

# SENATE NO. 1549

## **AN ACT** AUTHORIZING REGIONAL RETIREMENT SYSTEMS TO ESTABLISH A POSTEMPLOYMENT BENEFITS TRUST FUND

*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. As used in this act, the following words shall have the following meanings:-

2 "GASB 43 and 45", Statements 43 and 45 of the Governmental Accounting Standards Board as  
3 amended from time to time and their successors.

4 "Other Postemployment Benefits", (OPEB)-Postemployment benefits other than pensions as that term  
5 is defined in GASB 43 and 45 including postemployment healthcare benefits, regardless of the type of  
6 plan that provides them, and all postemployment benefits provided separately from a pension plan,  
7 excluding benefits defined as termination offers and benefits.

8 SECTION 2. (a) There shall be any of the Regional Retirement Systems, established pursuant to  
9 section 19 of Chapter 34B of the general laws, an OPEB Trust Fund, which shall be under the  
10 supervision and management of the regional retirement board. The executive director of the board  
11 shall be the custodian of the OPEB Trust Fund and may employ an outside custodial service.

12 (b) Beginning in fiscal year 2008, the OPEB Trust Fund shall be credited with all amounts  
13 appropriated or otherwise made available by any of the member units of the regional retirement system  
14 for the purposes of meeting the current and future OPEB costs payable by the member unit. The OPEB  
15 Trust Fund shall be credited with all amounts contributed or otherwise made available by employees  
16 of a member unit for the purpose of meeting future OPEB costs payable by the member unit. Amounts  
17 in the OPEB Trust Fund, including any earnings or interest accruing from the investment of these  
18 amounts, shall be expended only for the payment of the costs payable by the member unit for OPEB in  
19 consultation with the regional retirement board. Subject in each instance to the approval of the regional  
20 retirement board, the executive director shall invest and reinvest the amounts in the OPEB Trust Fund  
21 not needed for current disbursement consistent with the prudent person rule, but no funds may be  
22 invested directly in mortgages or in collateral loans. The OPEB Trust Fund shall be subject to the  
23 public employee retirement administration commission's triennial audit.

24 (c) The board may employ any qualified bank, trust company, corporation, firm or person to advise it  
25 on the investment of the OPEB Trust Fund and may pay from the OPEB Trust Fund for this advice  
26 and other services determined by the regional retirement board. Procurement for these services shall be  
27 subject to the procurement procedures and rules followed by the regional retirement board for services  
28 to the regional retirement system.

29 (d) If any civil action is brought against a member of the retirement board, the defense or settlement of  
30 which action is made by an attorney employed by the retirement board, the member shall be  
31 indemnified for all expenses incurred in the defense of this action and shall be indemnified for  
32 damages to the same extent as provided for public employees in [chapter 258](#) of the General Laws if the  
33 claim arose out of acts performed by the member or members while acting within the scope of his

34 official duties, but no member of a retirement board shall be indemnified for expenses incurred in the  
35 defense of an action, or damages awarded in an action, in which there is shown to be a breach of  
36 fiduciary duty, an act of willful dishonesty or an intentional violation of law by the member.

37 SECTION 3. (a) An actuary, who shall be a member of the American Academy of Actuaries, shall  
38 perform an actuarial valuation of the member units' OPEB liabilities and funding schedule, as of  
39 January 1, 2007, and no less frequently than every second year thereafter. All these determinations  
40 shall be made in accordance with generally accepted actuarial standards and shall conform to the  
41 requirements of GASB 43 and 45 and the actuary shall make a report of such determinations to the  
42 annual meeting of the member unit. The report shall, without limitation, detail the demographic and  
43 economic actuarial assumptions used in making these determinations, and each such report after the  
44 first report shall also include an explanation of the changes, if any, in the demographic and economic  
45 actuarial assumptions employed and the reasons for any changes.

46 (b) Beginning in fiscal year 2008, all payments for the purposes of meeting the member unit's costs of  
47 OPEB under this act shall be made from the OPEB Trust Fund. Funds in the OPEB Trust Fund must  
48 be segregated from all other funds. Disbursements from the OPEB Trust Fund including any earnings  
49 or interest accruing from the investment of these amounts may only be made based on sections 1 to 3,  
50 inclusive, of this act.

51 SECTION 4. This act shall take effect upon its passage.