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The Paradox of Public Authorities in Massachusetts

Massport and Masspike

Richard A. Hogarty

This case study provides historical context and fresh perspectives for those seeking to understand the ways in which independent authorities operate in Massachusetts. More specifically, it examines the controversial performances of two separate authorities that deal with transportation problems. One involves a failure to detect terrorists breaching security at Logan Airport; the other entails a bitter dispute that arose over the delay in raising tolls on the turnpike to pay for the Big Dig project. With both in mind, this study describes the countervailing pressures that converge on the executive branch of state government as it confronts the prospect of holding these two authorities accountable. Highlighting these events and personalities, we gain a better understanding of the central paradox policymakers face in trying to satisfy the contradictory demands of autonomy and accountability. The case study concludes with a critical appraisal of these authorities and their propensity for self-perpetuation.

At times, authorities behave like a rogue government, placing their own survival above the public policy of an elected administration. At the same time, they can be powerful tools in the hands of administration officials who know how to use them. Mostly, though, authorities constitute a permanent, expansionist government, collecting and spending more and more public money, running up more and more public debt, and making more and more critical decisions on the public's behalf with each passing day.

—John Strahinich, November 1989

On September 11, two airplanes that took off from Logan Airport brought down the mighty twin towers of the World Trade Center and our nation's sense of security. In Massachusetts, the events of that day also rattled a seemingly impregnable structure of independent agencies that supplement state government. As the nation continues to recover from the shock of September 11, we in the Bay State struggle to understand whether the agencies created to carry out essential functions at a step removed from the rough-and-tumble of politics are failing to do so because they are too subordinate to the elected officials who created them, or because they're not subordinate enough.¹

The security breaches that allowed suicidal terrorists to commandeer Boston-based airliners triggered *Boston Globe* exposés of patronage appointments at

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Massport. Under intense pressure, its executive director Virginia Buckingham, herself a transplant from the governor's office, resigned, but on the terms of a hefty severance package that became a scandal in and of itself. Shortly, but coincidentally, thereafter, two renegade members of the Massachusetts Turnpike Authority, Jordan Levy and Christy Mihos, voted to delay a long scheduled toll increase that had been earmarked to pay for the enormously expensive Big Dig project. Acting Governor Jane Swift decided to fire them, charging that they had flouted their fiscal responsibility, but she succeeded in doing so only after a protracted series of hearings, court appeals, and embarrassing press accounts. Surprisingly, the state Supreme Judicial Court then reversed Swift's decision and reinstated Levy and Mihos as board members.

The Port and Pike fiascos of the past twelve months have drawn unflattering attention to this parallel universe of state government. Is the mischief so often associated with these quasi-autonomous bureaucracies a function of political influence, or of rogue-elephant independence that allows them to operate unchecked by duly elected officials?

The answer, if there is one, is both. Agencies like Massport and the turnpike authority were created to do the duty of government without being under the direct control of elected officials. Relying on sources of revenue that make them independent of the state budget, though only partly so, these stolid but shadowy entities have been given jobs that were judged too dicey for elected politicians or too important to be entrusted to them. But, as the tragedies and charades of the last twelve months have demonstrated, these entities are capable of causing plenty of trouble on their own. At once aloof and subservient, arrogant and craven, the state's independent authorities perform vital functions, often with a competence and professionalism that the line agencies of the executive branch find hard to match. But they have never been quite as independent as advertised.

The Fourth Branch of Government

Public authorities are almost invisible in the sense that policymakers within them usually operate behind closed doors, where they remain secluded from public view. What exactly are these special agencies? Why do we have them? Who thought they were a good idea in the first place? Do they work for or against the public good? Why have they become such an abundant source of patronage, especially in the executive suite? Who holds them accountable for what they do or what they fail to do? Framing the issue this way alerts us to important questions that should be asked in determining whether the policies and programs of a specific authority — or any government agency — adequately meet the test of democratic accountability.

Generally speaking, authorities are government corporations that are relatively independent of the governments that founded them; their managers tend to go their own ways and make decisions in the light of their particular perspective on the metropolis. In an article written for *Boston Magazine* in 1989, John Strahinich refers to them as "a shadow government," and then goes on to say, "Neither fish nor fowl, authorities exist in the twilight zone between the public and the private sectors. They travel in this other dimension, out of sight and sound of the general public, performing the necessary tasks that the public sector can't perform and the private sector won't."²

Described in a 1985 state Senate report as “the fourth branch of government,” there are at present twenty-seven state authorities and five major regional authorities in Massachusetts. Operating off-line and off-budget, they employ an estimated 12,000 people and spend more than \$2 billion annually. In addition, there are 477 local authorities for which there are no aggregate employment or spending records available.³ This amounts to a total of 509 Massachusetts authorities. Most of the local and regional authorities are involved in housing, development (or redevelopment), and water, sewer, and fire protection services. In countless ways, both great and small, they carry out essential public functions.

As journalist Brian Mooney suggests, “These are the special agencies created to do the politically unpopular dirty work for the body politic.”⁴ They operate the subways, commuter trains, ferry steamships, turnpikes, bridges, tunnels, airports, sea-port terminals, and convention centers; they arrange financing for housing, health, educational, and industrial facilities; they deliver water and electricity to homes and businesses.

Like other actors in the political game, those in charge of authorities have to concern themselves with political realities. If a governor has political power, they may “knuckle under” to him or her, or conversely, if the chief executive lacks power, they will probably turn elsewhere to seek the support they need to sustain themselves in the competitive and often bruising world of Massachusetts politics. In her book *Managing the State*, Martha Weinberg put it succinctly, “Governors are frequently credited with the successes and blamed for the failures of these agencies, often with little regard for the nature of their formal authority or the extent of their influence over them.”⁵

Sooner or later, those who run these authorities find themselves faced with a perplexing paradox. Strung between the opposite poles of autonomy and accountability, they must efficiently sort out, accommodate, and integrate these conflicting demands. It is a very difficult balancing act, to say the least. The boards that govern them are appointed, and therefore they have some relationship of loyalty and obligation to the power who appointed them — specifically, the governor (a few boards include members appointed by others, like the mayor of Boston). Their terms of office, in most cases, are intentionally staggered from those of their appointing masters. Non-coterminous terms assure, in part, their relative independence. So what are we to make of this structural mix of obligation and autonomy? And what are we to make of the political mischief that often results from this structural arrangement? In other words, what happens when lame-duck hangers-on, who are placed on these untouchable boards, wind up thwarting the will of their new incoming political masters. Then, when their terms expire, all these lucrative seats open up for loyal soldiers who, exhausted from the early years of a new administration, are “deserving,” in classic patronage fashion, of a cushy landing.

Origins and Proliferation

Conflict between political machines and urban reformers was prevalent in America during the early part of the twentieth century. Machine politics and political bossism were anathema to Progressives seeking to change the status quo. They pushed for the independent authority as a way to clean up government and to improve the efficiency of public services. In an age of scientific management and rational planning,

structural innovations were designed to curb patronage and corruption. Imbued with the Progressive doctrine of independence, expertise, and entrepreneurial energy, the reformers used the business corporation as a partial model in creating their new invention, because of its supposedly impartial and efficient managers. They also insulated these authorities from partisan politics and from the direct control of elected officials.

In larger cities and metropolitan areas, the new authorities became responsible for the economic development of bridges, airports, marine terminals, and other projects. The best known early prototypes are the Port Authority of New York and the Triborough Bridge and Tunnel Authority. Created by interstate compact in 1921, the New York Port Authority has jurisdiction in both New York and New Jersey. This bi-state agency has been responsible for creating and maintaining much of the transportation infrastructure in that region.⁶ The Triborough Bridge and Tunnel Authority, which was established in 1946, is a consolidation of a number of previous authorities. It was given exclusive power to construct bridges and tunnels connecting the boroughs of the city.⁷

Government's use of the authority surfaced in Massachusetts shortly after World War II. These entities were then perceived as a way to finance large-scale public works projects without having to raise taxes and without having to tap funds from the state budget. The primary objective was to make the users pay for such facilities rather than the taxpayers. In the words of *Boston Globe* reporter Andrew Dabilis, "It was an effective way to get massive public works projects done, but also to evade debt and build a shadow government without calling for new taxes on the populace."⁸

The autonomy of these public authorities stems from their capacity to self-finance. Operating like private firms, they are allowed to raise revenue and to spend it at their own discretion. They receive most of their income from rents, tolls, and other user fees, rather than from taxes. They also raise money for their activities by issuing tax-exempt bonds, which are backed by the authority's own revenue-generating capabilities, not the "full faith and credit" of the Commonwealth. Most of all, they are not shackled by the constraints of the state's personnel system. Although these agencies are subject to open-meeting laws, they are exempt from civil service rules, contract bidding procedures, and the state's borrowing cap. While they are not funded principally through the state budget, many receive substantial state subsidies. Not surprisingly, these structural arrangements work to the financial advantage of the state.

Finding a solution to the long festering problems of crumbling bridges, poor public roads, and an antiquated mass transit system (all of which had been neglected during World War II) became a top priority for three consecutive Bay State governors — Robert Bradford, Paul Dever, and Christian Herter. They placed these issues on the public agenda and provided the necessary leadership when momentum lagged. As a result, the legislature created the Metropolitan Transit Authority in 1947, the Massachusetts Turnpike Authority in 1952, the Massachusetts Port Authority in 1956, the Massachusetts Parking Authority in 1958, and the Woods Hole-Martha's Vineyard-Nantucket Steamship Authority in 1960.

A few years later, Governor Endicott Peabody recommended a restructuring of the deficit-ridden MTA, creating the Massachusetts Bay Transportation Authority in 1964. The MBTA's service area covered the MTA's original fourteen cities and

towns and 64 additional communities. In 1966, both the Massachusetts Housing Finance Agency and the Massachusetts Health and Education Facilities Authority were established. Recognizing the “cash cow” potential of the authority “structures,” Bay State politicians promptly jumped onto what seemed an unstoppable bandwagon.

Over time, these public agencies continued to proliferate, ultimately becoming almost a fourth branch of government. They assumed an increasingly large share of the burdens of state and local government. The Massachusetts Municipal Wholesale Electric Company was created in 1975, followed by the Massachusetts Industrial Finance Agency in 1978, and the Massachusetts Convention Center in 1982. To fend off a judicial takeover, the legislature created the Massachusetts Water Resources Authority in 1984 to clean up the pollution in Boston Harbor and to repair antiquated water delivery and sewage treatment systems. Its predecessor, the Metropolitan District Commission (MDC), a line agency of the state, had failed miserably in performing this mission. Even critics of the MWRA concede that the MDC could not have accomplished such a huge and complex task.

In 1984, the legislature created six authorities, including the MWRA. This headlong rush to create more and more authorities gave some lawmakers pause. Alarms were sounded in 1985, when the state Senate Ways and Means Committee warned of the dangers inherent in such proliferation. It published a report that recommended a halt to the accelerated growth of authorities and unveiled a set of guidelines for their future creation.⁹ As a result of this report, the legislature imposed a one-year moratorium.

At the time, Patricia McGovern, who chaired the Senate Ways and Means Committee, cautioned, “It is true that authorities, with their freedom and flexibility, can make things happen, but they also have the best of both worlds. They can have posh offices like private companies, and they can operate without fear of failure because the state will pick up the tab.”¹⁰ Echoing similar sentiments, Susanne E. Tompkins, vice president of the Massachusetts Taxpayers Foundation, said, “Our concern has been with the misuse of authorities. They started out as self-supporting agencies but now have become non-self supporting instruments of convenience.”¹¹

A review of the so-called “Big Five” authorities — the Turnpike, Port, Convention Center, MBTA, and MWRA — reveals that their payrolls have grown modestly during the past decade, but their indebtedness for infrastructure projects has mushroomed. Between 1990 and 2000, their outstanding debt has soared from \$2.8 billion to \$12.12 billion — a staggering 328 percent hike. During this same period, their annual revenues have increased only 72 percent. A new \$750 million convention center in South Boston will be financed by tax and fee increases aimed at tourists and conventioners. Most of these authorities receive at least some annual revenue stream from taxpayers. The MBTA is heavily subsidized, to the tune of about \$645 million each year.¹²

Brokers of Power and Patronage

Not entirely above politics, public authorities have never been instruments of direct gubernatorial control, either. Though most are ruled by boards whose members are appointed by the governor, staggered terms make it unlikely that any one governor can replace them all at once, and even when a governor has appointed all of a

board's members, their accountability is diffuse (as Governor Swift discovered much to her chagrin).

Even as they proliferated over the years, most authorities adopted a nonpartisan and "businesslike" demeanor at the outset. But before long they became sources of patronage for politicians on Beacon Hill. At the same time, savvy agency heads learned how to make the most of both the jobs at their disposal and their relative freedom from executive authority to make themselves power brokers in their own right.

The legendary William F. Callahan was a master road builder comparable in stature to New York's Robert Moses. Callahan was responsible for building the Central Artery in Boston in the early 1950s. Serving for years as both state commissioner of public works and chairman of the turnpike authority, he oversaw construction of the 135-mile long turnpike that spans Massachusetts from West Stockbridge to I-93 in downtown Boston. The project cost over \$200 million and required land-takings along an area more than 300 feet wide from the New York border to a stone's throw from Boston Harbor.

Callahan possessed extraordinary leadership ability and management skills. Few men in public life exercised as much influence with the legislature for so long a period of time. The source of Callahan's constantly renewed power was the tolls and patronage that he controlled. And because the economic demand for highways was continuously growing, so was his political reach. Yet, despite his great influence, Callahan lost two important battles to Governor John Volpe in 1962. One involved a proposal to lease air rights over the turnpike for up to 99 years, and the other called for an annual audit of the authority's books by the state auditor. In the early 1960s, toward the end of his career, Callahan encountered increasing opposition from an antihighway coalition challenging his plans for highway expansion. In 1970, a powerful coalition of anti-highway activists halted construction of the Inner Belt and Southwest Expressway, two roads that Callahan had hoped to see built through Boston. As Tony Hill says:

Callahan was an imperial rogue, mixing equal parts of the master builder hauteur of Robert Moses and the patronage politics of Boss Tweed. Yet Callahan is all but forgotten, in part because, unlike Tweed, he did not have a Thomas Nast to immortalize the perfidy of his patronage empire and, unlike Moses, he did not have a Robert Caro to interpret the combination of vision, arrogance, and clan politics he brought to massive public works projects.

Nonetheless, without him, there would be no Route 128 (once famously dismissed as "Callahan's folly"), no Central Artery (nor the crusade to replace it with the fruits of the Big Dig), no Massachusetts Turnpike, nor Mass. Turnpike Extension, no Prudential Center (and the economic revitalization of the "New Boston"). Callahan also had a hand in the construction of Storrow Drive, the Southeast Expressway, and Route 6, which enabled the economic development of Cape Cod. Nor, in all likelihood, would there be a Massachusetts Port Authority; a Woods Hole, Martha's Vinyard, and Nantucket Steamship Authority; or a Massachusetts Water Resources Authority.¹³

No one was more adept at wielding the power inherent in the independent authority structure than Robert Moses, who directed New York City's and New York State's park, recreation, transportation, and city development authorities. He was ambitious, widely admired, scrupulously honest, and highly efficient; he built a power base that governors and mayors had to acknowledge and almost invariably acquiesce to in a

showdown. His counterparts in Massachusetts emulated his style of leadership as best they could. As John Strahinich writes:

The turnpike's William Callahan, the BRA's Edward Logue, and Massport's Ed King were all compared to Robert Moses.... One crucial lesson that these and lesser figures in the authority network learned from Moses is that authorities are powerful tools for avoiding accountability and overcoming political obstruction — and political opposition. Another important lesson they learned from Moses is that authorities need never die, not as long as they get steady transfusions of new bonds to pay off — and thus new reasons for their continued existence.¹⁴

In the early period of their development, the authorities remained relatively free from corruption and scandal, even though opportunities for payoffs and other personal benefits were always present in agencies that gave out lucrative contracts. A notable exception was the parking authority, which was established to build a parking garage under the Boston Commons. Its chairman, consulting engineer, and two lawyers were later indicted and convicted of a bribery conspiracy in the award of the garage contract. This kickback scheme was described as “the biggest swindle on a single project in Massachusetts history.” Chairman George L. Brady, who vanished for several years after his conviction, was eventually found hiding in New Jersey and sent to prison.¹⁵

Patronage and corruption were rampant in Massachusetts politics during the 1960s and early 1970s. That era of government graft came to an end with disclosure of the MBM scandal in which state senators Ronald MacKenzie, a Burlington Republican, and Joseph DiCarlo, a Revere Democrat, were convicted of accepting bribes from a construction company that built the University of Massachusetts campus in Boston. They were both sent to federal prison for a year. The Ward Commission, which was appointed in 1978, investigated the scandal and produced a blueprint for reform.

But governors were often faced with the choice of battling these agencies or leaving them alone until they were able to capture control by board appointments. Governor Frank Sargent, for instance, avoided taking on Massport because he was well aware of its political clout. The authority's lobbyists even convinced the legislature to exempt Massport from complying with air pollution controls until the federal EPA threatened to cut off funding for the state's program.¹⁶ Martha Weinberg says, “Although it infringed increasingly on his management of transportation policy, Sargent did not go to war with the Massachusetts Port Authority because of its power and its political support.”¹⁷

As vacancies occurred on the Massport board, the governor appointed people who were favorably disposed toward his policies and programs. Not until near the end of his administration in 1972 was Sargent able to gain majority control of the board. In naming a new chairman, the governor purposely bypassed long-time member Edward P. Maher of Worcester and picked James F. Fay of Weston instead.¹⁸ Fay, who was a professor of mechanical engineering at MIT, had previously chaired an environmental group that had stopped a proposed expansion of the New York Port Authority's Kennedy Airport into Jamaica Bay. The Reverend Albert Sallese of East Boston was another Sargent appointment. A young Catholic priest at the Holy Redeemer Church, Sallese was a community activist who had participated in protest demonstrations against the expansion of Logan Airport.¹⁹

Michael Dukakis came to the governor's office in 1975 as a good-government reformer, seeking to improve efficiency and to exercise greater control over state programs and services. He found patronage distasteful and debilitating, at least during his first term, and came to embrace the authorities as vehicles for professional public management. During his years in the corner office — 12 of the next 16 — he increased the number of authorities, which experienced spurts of entrepreneurial leadership. Eight authorities were created during his tenure, most of them devoted to the financing of economic growth and development. He put capable managers in charge (like David Davis at Massport and Paul Levy at the MWRA) and worked mostly in harmony with them.

But this alignment of the stars between the governor and these governmental offshoots did not quell suspicion regarding the means and motives of the semi-autonomous agencies. "There is a streak of elitism in these authorities — they think they are above government and the people," state Senator Patricia McGovern, who was then chairman of the Senate Ways and Means Committee, told the *Boston Globe* in 1989 near the end of Dukakis's third and final term. "They are not overseen by the legislature, by the public, or by the media. In the end, if we don't scrutinize them, the public loses."²⁰ Frank Keefe, Dukakis's secretary of administration and finance, defended the agencies' independence and said that "to tear authorities asunder and make them the creatures of the hurly-burly of everyday politics would be a large mistake."²¹

A month later, Alan Altshuler, who had served as secretary of transportation under Sargent, expressed the issue somewhat differently: "The question is, why do they keep creating authorities? There has to be something useful here. I used to be a lot more critical of authorities than I am now. But state government is operated in a way designed more to avoid scandal than to accomplish tasks. Efficiency is not high on its agenda. But if you want a hard-driving, businesslike pursuit of some objective, the authority can, in certain circumstances, be reasonably effective."²²

The Potentates of Massport

By any measure — revenue, employment, capital assets — the Massachusetts Port Authority is by far the biggest and most important of this new breed of semi-independent authorities. The CEO has a tough job in directing the transportation authority that does \$400 million in business each year and employs 1,207 employees. In September 2001, forty-four of them were earning more than \$100,000 a year. This agency, much like its New York predecessor, is responsible for creating and maintaining much of Boston's transportation infrastructure. It operates the Tobin Bridge, the shipping terminals in the Port of Boston, and three airports: Logan International Airport, Hanscom Field in Bedford, and Worcester Regional Airport. Revered and reviled since its inception, Massport has long been the agency everybody loves to hate. Despite its image as an uncaring behemoth, it has been very successful financially, with Logan the agency's big revenue generator. Of the Big Five authorities, it is the only one that does not receive any state subsidy.²³

Although the Port Authority was created in 1956, it did not become operational until three years later because of a dispute between Governor Foster Furcolo and the port authority board. But the man who really got the agency off the ground was Edward J. King, who served as its executive director from 1961 to 1974. A hard-

nosed administrator with a bulldozer personality, King took the agency from rags to riches. He did so by aggressively expanding Logan Airport from a small regional facility into the world's eighth busiest airport. In so doing, King ran roughshod over the concerns of residents in nearby neighborhoods. People living in the surrounding communities of East Boston, Winthrop, and Revere complained vociferously about the air and noise pollution at Logan, but their pleas were largely ignored. To offset their protests and sit-in demonstrations, King could count on support from a powerful coalition of bankers, state legislators, union officials, and contractors. Those allies came to his aid time and time again. But they couldn't bail him out forever.

Out of the resentment generated by airport expansion and the growing rancor over air and noise pollution came the fight to get rid of King. By 1973, as Governor Sargent started to rack up appointments to the Massport board (favoring community activists rather than the usual business leaders), Sargent began to attack King publicly. King was finally ousted in 1974 in a wrenching battle that involved two governors — Sargent and Dukakis — in the midst of their transition.

Though ready to fire him earlier, the board's anti-King majority waited until after Sargent's unsuccessful campaign for re-election. When the dismissal letter was delivered, King refused to clear out his office. Instead, he filed suit against the board and continued showing up for work. At that point, Frank Meaney, who chaired the Dukakis transition team, brokered a compromise. King dropped his lawsuit and resigned in return for a letter of commendation from the board — and a huge severance payment.²⁴ Commenting on the outcome, the *Boston Globe* said, "The firing of Edward J. King, was a victory for those who felt that Massport should be made more accountable to the people and other public agencies but it disturbed many businessmen who admired King's style and drive."²⁵

King got his revenge, however temporarily, in 1978, when he unseated Dukakis in the Democratic primary and then went on to win the governorship in his own right. But his abrasive style and arrogant manner did not go over well on Beacon Hill. The political establishment distrusted him, liberal editorialists were openly antagonistic, and King seemed to go from debacle to debacle right from the start. His administration stumbled to its end in 1982, when Dukakis took back the Democratic nomination and the governor's office. In his final days in office, King tried to take back control of Massport. He appointed former state representative Louis Nickinello to head the port authority and, on his last day in office, named two new members to the board. Dukakis, acting under an obscure 1964 law that allowed a governor fifteen days to rescind a major appointment, rejected Nickinello and nullified the board appointments.²⁶ Dukakis may have found patronage distasteful, but he was not above the occasional power play.

Tocco Expands Massport's Mission

The Ed King tradition of empire building returned to Massport under the Weld administration. The Republican was elected governor in 1990 but did not gain control of the seven-member Massport board until late 1993. At that time, the Weld-appointed board handed the keys to the state's largest independent authority to one of the governor's most trusted aides, Stephen P. Tocco, a cabinet secretary who had been a key player in grappling with the state's fiscal crisis. As a public manager, Tocco was ambitious, territorially acquisitive, and determined to extend the agency's

reach. His three years (1994–1996) at Massport’s helm were marked by a series of bold and controversial initiatives to broaden the port authority’s mission by taking on the duty of promoting tourism and trade in Massachusetts.²⁷

Under his leadership, the payroll at Massport increased by 30 percent as he added new departments of foreign trade and tourism. These operations extended to Mexico, Singapore, Taiwan, Korea, Israel, Japan, Ireland, and China. Meanwhile, Tocco and his aides traveled first class to various foreign countries and spent lavishly on overseas promotions of tourism and trade. On one occasion, they spent more than \$100,000 to wine and dine French travel agents. At home, Massport financed all sorts of projects, some of dubious merit. It gave \$288,000 to the National Music Foundation, which was supposed to build a museum and retirement home for musicians in Lenox. This plan never materialized, and the agency did not recover the money. Massport launched a \$7.2 million restoration of the old New England Fish Exchange that was soon mockingly referred to as “Tocco’s Taj Mahal.” The elegantly decorated conference center, which a state audit found was used mostly for social events, turned out to be a money-loser.²⁸

Many other illustrations of such grandiose schemes could be cited, but one more example will suffice. Massport expanded cruise line traffic into its Black Falcon Terminal in an effort to boost a port that has been dying for decades. Unfortunately, this new initiative failed to stop the port’s flow of red ink.²⁹

But if Massport’s wealth and power made it a natural vehicle for the outsized ambitions of an Ed King or Steve Tocco, after 1996, the authority became a symbol of political patronage and, ultimately personal shenanigans. Tocco was succeeded as executive director by former Republican congressman Peter I. Blute, who was given the job shortly after he lost his re-election bid. His selection signaled that failed political candidates would be welcome aboard. Blute attended to the business of trade, tourism, and renovation of Logan Airport until the summer of 1996, when an enterprising *Boston Herald* photographer caught him hosting a lunchtime party cruise on Boston Harbor — and on Massport’s dime. Blute was summarily fired (formally by the agency’s board, but at Governor Paul Cellucci’s direction) for his indiscretion.

To clean up the Massport public relations mess, Governor Paul Cellucci appointed his chief of staff, Virginia Buckingham. But this appointment of a thirty-three-year-old political aide with little administrative experience, and none in transportation, only reinforced Massport’s growing image as an authority infused with politics rather than professionalism — an image exposed to the public in the painful aftermath of September 11. Buckingham began her tenure by promising to end the “frat boy” image of the agency. She made some efforts to retrench, but Tocco’s vision and inflated sense of mission remained basically intact. More about her tenure shortly.

Between 1990 and 2001, Massport experienced a period of drift, patronage, favoritism, and a search for new missions. It became especially vulnerable to patronage and other short-term political demands. The enabling legislation that created the agency requires a 4–3 split on party affiliation of its seven-member board, and reserves one seat for a union official with an association to the agency. In June 1993, Governor Weld had appointed George Cashman, a Democrat and leader of Teamsters Union Local 25, to a much-coveted seat on Massport as a reward for his political support. Cellucci reappointed him in 1998 for the same reason. In early January

2002, Cashman, who was known for his absenteeism at board meetings, was indicted on federal charges of bribery and embezzlement. Given this indictment, he was forced to resign from the board by acting Governor Jane Swift.³⁰ But this takes us somewhat ahead of our story.

The Crisis at Massport

On September 11, when Logan Airport became the launching pad for terrorist attacks, this picture changed dramatically. On that fateful morning, a network of Al Qaeda terrorists hijacked two planes leaving Logan and crashed them into the World Trade Center in New York, thereby destroying its twin towers and killing 2,801 innocent people. As the horrible details of this national tragedy unfolded in the daily press, Massport came under intense scrutiny. Ironically, the hijackers had not breached any of its airport security measures, but the beleaguered agency was faulted for its inadequate security, laxity, and other managerial deficiencies. Much of this criticism and sensational media coverage was directed at patronage appointees, several of whom held highly paid administrative positions. As things turned out, Joseph Lawless, the public safety director, and Thomas Kinton, director of aviation, were both in Canada on the day of the terrorist attacks. Nobody was tending the store, or so it seemed. Everything was in disarray.

Before September 11, the airlines controlled checkpoint security at Logan. They had hired private companies to do passenger and baggage screening. The Federal Aviation Administration was severely criticized for ignoring security breaches prior to the terrorist attacks.³¹ On April 27, Joseph Lawless had written a detailed memo to the top brass warning them of a possible attack and citing evidence that terrorists were operating in Boston.³² But Lawless's warning, coupled with his request to see Buckingham, went unheeded.

Later on, Counter Technology, an independent consultant, was hired to review security procedures at Logan Airport. Its initial report was highly critical of airport officials, blaming bureaucratic infighting and competition between Massport departments for failure to implement security upgrades. The result was a "split in authority and division of responsibility that has effectively guaranteed inefficiency, encouraged rivalries, and disrupted communication." After meeting with Massport lawyers, however, the consulting firm significantly watered down its initial report. By the time they delivered their final report to the Massport board of directors, this criticism apparently had been deleted.³³

When in the public eye, Virginia Buckingham tried valiantly to put a positive spin on a highly volatile but rapidly deteriorating situation. Shaken by the terrible experience, she could not overcome a barrage of adverse publicity. Thrust into the crucible of crisis management and a media feeding frenzy, she soon folded her tent. Embarrassed by a mounting drumbeat of criticism and reeling from her inept performance on the day the tragedy occurred, she resigned her \$150,000-a-year post on October 25 and departed in anger and frustration. The thirty-six-year-old Buckingham left the embattled agency struggling to rebound amid complaints of porous security, patronage hires, and a gaping financial hole that amounted to a \$51 million deficit. Sources close to Buckingham indicated that she "read the tea leaves" and fell on her sword rather than face an expected top-down purge by the governor.³⁴

Meanwhile, Buckingham had been hung out to dry by Governor Swift, who quickly distanced herself from the novice executive director. The two women, who were the same age, disliked each other intensely. They had always had a frosty relationship, but now it froze completely. Swift talked only once with Buckingham throughout her painful ordeal. To be sure, Buckingham's departure erupted into a bitter feud between the two camps. Ironically, the thirty-six-year-old Swift had previously held a \$76,500-a-year job as director of regional airport development for Massport. In plain fact, Governor Weld had created this post for her after she had lost a congressional race to Democratic incumbent John Oliver in 1996.

Before leaving her post, Buckingham received a huge severance package from the Massport board, which was chaired by Republican Mark Robinson. This well-publicized golden parachute, which was worth \$175,000, triggered a public uproar. It raised the hackles of state legislators and political commentators who blasted the parting gesture as exorbitant and inappropriate. The general public was outraged. Many people saw it as rewarding Buckingham for her incompetence. What made this so egregious is that it came at a time of economic downturn, when both the airline industry and the Port Authority were laying-off employees. In all, some 180 people at Massport were laid-off.³⁵ They did not receive the generous severance benefits that Buckingham did. Close observers felt that the whole episode smacked of favoritism and preferential treatment. In their eyes, such insensitivity conveyed an arrogance of power on the part of those involved.

The Carter Commission

In trying to assert personal leadership, Governor Swift took a series of steps that were intended to restore public confidence in the embattled agency. On September 27, she appointed a Special Advisory Task Force that was expected to analyze the operations of Massport and to recommend a blueprint for reform. She named Marshall Carter, a retired CEO of State Street Bank, to chair the oversight task force and to report its findings within forty-five business days. These initial steps set the stage for the events that followed.

On October 2, Swift gave a television address in which she laid out plans for dealing with the new realities. More specifically, she announced that she was placing John DiFava, a state police colonel, in charge of public safety and was sending National Guard troops to Logan to bolster security. In so doing, she demoted Joseph Lawless and transferred him to the seaport. A former state trooper, Lawless had previously been in charge of Governor Weld's security detail. Both Lawless and Buckingham symbolized the agency's pervasive patronage culture. With a mobilized public opinion on her side, Swift persuaded the Massport board to reduce Buckingham's \$175,000 severance package. Only grudgingly and under intense pressure did the board finally agree to do so.

On December 3, the Carter Commission released its report and recommended that Massport's governing structure remain unchanged, but it found that the agency suffered from "a certain degree of mission creep, poor leadership, and a lack of accountability to the public." They called patronage a "four-headed monster" that had eroded public confidence, created morale problems for qualified and dedicated employees, and contributed to the inefficiency of the organization. They also recommended that the labor representative on the board should not have any business connections to Massport in order to avoid a conflict of interest.³⁶

No sooner had the Carter Commission released its report than Swift called on Beacon Hill lawmakers to join her in a moratorium on patronage excesses at Massport. Drawing upon the commission's list of thirty-two recommendations, the agency announced that work on nineteen of them had already begun. At the top of the list of personnel reforms was the creation of "sunshine reports" that would identify all job applicants with political connections, but they stopped short of promising not to hire those referred by politicians. Worried about discrimination against qualified applicants with political ties, the board agreed to form screening committees and to adopt minimum qualifications for high-ranking positions.

On February 17, the newly formed federal Transportation Security Administration assumed control of security at all of the nation's commercial airports. No longer does this responsibility rest in the hands of private security companies. The TSA is currently trying to standardize its approach to airport security.³⁷

The search for Buckingham's successor took five months. It was conducted by an executive recruitment firm known as Russell Reynolds Associates. According to Marshall Carter, Governor Swift did not participate in the selection. The Massport board, with significant input from Carter, selected Craig Coy, a former business executive and retired Coast Guard commander. With a background in security and anti-terrorism operations, the fifty-two-year-old Coy had flown helicopter sorties over Boston Harbor as a young cadet. He was the former director of a private business firm and held an MBA degree from the Harvard Business School. At the time of his appointment, Coy pledged to follow the recommendations of the Carter Commission and to make security his top priority.³⁸

A Game of Chicken on the Turnpike

Autonomy, accountability, and "mission creep" were central to the pitched battle that erupted, almost simultaneously, at the Massachusetts Turnpike Authority as well. This episode was filled with palace intrigue and surreptitious maneuvering. In 1997, management of the ever growing Central Artery Project, had been transferred from the executive branch to the Turnpike Authority, a move that was intended to provide sound management that would be buffered from politics, as well as the ability to tap turnpike tolls to pay for construction. The new law that put the turnpike authority in charge of the Big Dig made its board "subject to certain supervision and control of executive branch officers, as well as the governor."

In fact, the Big Dig was managed single-handedly by the turnpike's chairman, James Kerasiotes, an empire-builder in the Callahan-King mold. The cost overruns that came to light at the end of 1999 forced Kerasiotes to resign, but also embarrassed board members Jordan Levy and Christy Mihos, who had previously deferred to Kerasiotes's leadership. Jordan, a conservative Democrat (the authority's enabling statute dictates that the board be bipartisan) with a populist streak nurtured on the Worcester City Council and on the talk-radio show he currently hosts, and Mihos, a convenience-store tycoon and major Republican donor, became much more assertive, frequently clashing with chairman Andrew Natsios, Governor Cellucci's Big Dig turnaround artist. But the "turnpike twins," as some came to call them, virtually stream-rolled Natsios's successor, David Forsberg, a mild-mannered former cabinet secretary under Weld who, in a governance shift, chaired the board but was not the turnpike chief executive.

The Big Dig was an engineering feat of the first magnitude. With its cost mushrooming from \$5 billion in 1991 to \$14.5 billion in 2001, Levy and Mihos pressed Bechtel, Parsons, and Brinckerhoff, the Big Dig's management consultant, to reclaim money wasted when design firms and contractors made mistakes. In response to growing public criticism, the two men voted to take responsibility for cost recovery away from the consulting firm, giving it to the turnpike's legal division and demanded reimbursement from Bechtel. But it was a toll increase scheduled to take effect last January — it had been planned since 1997 — that brought the turnpike revolt to a head.

On October 30, Levy and Mihos voted, amid acrimonious debate and over Forsberg's strenuous objection, to delay those hikes, which were to raise \$30 million for the Big Dig, for six months. As an alternative source of revenue, they proposed deferring maintenance and capital expenditures, and restoring tolls in western Massachusetts and Exit 16 in Newton. They sought to ensure construction integrity coupled with disciplined cost control.

Swift immediately blasted their decision as being fiscally irresponsible and promptly fired Levy and Mihos on November 16. She then began a formal process seeking to remove them from the turnpike board "for cause." Privately, she told Mihos that a delay in hiking tolls could "cost us the corner office." Both Mihos and Levy charged that they were being terminated because they got "too close" to uncovering alleged problems with Bechtel's oversight role, a charge the governor vehemently denied.

By the end of the year, Swift's standing in public opinion polls fell precipitously. Republicans, who were in a campaign mode, began to worry about whether or not she could win the governorship in her own right. A *Boston Herald* poll showed that her approval rating had dropped from 66 percent in October to 48 percent in early December. Similarly, a University of Massachusetts poll showed that her favorable rating plummeted from 64 percent in September to 46 percent in December.³⁹ Both a *Globe/WBZ* poll and a survey by Mass Insight showed a dramatic decline — 66 percent of those surveyed gave her marks of fair to poor for job performance.⁴⁰ As these poll numbers fell, Swift's fund-raising diminished accordingly.

The Firings of Levy and Mihos

Reacting to the delay of toll increases, two Wall Street bond-rating firms — Moody's Investors Service and Fitch Inc. — downgraded the turnpike's financial outlook and subsequently put its bonds on "credit watch negative." Swift used these moves to justify her ouster of Levy and Mihos. At this point, negotiations for cost recovery at the Big Dig abruptly ended or were at least put on hold.

After trading barbs with the governor in the press, the two defiant board members fought their removal tooth and nail, mounting a vigorous public campaign that defended their actions and attacked Swift, who was then planning a run for governor, as motivated by election-year politics. Lawyers representing Levy and Mihos were in court to plead their case in a legal battle that had begun in early December. Their attorneys claimed that they had immunity from dismissal under state law. They further argued that Swift had no legal authority to fire them because they belonged to an independent agency created by the legislature.⁴¹

For Swift the case that came before the Supreme Judicial Court (SJC) began much better than it ended. On December 10, Justice John Greaney ruled that Swift

was well within her rights when she removed Levy and Mihos, provided she could show cause. Three days later, Swift sent the two board members letters notifying them to appear for termination hearings. These closed-door hearings were held in her office on January 10 and 11. Thomas Maffei, former president of the Massachusetts Bar Association, presided over the hearings.⁴² Paul Ladd, the turnpike's chief financial officer, acted as Swift's star witness. Levy and Mihos testified in their own behalf.

Meanwhile, both the *Boston Globe* and the *Boston Herald* weighed in with editorials that sided with Swift.⁴³ They supported her decision to fire the two renegade board members. In a letter responding to the *Globe* editorial, Levy and Mihos wrote:

It is not our postponement of the toll hike that has raised questions in the bond market. It is the acting governor's interference with our exclusive statutory authority to set tolls that has raised those concerns. Particularly egregious was the office of the acting governor's complicity in sending the Turnpike Authority's financial staff to meet with the bond rating agencies, without our knowledge, and without presenting to the rating agencies any detailed information on how our revenue plan would indeed raise more money than her plan.

The toll and revenue plan we proposed and voted on Nov. 16 wasn't hasty and ill conceived. It was based upon months of research informed by two public hearings, and developed through staff recommendations. The Turnpike's legal counsel and outside bond counsel endorsed it, as did the authority's chief financial officer – until he had a telephone conversation with the acting governor's secretary of administration and finance.

The reality here is that a postponement of a toll hike from Jan. 1 to July 1 would move the toll hike too close to the fall elections for the acting governor's comfort. This is just the kind of blatant political interference that independent authorities were designed to eliminate, and it makes bond markets very nervous.⁴⁴

Ignoring these arguments, Governor Swift formally fired Levy and Mihos on February 6. She replaced them with Nicholas Lopardo, former chief executive of State Street Global Advisers, and former prosecutor John M. Moscardelli. Both men were Republican fund-raisers and politically well-connected. In addition, Swift named Matthew J. Amorello, the state highway commissioner, to replace David Forsberg, who was stepping down as chair of the turnpike authority.⁴⁵

The SJC Overturns Swift's Firings

On March 4, the SJC heard arguments by lawyers for Mihos and Levy to overturn Swift's decision. In addition, Mihos filed a federal lawsuit contending that the governor had violated his free speech rights.⁴⁶ The winds of political change were gusting in Massachusetts. Beacon Hill insiders speculated that the feud between Swift and the "Pike boys" convinced Mitt Romney to enter the race for governor. Coming off the experience of having directed a highly successful Olympic winter games in Salt Lake City, he loomed as a formidable contender and intraparty rival.

On March 17, a *Boston Herald* poll showed Romney trouncing Swift by a devastating 63 percent margin among likely Republican primary voters. It also showed him to be more popular than the five Democrats in the race. The poll numbers rippled through Republican circles, setting off excitement of a Romney run. Two days later, Swift, with campaign funds drying up, made the decision to withdraw

and announced that she would not run for governor. With Romney definitely in, a tearful Swift bowed out. She had paid a heavy price for her political missteps and miscalculations. Later on, it was revealed that Christy Mihos had financed a private poll in Romney's behalf and contributed generously (\$80,000) to his campaign.⁴⁷

On May 7, a sharply divided SJC, in a 4-to-3 vote, overturned Swift's decision to fire Levy and Mihos. The majority said that she had no cause to fire them. In handing down their ruling, the judges made it clear that the governor had overstepped her bounds and that current and future board members could only be fired for egregious wrongdoing, not because of policy differences. Justice Francis X. Spina, who wrote the majority opinion, declared that Levy and Mihos "were not appointed to carry out the policies of the governor, but the policies of the authority as determined by themselves. It is the independent judgment of the members that lies at the heart of the matter."⁴⁸

The SJC ruling further noted that Paul Ladd, the turnpike's chief financial officer, withheld key information from bond rating agencies that later put the authority on "credit watch negative." The judges also chided Swift for asserting that the court should defer to her as chief executive. "Removal of a member of the authority ... is not a decision to which deference is accorded. Rather, it is a decision that must be given close scrutiny."⁴⁹ The state's highest court ordered that the two board members be reinstated.

After two weeks spent researching her legal options, Governor Swift decided to let the clock run out on her legal fight. She declined to petition the SJC for a rehearing of its decision. Without her filing an appeal, the SJC was clear to issue its official order reinstating Levy and Mihos on June 4. In a conciliatory gesture, James Borghesani, a spokesman for Swift, said the administration would join with the board members' lawyers to expedite that process. On this note, the legal battle over autonomy ended.⁵⁰

A Life of Their Own

More than anything else, these episodes at the Port and the Pike illustrate how difficult it is to balance autonomy and accountability in public authorities. Their distinctive virtue is that they are suited to solving particular problems or to carrying out specific duties without the encumbrances of day-to-day politics. Their major weakness is that they contribute to the piecemeal character of governing, separating political authority from democratic accountability. Major choices shaping the future development of the greater Boston metropolitan area remain in the hands of officials who are not elected, but are still subject to political pressure and influence.

Ideally, authorities ought to exist only as long as is necessary for them to carry out their assigned missions. Yet most take on a life of their own. Once an authority assumes responsibility for a public function, it cannot easily discard it. For example, the Dukakis-appointed Turnpike Authority could have put itself out of business early in the first Weld administration, but chose instead to issue a new set of bonds that had to be paid off by continued tolls — and a continuing turnpike authority to collect them. At the time, this infuriated newly elected Republicans Weld and state treasurer Joe Malone, who railed against this exercise in self-perpetuation. But when the Big Dig's costs spun out of control, Weld and his successors were all too happy to have the turnpike still around and dunning drivers. Even before the fiscal crisis,

John Strahinich discussed this phenomenon in language that warrants quoting in some detail:

Until the turnpike authority issued \$40 million in new bonds in 1986 to widen the road through Framingham and Route 128 (a plan nixed since then), it was scheduled to pay off the last of its bonds sometime in 1992. Of course, nobody seriously believed that it would pay off the last bond, fire its toll collectors, open its roads to the motoring public free of charge, and turn the whole shebang over to the state public works department — as planned in the original legislation creating the authority. Not even legislators from the western part of the state, who will probably raise a hue and cry come 1992, expected that. Not when so many of the turnpike jobs in that part of the state are being doled out by those legislators. Not when firing all those turnpike workers would probably raise the state unemployment rate a full percentage point. Not when the state would have to pay the maintenance and plowing bill for that long expanse of road, and the two tunnels, out of its own revenues. And certainly not when the turnpike is churning out more than \$100 million a year that can be used for other state projects. No, like it or not, the turnpike authority will be with us forever.⁵¹

Strahinich's sobering remarks are refreshingly candid. Given this deeply ingrained folk wisdom, it is easy to understand why politicians are so reluctant to put authorities out of business. In addition to carrying out functions that are necessary but unpopular — such as charging tolls and raising water and sewer bills — these semi-independent agencies are cash machines, which provide revenue that's much needed and patronage that's much appreciated by the state's elected leaders.

And where independence is incomplete and accountability indirect, conflict can only be endemic. In the public realm, the entrepreneurial model conflicts with democratic theory. "Critics maintain that government corporations are beyond the reach of the people's representatives, unresponsive, and in some cases totally irresponsible," writes Annmarie Walsh, author of *The Public's Business*. "Public authorities have invited such charges by stressing their own autonomy. In fact, the term "autonomy" is misleading since it implies the absence of external influence. The literally "autonomous" authority is as mythical as the unicorn."⁵²

Because Massachusetts has had an unusual system of competitive politics and contentious group conflict, political forces within the state place particularly strong pressures on public authorities. It is difficult to run anything in the public sphere without resorting to patronage and deal-making. But the Bay State is not unique in this regard. Jameson Doig, in his book *Empire on the Hudson*, points out that the highly touted New York Port Authority, which heretofore had steadfastly safeguarded its independence, eventually succumbed to patronage appointments and political interference. It is in this sense that the political culture of Massachusetts has been hostile to the whole idea of truly independent authorities. They are destined to become politicized, whether we like it or not.

It should be noted that some reforms are already underway. The three top executives at Logan Airport recently signed contracts giving them up to four years of job protection, and thus a measure of insulation from political interference. As Sean Murphy observes, "If the [Massport] board wishes to replace one of the top three executives, it would have to buy out the contract or meet a stiff burden of proof of unfitness."⁵³

At the turnpike, the fairness of its toll policy has been called into question. To rely solely upon commuters from the western suburbs to finance the state's share of

the Big Dig is inherently unfair. With this in mind, the newly reconstituted turnpike board has renewed its search for alternative sources of revenue. At a public hearing held on May 28, they vowed to scour its finances in a last-ditch effort to avoid a July 1 toll increase. Among other options, they cited the possibility of higher gasoline taxes, tolls at the border with New Hampshire, re-imposing tolls at exits 1 through 6 on the western portion of the highway, and higher automobile licensing and registration fees. They are also exploring the sale of real estate and the leasing of air rights above the turnpike.⁵⁴

The ultimate irony is that the reform movement in Massachusetts has come full circle. In the name of independence and efficiency, authorities have been hamstrung by political intrusion and patronage. So now the cry for reform is once again falling on receptive ears. Whether the result is honest and efficient public management or scandals that we can now only imagine remains to be seen.❁

Notes

1. A shorter version of this article originally appeared in *CommonWealth Magazine* (Spring issue, 2002) under the title, "Questioning Authority," 15–23.
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4. Brian C. Mooney, "Agencies Have Grown, Quickly," *Boston Globe*, September 30, 2000.
5. Martha W. Weinberg, *Managing the State* (Cambridge: MIT Press, 1977), 149.
6. For a detailed history of the New York Port Authority, see Jameson W. Doig, *Empire on the Hudson* (New York: Columbia University Press, 2001).
7. Wallace S. Sayre and Herbert Kaufman, *Governing New York City* (New York, Russell Sage Foundation, 1960), 322.
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9. See Report of the Senate Ways and Means Committee, "State Authorities: The Fourth Branch of Government," (Senate Document 2400, 1985), 47–52.
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12. Mooney, "Agencies Have Grown, Quickly."
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24. Richard Gaines and Michael Segal, *Dukakis and the Reform Impulse* (Boston: Quinlan Press, 1987), 158.

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26. Gaines and Segal, *Dukakis and the Reform Impulse*, 210–214.
27. Brian C. Mooney et al., "Patronage, Far-flung Roles Hinder Massport Mission," *Boston Globe*, September 25, 2001.
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29. Ibid.
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