

HOUSE No. 5005

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act establishing a postemployment benefits trust fund in the town of Wayland..

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
2 meanings:—‘GASB 43 and 45’, Statements 43 and 45 of the Governmental Accounting
3 Standards Board and its successors. ‘Other postemployment benefits’ or ‘OPEB’, postemployment
4 benefits other than pensions as that term is defined in GASB 43 and 45 including
5 postemployment healthcare benefits, regardless of the type of plan that provides them, and all
6 postemployment benefits provided separately from a pension plan, excluding benefits defined as
7 termination offers and benefits. SECTION 2. (a) There shall be in the town of Wayland an
8 OPEB Trust Fund, which shall be under the supervision and management of the town’s
9 contributory retirement board established under paragraph (b) of subdivision (4) of section 20 of
10 chapter 32 of the General Laws. The town treasurer shall be the custodian of the OPEB Trust
11 Fund and may employ an outside custodial service. (b) Beginning in fiscal year 2008, the OPEB
12 Trust Fund shall be credited with all amounts appropriated or otherwise made available by the
13 town for the purposes of meeting the current and future OPEB costs payable by the town. The
14 OPEB Trust Fund shall be credited with all amounts contributed or otherwise made available by

15 employees of the town for the purpose of meeting future OPEB costs payable by the
16 town. Amounts in the OPEB Trust Fund, including any earnings or interest accruing from the
17 investment of these amounts, shall be expended only for the payment of the costs payable by the
18 town for OPEB in consultation with the town's contributory retirement board. Subject in each
19 instance to the approval of the town's contributory retirement board, the town treasurer shall
20 invest and reinvest the amounts in the OPEB Trust Fund not needed for current disbursement
21 consistent with the prudent investor rule; but no funds shall be invested directly in mortgages or
22 in collateral loans. The OPEB Trust Fund shall be subject to the public employee retirement
23 administration commission's triennial audit.(c) The board may employ a qualified bank, trust
24 company, corporation, firm or person to advise it on the investment of the OPEB Trust Fund and
25 may pay from the OPEB Trust Fund for the advice and other services determined by the town's
26 contributory retirement board. Procurement for these services shall be subject to the procurement
27 procedures and rules followed by the town's contributory retirement board for services to the
28 town's contributory retirement system.(d) If a civil action is brought against a member of the
29 retirement board, the defense or settlement of which action is made by an attorney employed by
30 the retirement board, the member shall be indemnified for all expenses incurred in the defense of
31 this action and shall be indemnified for damages to the same extent as provided for public
32 employees in chapter 258 of the General Laws if the claim arose out of acts performed by the
33 member or members while acting within the scope of his official duties, but a member of a
34 retirement board shall not be indemnified for expenses incurred in the defense of an action, or
35 damages awarded in an action, in which there is shown to be a breach of fiduciary duty, an act of
36 willful dishonesty or an intentional violation of law by the member.SECTION 3. (a) An actuary,
37 who shall be a member of the American Academy of Actuaries, shall perform an actuarial

38 valuation of the town's OPEB liabilities and funding schedule, as of January 1, 2006, and no less
39 frequently than every second year thereafter. The determinations shall be made in accordance
40 with generally accepted actuarial standards and shall conform to the requirements of GASB 43
41 and 45 and the actuary shall make a report of the determinations to the town meeting. The report
42 shall, without limitation, detail the demographic and economic actuarial assumptions used in
43 making the determinations, and each report after the first report shall also include an explanation
44 of the changes, if any, in the demographic and economic actuarial assumptions employed and the
45 reasons for the changes.(b) Beginning in fiscal year 2008, payments for the purposes of meeting
46 the town's costs of OPEB under this act shall be made from the OPEB Trust Fund. Funds in the
47 OPEB Trust Fund shall be segregated from other funds. Disbursements from the OPEB Trust
48 Fund including earnings or interest accruing from the investment of these amounts may only be
49 made based on sections 1 to 3, inclusive. SECTION 4. This act shall take effect upon its passage.