi-
 23 sion or application thereof been apparent.

24 “M. Adoption; Effective Date

1 “59. This MSC Compact shall be adopted by the Sig-
2 natories in the manner provided by law therefor and shall
3 be signed and sealed in 4 duplicate original copies. One
4 such copy shall be filed with the Secretary of State of the
5 State of Maryland, the Secretary of the Commonwealth
6 of Virginia, and the Secretary of the District of Columbia
7 in accordance with the laws of each jurisdiction. One copy
8 shall be filed and retained in the archives of the Commis-
9 sion upon its organization. This MSC Compact shall be-
10 come effective upon the enactment of concurring legisla-
11 tion by the District of Columbia, the Commonwealth of
12 Virginia, and the State of Maryland, and consent thereto
13 by Congress and when all other acts or actions have been
14 taken, including, without limitation, the signing and exe-
15 cution of this MSC Compact by the Governors of Mary-
16 land and Virginia and the Mayor of the District of Colum-
17 bia.

18 “L. Conflict of Laws

19 “60. Any conflict between any authority granted
20 herein, or the exercise of such authority, and the provi-
21 sions of the WMATA Compact shall be resolved in favor
22 of the exercise of such authority by the Commission.

1 “61. All other general or special laws inconsistent
2 with this MSC Compact are hereby declared to be inappli-
3 cable to the Commission or its activities.”.

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