

SENATE No. 2321

The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen
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SENATE, Tuesday, July 29, 2014

The committee on Ways and Means, to whom was referred the House Bill authorizing the Plymouth County Contributory Retirement System to issue pension funding bonds or notes (House, No. 3377); reports, recommending that the same ought to pass with an amendment striking out all after the enacting clause and inserting in place thereof the text of Senate document numbered 2321.

For the committee,
Stephen M. Brewer

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1 SECTION 1. As used in this act, the following words shall have the following meanings
2 unless the context clearly requires otherwise:-

3 “Chairman”, chairman of the Plymouth county retirement board.

4 “Plymouth county contributory retirement system” or “retirement system”, the
5 contributory retirement system established by Plymouth county pursuant to chapter 32 of the
6 General Laws.

7 “Plymouth county retirement board” or “board”, the 5-member retirement board that
8 manages the Plymouth county contributory retirement system.

9 SECTION 2. The Plymouth county contributory retirement system may issue bonds or
10 notes from time to time to fund all or a portion of the unfunded pension liability of the retirement
11 system. The bonds or notes shall be signed by the chairman and countersigned by the manual or
12 facsimile signature of a majority of the members of the Plymouth county retirement board.

13 Bonds or notes issued pursuant to this act shall be outside any limit of indebtedness other than as
14 set forth in this act and shall be issued for terms not in excess of 20 years from their date of issue.

15 The aggregate amount of bonds or notes that may be issued by the retirement system pursuant to
16 this act shall not exceed the amount the the board, with the approval of the Plymouth county

17 retirement board advisory council as established pursuant to section 19 of chapter 34B of the
18 General Laws, shall determine necessary to be issued to fund the unfunded pension liability of
19 the retirement system as of a particular date and to provide for issuance costs, interest on the
20 bonds or notes, a reserve fund to secure the bonds and other necessary or incidental expenses. A
21 determination by the board of the unfunded pension liability shall be based upon the report of a
22 nationally recognized independent consulting firm, which shall be acceptable to the public
23 employee retirement administration commission and may be the consulting actuary generally
24 retained by the board on behalf of the retirement system.

25 SECTION 3. The maturities of bonds or notes issued pursuant to this act shall be
26 arranged as determined by the chairman with the approval of a majority of the members of the
27 board. The bonds or notes may be sold at public or private sale, on terms approved by the
28 chairman, with approval of a majority of the members of the board. The bonds or notes may be
29 sold at a premium or discount and shall bear rates of interest as may be fixed by the chairman,
30 with the approval of a majority of the members of the board. The bonds or notes may, in the
31 discretion of the chairman and with the approval of a majority of the members of the board, be
32 subject to prepayment at the option of the holder of the bonds or notes at such times and prices
33 and under circumstances as the chairman, with the approval of a majority of the members of the
34 board, shall specify.

35 Bond or notes issued pursuant to this act may be secured in whole or in part by insurance
36 or by letters or lines of credit or other credit facilities upon approval of the chairman and with
37 approval of a majority of the members of the board. Any insurance, letter or line of credit or
38 credit facility may provide for reimbursement to be made over a period of time not to exceed 2
39 years beyond the maturity date of the bonds or notes so secured as the chairman, with the

40 approval of a majority of the members of the board, shall consider proper, including rates
41 variable from time to time as determined by an index, banker's loan rate or other method as may
42 be specified therein. To secure the bonds or notes, the Plymouth county contributory retirement
43 system, acting by the chairman with the approval of a majority of the members of the board, may
44 enter into a trust agreement between the retirement system and a corporate trustee, which shall be
45 a bank or trust company doing business in the commonwealth. Any trust agreement and any
46 remarketing or other agreements necessary or incidental to the issuance of the bonds or notes
47 shall be in a form as may be considered proper by the chairman, with the approval of a majority
48 of the members of the board, and shall be executed by the chairman. It shall be lawful for any
49 bank or trust company doing business in the commonwealth to act as a depository or trustee
50 under a trust agreement and to furnish indemnification and pledge securities as may be required
51 by the retirement system. Any trustee under a trust agreement established pursuant to this section
52 may bring suit upon the bonds or notes and may, either at law or equity by suit, action,
53 mandamus or other proceedings for legal or equitable relief, enforce all rights under the laws of
54 the commonwealth or granted under this act or the trust agreement and may enforce and compel
55 the performance of all duties required under the trust agreement to be performed by the
56 retirement system or by any unit of the retirement system. All expenses incurred in carrying out
57 this act may be treated by the retirement system as a cost of issuance.

58 SECTION 4. Proceeds of any bonds or notes issued pursuant to this act, other than
59 amounts to be applied for the issuance costs or other expenses to fund a reserve fund or to pay
60 interest on the bonds or notes, shall be paid to the Plymouth county contributory retirement
61 system and shall be allocated solely to reduce the unfunded pension liability to which the bonds
62 or notes relate. Proceeds of any bonds or notes pursuant to this act shall be invested in any

63 investments which are permitted pursuant to chapter 32 of the General Laws and shall otherwise
64 be held and expended by the retirement system in accordance with the law.

65 SECTION 5. Before the issue of any bonds or notes pursuant to this act, the chairman and
66 the executive director of the Plymouth county contributory retirement system shall submit to the
67 members of the board a plan showing: (i) the amount of the bonds and notes to be issued; (ii) the
68 amount of the unfunded pension liability to be funded with the proceeds of the bonds and notes;
69 (iii) the proposed maturity schedule of the bonds and notes; (iv) the proposed allocation of, if
70 any, and plan to finance the principal of and interest on the bonds and notes; (v) the present value
71 savings reasonably expected to be achieved as a result of the issue of the bonds or notes; and (vi)
72 any other information requested by the members of the board relating to the bonds and notes;
73 provided, however, that no bonds or notes shall be issued under this act until a majority of the
74 members of the board has approved the plan and specifically approved the maturity schedule of
75 the bonds or notes.

76 SECTION 6. Plymouth county and the other governmental units that are members of the
77 Plymouth county contributory retirement system shall annually dedicate revenue received by the
78 governmental units in the course of their respective operations to meet their allocable shares of
79 the debt obligations payable upon issuance of the bonds or notes as determined in accordance
80 with this section. Plymouth county and each governmental unit shall be responsible for the
81 proportion of the annual debt service expense payable by the retirement system for bonds or
82 notes issued under this act as shall be equal to the proportion of the total unfunded pension
83 liability to be funded with the proceeds of the bonds or notes that relate to Plymouth county or a
84 governmental unit. The retirement system may collect any amount so assessed to any
85 governmental unit. Notwithstanding any general or special law to the contrary, the public

86 employee retirement administration commission shall increase the annual amount to be certified
87 pursuant to section 22 of chapter 32 of the General Laws as the amount necessary to be paid by
88 each governmental unit's proportionate share of the annual debt service expense as determined in
89 this act.

90 SECTION 7. A governmental unit of the Plymouth county contributory retirement system
91 shall have 120 days from the effective date of this act to affirmatively opt out of the bond
92 issuance, but shall remain liable for any debts it owes to the retirement system. To affirmatively
93 opt out of this bond issuance, the authorized agent of the governmental unit shall confirm in
94 writing to the board that it shall not participate in the pension funding bond program and that it
95 acknowledges that it remains liable for any and all of the governmental unit's debts.

96 SECTION 8. Notwithstanding chapter 70 of the General Laws or any other general or
97 special law to the contrary, the portion of the annual debt service paid by the Plymouth county
98 contributory retirement system for bonds or notes issued pursuant to this act applicable to school
99 department personnel who are members of the retirement system shall be included in the
100 computation of net school spending for the purposes of said chapter 70 or any other law.

101 SECTION 9. Before the issue of any bonds or notes under this act, the Plymouth county
102 contributory retirement system shall submit to the executive office for administration and finance
103 a plan showing: (i) the amount of the bonds and notes to be issued; (ii) the amount of the
104 unfunded pension liability to be funded with the proceeds of the bonds and notes; (iii) the
105 proposed maturity schedule of the bonds and notes; (iv) the proposed allocation of and plan to
106 finance the principal of and interest on the bonds and notes; (v) the present value savings
107 reasonably expected to be achieved as a result of the issue of the bonds or notes; and (vi) any

108 other information requested by the secretary of administration and finance relating to the bonds
109 and notes; provided, however, that no bonds or notes shall be issued under this act until the
110 secretary has approved the plan and specifically approved the maturity schedule of the bonds or
111 notes, if required by section 3. In granting the approval, the secretary shall require the
112 establishment of a reserve, to be created from a portion not to exceed 60 per cent in any year, of
113 the amount of the annual savings used to calculate the present value savings. Subject to the
114 regulations established by the secretary, the reserve shall be held and controlled by the retirement
115 system and shall be separate from any other reserve or fund of the retirement system allowed or
116 required by statute. The secretary shall establish a method to calculate both the required amount
117 of annual contribution to the reserve and the minimum value to be maintained in the reserve and
118 shall prescribe conditions for expenditure from the reserve, including its use, if necessary, to
119 prevent or limit any future unfunded actuarial pension liability and the conditions under which
120 all or a portion of the funds in the reserve may be available for unrestricted purposes, in which
121 case the funds or portions of the funds shall be transferred to the treasury of the retirement
122 system. Any funds in the reserve shall be trust funds within the meaning of section 54 of chapter
123 44 of the General Laws and, except as otherwise provided in this act, shall be subject to said
124 section 54.

125 SECTION 10. This act shall take effect upon its passage.