

**SENATE . . . . . No. 1110**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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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  
2 meanings:-

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

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

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

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

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

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

37 acting within the scope of his official duties, but no member of a retirement board shall be  
38 indemnified for expenses incurred in the defense of an action, or damages awarded in an action,  
39 in which there is shown to be a breach of fiduciary duty, an act of willful dishonesty or an  
40 intentional violation of law by the member.

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

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

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