

HOUSE No. 2429

By Mr. Cabral of New Bedford, petition of Antonio F. D. Cabral for legislation to establish the economically targeted investment authority to generate returns on investments of public pension funds. Public Service.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO COUNTY RETIREMENT SYSTEMS AND OTHERS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 23 of Chapter 32 of the General Laws, as
2 appearing in the 2004 Official Edition, is hereby amended by
3 adding after (3) the following:—

4 (3A) All public retirement systems identified in section 23
5 (1) and 23 (2) of Chapter 32 shall invest not less than five percent
6 (5%) of its assets in targeted investment, through the Massachu-
7 setts Economically Targeted Investment Authority. Such econom-
8 ically targeted investments shall not constitute a breach of
9 fiduciary duty to retirement systems.

1 SECTION 2. The Massachusetts General Laws are hereby
2 amended by inserting after Chapter 32B the following new
3 section:—

4 **CHAPTER 32C.**
5 **THE MASSACHUSETTS**
6 **ECONOMICALLY TARGETED**
7 **INVESTMENT AUTHORITY (META).**

8 Section 1. Definitions
9 “Authority”, the Massachusetts Economically Targeted Invest-
10 ment Authority (META) established pursuant to section 2 of
11 Chapter 32C.

12 “Economically targeted investment” an investment, with the
13 goal of stimulating economic activity as well as generating an
14 investment return, made in counties, cities, towns, municipalities
15 or regions of the Commonwealth which have a significantly high
16 level of employment as determined by the Authority.

17 “Massachusetts economically targeted investment fund” an
18 investment fund which contains the assets necessary economically
19 targeted investments. Such fund shall contain the 5% of assets
20 from all public retirement systems in the Commonwealth and
21 other public or private assets which choose to invest in this fund.

22 “PERAC” The Public Employee Retirement Administration
23 Commission as organized under Chapter 32.

24 “Targeted areas” an investment providing public benefits to
25 Massachusetts through the establishment, expansion, securing,
26 financing or operation of an industrial, recreational, research and
27 development, commercial or service enterprise or facility, or any
28 parts or combinations, thereof, located within or partially within
29 the Commonwealth and including, but not limited to, all facilities
30 necessary or desirable in connection therewith or incidental
31 thereto, including provision for working capital.

32 Section 2. There is hereby created a body politic and corporate
33 to be known as the Massachusetts Economically Targeted Invest-
34 ment Authority or META as it should be commonly known.
35 META is hereby constituted a public instrumentality and the exer-
36 cise by the META of the powers conferred by this chapter shall be
37 deemed to be the performance of an essential governmental func-
38 tion. META is hereby placed in the office of the state treasurer,
39 but shall not be subject to the supervision or control of said
40 department or of any board, bureau, or agency of the Common-
41 wealth except as specifically provided in this act. The authority
42 shall be governed and its powers exercise by a board of nine com-
43 missioners. The commissioners shall be the following:

44 The state treasurer or designee, and ;

45 The executive director of PERAC, or designee, and

46 Four other commissioners appointed by the state treasurer.
47 These commissioners must have skill and experience in providing
48 economic development, starting and operating business, providing
49 professional services to business, obtaining and administering
50 grants from governmental or philanthropic sources, at least one of

51 the treasurer's appointments shall be from Western Massachusetts
52 and at least one of the treasurer's appointments shall be from
53 South Cove-Southeaster Massachusetts, and three other commis-
54 sioners appointed by the governor. These commissioners must
55 have skill and experience in providing economic development,
56 starting and operating business, providing professional services to
57 business, obtaining and grants from government or philanthropic
58 sources, at least one of the governor's appointments shall be from
59 South Cove-Southeastern Massachusetts.

60 Each appointed commissioner shall serve a term of five years,
61 except that in making the initial appointments the state treasurer
62 shall appoint one commissioner to serve a two year term.

63 The governor and state treasurer shall individually appoint one
64 commissioner for a term of three years, one commissioner to serve
65 for a term of four years, and one commissioner for a term of five
66 years.

67 Any person appointed to fill a vacancy in the office of a com-
68 missioner shall be appointed in a like manner and shall serve for
69 only the unexpired term. Any commissioner shall be eligible for
70 reappointment. The governor and state treasurer may remove
71 their respective appointees only for good cause. The state trea-
72 surer shall serve as the chairperson. The commissioners shall
73 annually elect one of their commissioners as vice-chairperson and
74 designate a clerk who need not be a commissioner of the board.
75 The clerk shall keep a record of the proceedings of the agency and
76 shall be the custodian of all books, documents and papers filed
77 with the agency, the minute books of the agency and of its official
78 seal.

79 Five of the commissioners of the authority shall constitute a
80 quorum and a majority of votes shall be necessary for the transac-
81 tion of business or the exercise of any power or function of the
82 authority. Each director shall be entitled to reimbursement for
83 actual and necessary expenses incurred in the performance of
84 official duties.

85 The authority, its commissioners, officers and employees shall
86 be subject to the provisions of sections one to four, inclusive, of
87 chapter two hundred and sixty eight A, except that the authority
88 any purchase from, sell to, borrow from, loan to, contract with or
89 otherwise deal with any public nonprofit community development

90 agency organized to carry out the purposes of this act of which
91 any director of the authority is also a commissioner or officer,
92 provided that such interest is disclosed in advance to commis-
93 sioners of the board and recorded in the minutes of the authority
94 and provided further, that no director having such a financial
95 interest may participate in any decision affecting such transaction.

96 The commissioners may appoint an executive director and also
97 establish the salary. The executive director shall be the chief
98 administrative and operational officer of the authority and shall
99 direct and supervise administrative affairs and the general man-
100 agement of the authority. The executive director may employ
101 such other employees as shall be designated by the board of direc-
102 tors, shall attend meetings of the board of directors, shall cause
103 copies to be made of all minutes and other records and documents
104 of the authority and shall certify that such copies are true copies,
105 and all persons dealing the authority may rely upon such certifica-
106 tion.

107 Section 3. Powers of META.

108 META shall have the power to:

109 1) Adopt by-laws for the regulation of its affairs and the
110 conduct of its business;

111 and

112 2) Adopt an official seal; and

113 3) Sue and be sued in its own name; and

114 4) Make and execute contracts and all other instruments nec-
115 essary or convenient for the exercise of its power and functions;
116 and

117 5) Acquire, hold and dispose of personal property for its cor-
118 porate purposes; and

119 6) Enter into agreements or other transaction with any federal
120 or state agency; and

121 7) Acquire real property, or an interest therein, by purchase or
122 foreclosure, where such acquisition is necessary or appropriate to
123 protect or secure any investment or loan in which the agency has
124 an interest; to sell, transfer and convey and such property to a
125 buyer and in the event such sale, transfer or conveyance cannot be
126 effected with reasonable promptness or at a reasonable price, to
127 lease such property to a tenant; and

- 128 8) Invest any funds held in reserves or sinking funds, or any
129 funds not required for immediate disbursement, in such invest-
130 ments as may be lawful for fiduciaries in the Commonwealth; and
- 131 9) Employ an executive director, who shall be the chief exec-
132 utive officer of the authority, and such other agents, employees,
133 professional and business advisors as may from time to time be
134 necessary in the judgment of the board of directors and to fix their
135 compensation. The executive director, professional advisers and
136 business advisers shall not be subject to the provision of chapter
137 thirty one or section nine A of chapter thirty; and
- 138 10) Appear in its own behalf before boards, commissions,
139 department or other agencies of government, municipal, state or
140 federal; and
- 141 11) Procure insurance against any loss in connection with its
142 property in such amounts, and from such insurer, as may be neces-
143 sary or desirable; and
- 144 12) Consent, subject to the provisions or any contract with note
145 holders or bondholders, whenever it deems it necessary or desir-
146 able in the fulfillment of the purposes of this act, to the modifica-
147 tion, with respect to rate of interest, time of payment of any
148 installment of principal or interest, or any other terms of any
149 mortgage, mortgage loan, mortgage loan commitment, contract or
150 agreement of any kind to which the META is party; and
- 151 13) Do any and all things necessary or convenient to carry out
152 its purposes and exercise the powers expressly given and granted
153 in this act; and
- 154 14) Receive and accept from federal or state agency grants,
155 loans, or advances in aid of the purposes of this chapter and to
156 receive and accept contributions of either money, property, labor,
157 or other things of value, to be held, used and applied for said pur-
158 poses; and
- 159 15) Create, issue, buy and sell stock and other capital participa-
160 tion instruments; to hold such stock in capital participation instru-
161 ments and to underwrite the creation of a capital market which
162 provides first offer of resale to the community development
163 agency, business or residents of the target area which is designed
164 to enhance development of capital ownership in the target area;
165 and

166 16) Provide and pay for such advisory services and technical
167 assistance as may be necessary or desirable to carry out the pur-
168 poses of this act; and

169 17) Give assistance to local authorities, public bodies and
170 sponsors through the providing of information, guidelines and
171 suggested forms of procedures for implementation of their
172 financing programs; and

173 18) Establish and collect such fees and charges as the authority
174 without appropriation shall determine to be reasonable; and to
175 receive and apply revenues from fees and charges for the purposes
176 of the authority or allotment by the commonwealth or any polit-
177 ical subdivision thereof; and

178 19) Develop targeted investments; and

179 20) Market economically targeted investments to potential
180 investors; and

181 21) Manage the META funds

182 Section 4. There is hereby created and placed within the
183 authority the META fund referred to in the chapter as the Fund.
184 The Fund's purpose is to collect investment capital and invest in
185 exclusively in economically targeted investments.

186 22) The fund shall allow retirement systems, corporations or
187 sponsors to participate in the fund. The agency shall invest and
188 reinvest any income in the fund only as follows;

189 a. for defraying the ordinary and necessary expenses of
190 administration and operation associated with the fund;

191 b. for investing funds not required for immediate disburse-
192 ment in the purchase of such securities as may be lawful invest-
193 ments for fiduciaries in the commonwealth;

194 c. for the payment of binding obligations associated with such
195 investments which are secured by the fund as the same become
196 payable; and

197 d. for the payment of principal or interest on investments
198 secured by the fund or the payment of any redemption premium
199 required to be paid when such qualified investments are redeemed
200 prior to maturity; provided, however, that monies in the fund shall
201 not be withdrawn at any time in such an amount as would reduce
202 the amount of the fund to less than the minimum requirement
203 thereof established by the Agency, except for the purpose of
204 paying binding obligations associated with investments which are
205 secured by the fund as the investments become payable;

206 e. for affordable housing within and outside the common-
207 wealth and especially affordable housing for active and retired
208 public employees and their families.

209 23) The authority shall credit assets and earnings to individual
210 investors. Investors may include, but are not limited to Massachu-
211 setts employee retirement systems, governmental entities and pri-
212 vate investors.

213 24) Withdrawal of assets from the Fund may occur when the
214 investor gives the Agency 60 days notice.

215 Section 5. Investment in an economically targeted investment
216 shall not constitute a breach of fiduciary duty.