

SENATE No. 1796

The Commonwealth of Massachusetts

PRESENTED BY:

Michael D. Brady

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to pensions and the best interest of beneficiaries.

PETITION OF:

NAME:

Michael D. Brady

DISTRICT/ADDRESS:

Second Plymouth and Norfolk

SENATE No. 1796

By Mr. Brady, a petition (accompanied by bill, Senate, No. 1796) of Michael D. Brady for legislation relative to pensions and the best interest of beneficiaries. Public Service.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-Fourth General Court
(2025-2026)**

An Act relative to pensions and the best interest of beneficiaries.

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. Chapter 32 of the General Laws, as appearing in the 2022 Official Edition,
2 is hereby amended by striking section 23 in its entirety and inserting the following new section:-

3 Section 23. (1)(a) The funds of the state employees' retirement system and the teachers'
4 retirement system and the assets of the Boston retirement system attributable to teachers who are
5 members of that system shall be held in the PRIT Fund. The board of each such system shall
6 annually, on or before December 31, file in the office of the commissioner, on a form prescribed
7 by the commissioner, a sworn statement of the financial condition of the system as of June 30 of
8 the prior fiscal year and of all the financial transactions of the system during the previous year.
9 The commissioner may, for cause shown, extend the time for filing any such statement.

10 (b) Notwithstanding any general or special law to the contrary, assets of the Boston
11 retirement system attributable to teachers who are members of the system shall be invested in the
12 PRIT Fund, and for purposes of those assets and the payment of benefits to those teachers and

13 their beneficiaries, the Boston retirement system shall be considered a participating system in the
14 PRIT Fund, but the system shall not receive a share of any appropriations made under section
15 22B or under paragraph (b) of subdivision (8) of section 22, and the board of the system shall not
16 be able to revoke this participation.

17 (2) Systems for Counties, Cities and Towns. — (a) The county, city or town treasurer, the
18 secretary-treasurer of the Massachusetts Department of Transportation, the treasurer of the
19 Massachusetts Bay Transportation Authority, the treasurer of the Massachusetts Housing
20 Finance Agency, the secretary-treasurer of the Massachusetts Port Authority, the treasurer of the
21 Blue Hills Regional Vocational School system, the treasurer of the Greater Lawrence Sanitary
22 District, and the treasurer of the Minuteman Regional Vocational Technical School District shall
23 be the treasurer-custodian of the system established under the provisions of sections one to
24 twenty-eight, inclusive, or under corresponding provisions of earlier laws, in any county, city or
25 town, the Massachusetts Department of Transportation, the Massachusetts Bay Transportation
26 Authority, the Massachusetts Housing Finance Agency, the Massachusetts Port Authority, the
27 Blue Hills Regional Vocational School system, the Greater Lawrence Sanitary District, or the
28 Minuteman Regional Vocational Technical School District, as the case may be, and shall have
29 the custody of the funds of any such system. Payments from such funds shall be made by them
30 only upon vouchers signed by two persons designated by the board of any such system by a vote
31 a duly attested copy of which, bearing upon its face specimen signatures of such persons, shall be
32 filed with the treasurer-custodian as their authority for making payments upon vouchers so
33 signed. No voucher shall be drawn unless it shall have been previously authorized by vote of the
34 board.

35 (b) The board of each system shall invest and reinvest the funds of the system in the
36 PRIT Fund under subdivision (8) of section 22, in the PRIT Fund by purchasing shares of the
37 fund, as provided for in the trust agreement adopted by the PRIM board under subdivision (2A),
38 or under the standards in subdivision (3), provided that: (i) no investment of funds shall be made
39 in stocks, securities or other obligations of a company which derives more than 15 per cent of its
40 revenues from the sale of tobacco products; (ii) in investing funds the board shall employ an
41 investment manager or investment managers who shall invest the funds of the system; and (iii)
42 no funds shall be invested directly in mortgages or collateral loans.

43 (c) No investment of funds shall take place until the board has received from the
44 commission an acknowledgement of receipt of the following: (i) certification that, in making the
45 selection, the board has complied with the process established in section 23B; (ii) a copy of the
46 vendor certification required under section 23B; (iii) copies of disclosure forms submitted by the
47 selected vendor; (iv) a certification that the investment is not a prohibited investment as set forth
48 in regulations of the commission; (v) if the board has retained a consultant, a copy of the
49 consultant reports pertaining to the investment and the selected vendor; and (F) a copy of the
50 board certification required under section 23B.

51 The commission may withhold the acknowledgement if it determines that it is in the best
52 interest of the retirement system; provided, however, that it must so notify the board within 10
53 days of receipt of completed documents as required by this section.

54 (d) Prior to the retention of an investment consultant the board shall have received from
55 the commission an acknowledgement of receipt of the following: (i) certification that, in making
56 the selection, the board has complied with the process established in section 23B; (ii) copy of the

57 vendor certification required under section 23B; (iii) copies of disclosure forms submitted by the
58 selected consultant; and (iv) copy of the board certification required under section 23B.

59 (e) The board of each such system shall designate one or more banks or trust companies,
60 organized under the laws of the commonwealth or of the United States, in which the treasurer-
61 custodian shall keep on deposit such sums as may be required for current disbursements;
62 provided, that any such sum on deposit in any one bank or trust company shall not exceed ten per
63 cent of the amount of the paid-up capital and surplus thereof. The board shall also designate one
64 or more such banks or trust companies in which the securities of the system shall be kept under
65 the name of the retirement system in one or more safe deposit boxes. The board, subject to rules
66 promulgated by the commission, may deposit such securities in a securities depository registered
67 with the Securities and Exchange Commission of the United States. Such securities may be kept
68 under the joint custody of the treasurer-custodian and a member of the board other than the
69 treasurer-custodian, who shall be designated by the board, or such securities may be kept by a
70 custodian who shall be designated by the board, which custodian shall be a bank or trust
71 company, organized under the laws of the commonwealth or of the United States. The board may
72 cause any stock, bond or other security, or cash, of any such system to be registered and held, or
73 deposited and held, in the name of one or more nominees appointed by him for the purpose of
74 facilitating security trading, money management and certificate delivery. The board shall
75 designate the members of any such nominee only from among the following individuals: the
76 assistant treasurers of the respective county, city, or town; any employee of a custodian that is
77 authorized pursuant to this paragraph to have custody of securities or cash of a system; and the
78 treasurer-custodian himself. Each individual so designated shall be covered with respect to their
79 service on behalf of any such nominee by a fidelity bond, in such form and amount as the public

80 employee retirement administration commission may determine, which coverage may be by
81 separate bond or by incorporation in a bond otherwise required by section three of chapter 35e,
82 section 35 of chapter 41, section 39 A of chapter 41 or other applicable law or practice. Such
83 custodian shall collect the interest and dividends on all securities deposited with it, shall collect
84 all called and matured securities deposited with it, and shall deposit the same in a bank or trust
85 company as directed by the board; shall advise the board of all such deposits, of all stock
86 dividends, rights, calls and maturities of all securities deposited with it; shall purchase, sell,
87 deliver, and receive securities on the order of the board; and shall prepare and deliver to the
88 board a list, at such time as the board may require, of all securities held by it with their current
89 market values. Such custodian may make a reasonable charge for such services.

90 (f) Any person who assists any board or member thereof in the purchase, sale, investment
91 or reinvestment of the funds of any such system, without the written consent of the public
92 employee retirement administration commission after notice in writing by him to such board or
93 member to desist therefrom as provided for in subdivision (4) shall be punished as provided for
94 in section 24.

95 (g) The board of each such system shall annually, on or before May first, file in the office
96 of the public employee retirement administration commission, on a form prescribed by him, a
97 sworn statement of the financial condition of such system as of December 31 of the previous
98 year and of all the financial transactions thereof during the previous year. The commission may
99 for cause shown extend the time for filing any such statement.

100 (h) The board may employ any qualified bank, trust company, corporation, firm, or
101 person to advise it on the investment of the fund and may pay for such advice.

102 (i) (i) Clauses (i) to (vii), inclusive, of paragraph (b) shall not apply to the board of any
103 local retirement system which upon application is determined by the commission to have a
104 record of investment management which merits broader investment powers, provided that:—no
105 funds are to be invested directly in mortgages or in collateral loans;

106 (ii) no new investment of funds shall be made in the stocks, securities or other obligations
107 of any company that:

108 (A) acts in a manner that diminishes the economic opportunities available to workers in
109 the commonwealth;

110 (B) refuses to uphold worker's rights including the recognition of representative unions
111 and their rights to bargain collectively, to strike, to picket peacefully, the establishment of a
112 policy that strike breakers will not be hired;(iii) subsequent to the date of such determination no
113 new investment of funds shall be made in stocks, securities or other obligations of any company
114 which derives more than 15 per cent of its revenues from the sale of tobacco products;

115 (j) Clauses (i), (ii), and (iii) of paragraph (i) shall apply to any retirement system named
116 in paragraph (a).

117 (2A) Pension Reserves Investment Management Board. — (a) There shall be an unpaid
118 pension reserves investment management board which shall have general supervision of the
119 investment and reinvestment of the PRIT Fund established under the provisions of subdivision
120 (8) of section 22.

121 Such board shall consist of nine members as follows: the governor, ex officio, or their
122 designee, the state treasurer, ex officio, or their designee, who shall serve as chair of the board, a

123 private citizen experienced in the field of investment or financial management appointed by the
124 state treasurer, an employee or retiree who is a member of the state teachers retirement system
125 who shall be elected by the members in or retired from such a system for a term of three years in
126 such a manner as the board shall determine, an employee or retiree who is a member of the state
127 employees' retirement system who shall be elected by the members in or retired from such
128 system for a term of three years in such a manner as the board shall determine, the elected
129 member of the state retirement board, one of the elected members of the teachers' retirement
130 board, who shall be chosen by the members of the teachers' retirement board, a person who is not
131 an employee or official of the commonwealth who shall be appointed by the governor, and a
132 representative of a public safety union who shall be appointed by the governor. The appointed
133 members shall serve for four years. Any vacancy among the appointed members that may occur
134 before the expiration of a term shall be filled by an appointment by the treasurer, or the governor,
135 whoever had the right of making the initial appointment. Any appointed member of the board,
136 including members appointed to fill a vacancy shall be eligible for reappointment. Any appointed
137 member may be removed from their appointment for cause by the treasurer or the governor,
138 whoever had the right of making the original appointment.

139 (b) Five members of the board shall constitute a quorum. The members of the board shall
140 not receive a salary but shall be reimbursed for actual and necessary expenses. The provisions of
141 chapter 268A shall apply to all members of the board; provided, however, that the board may
142 make investments in which a member has an interest or involvement if, however, such interest or
143 involvement is disclosed in advance to the other members of the board and contemporaneously
144 recorded in the minutes of the board; and provided, further, that no member having such an

145 interest or involvement may participate in any particular matter, as defined in section one of
146 chapter 268 A, relating to such investment.

147 (c) The PRIM board may commingle moneys on deposit in the PRIT Fund for purposes
148 of investment; provided, however, that the board shall maintain appropriate records to account
149 for amounts credited to particular accounts or funds. The PRIM board may offer to purchasing
150 systems, and may allocate to the state employees' and teachers' retirement systems, shares in the
151 PRIT Fund which represent undivided interests in specified portions of the assets of the fund
152 rather than undivided interests in the whole.

153 (d) The PRIM board shall annually on or before May first, file with the clerk of the house
154 of representatives and with the secretary of the retirement board of each system which is a
155 participant in said fund, on a form prescribed by the commission, a sworn statement of the
156 financial condition of said fund as of December 31 the previous year. The commission may for
157 cause shown extend the time for filing any such statement.

158 (e) The PRIM board shall:

159 (i) act as trustees for each participating retirement system for which it invests or manages
160 monies in accordance with the standard of care set forth in subdivision (3); provided, however,
161 that the duties and obligations of the PRIM board and of participating or purchasing systems
162 shall be set forth in a declaration of trust adopted by the PRIM board; and provided, further, that
163 any declaration of trust and any amendments thereto adopted by said board shall be subject to the
164 approval of the joint committee on public service; and provided, further, that if said committee
165 takes no final action relative thereto within 45 days of the date of the filing thereof with the clerk

166 of the house of representatives and the senate, such declarations of trust and such amendments
167 thereto shall be deemed to be approved;

168 (ii) employ an executive director as provided in paragraph (f);

169 (iii) employ investment advisors, legal counsel, and consultants as it deems necessary;

170 (iv) establish a formula to measure the value of the shares in said fund purchased by or
171 held by participating retirement systems and other purchasing retirement systems;

172 (v) determine and allocate annually to participating and other purchasing retirement
173 systems earnings on shares owned by said systems;

174 (vi) adopt an annual budget and supplemental budgets as deemed necessary by the board
175 subject to the approval of the house and senate committees on ways and means; provided,
176 however, that if the said committees has taken no final action to disapprove any such budget,
177 within 60 days of its being filed with said general court it shall be deemed to be approved; and
178 provided, further, that if the general court disapproves any such budget within such 60 days, said
179 board shall operate under the annualized budgetary level most recently approved pending the
180 filing and subsequent approval of any other such annual or supplemental request;

181 (vii) approve or ratify decisions of the executive director;

182 (viii) formulate policies and procedures deemed necessary and appropriate to carry out its
183 function;

184 (ix) maintain a record of its proceedings;

185 (x) undertake any other activities necessary to implement the duties and powers set forth
186 herein.

187 (xi) File quarterly, on or before March first, June first, September first, and December
188 first of each year, with the house and senate committee on ways and means and with the joint
189 committee on public service a report detailing brokerage transactions, fees paid to investment
190 consultants and managers, master trustee and custody fees, a detailed investment portfolio
191 analysis describing all holdings in the PRIT Fund, and a budget status report detailing expenses
192 by month; provided, however, that said analysis and said reports shall be made available on the
193 first day of each month upon the request of the chairman of any said committees.

194 (xii) Assess fees to participating and other purchasing retirement systems for the
195 reasonable and necessary expenses incurred by the board in managing the PRIT Fund, which
196 shall be paid by the board from earnings of the PRIT Fund without appropriation and in
197 conformance with the budgetary levels established pursuant to clause (vi).

198 (xiii) acts as treasurer-custodian of the PRIT Fund and shall have the custody of the funds
199 and securities of said fund.

200 (xiv) put a mechanism in place to monitor current market conditions to detect and
201 immediately notify the board of potential high-risk corporate investments, so that the board can
202 take action, when possible, to prevent investment losses.

203 (f) The PRIM board shall select an executive director who shall serve at the pleasure of
204 the board. The provisions of sections 9 A, 45, 46 and 46 C of chapter thirty, chapter 31, and
205 chapter 150 E shall not apply to the executive director or any other employees of the board.

206 (g) The executive director, shall with the approval of the board:

207 (i) plan, direct, coordinate and execute administrative and investment functions in
208 conformity with the policies and directives of the board;

209 (ii) employ professional and clerical staff as necessary.

210 (iii) report to the board on all operations under his control and supervision;

211 (iv) require state officials from any department or officials from any participating
212 retirement system to produce and provide access to any financial documents the board deems
213 necessary in the conduct of its investment activities;

214 (v) undertake any other activities necessary to implement the powers and duties set forth
215 herein.

216 (h) (i) Subject to the approval or ratification of the PRIM board, the executive director
217 shall invest and reinvest such funds held by such board to the extent not required for current
218 disbursements

219 (A). as much as reasonably possible to benefit and expand the economic climate within
220 the commonwealth;

221 (B). as much as reasonably possible to benefit the best interests of members and
222 beneficiaries and the financial and social welfare of workers within the commonwealth
223 including, but not limited to, consideration of potential long-term consequences of an investment
224 to members 'wages and job security.

225 (C). as much as reasonably possible ensure that funds are invested in banks or financial
226 institutions which directly or through any subsidiary may make loans to small businesses, as
227 defined in clause (a) of subdivision (7), and that when electing to make such investments the
228 board shall review the guidelines for investing in small businesses contained in said subdivision
229 (7) and monies shall be invested as much as reasonably possible in such banks, financial
230 institutions or companies which provide capital to small businesses under those guidelines so
231 long as such use is consistent with sound investment policy in accordance with the procedures
232 and processes employed to oversee the allocation of traditional investment of funds, and the
233 other requirements of this section.

234 (ii) (A) No public pension funds under this subdivision shall remain invested in the
235 stocks, securities, or other obligations of any company which derives more than 15 per cent of its
236 revenues from the sale of tobacco products; provided, however, that if sound investment policy
237 so requires, the PRIM board may vote to spread the sale of such stocks, securities or other
238 obligations of such company over no more than three years, so that no less than one-third the
239 value of said investment is sold in any one year.

240 (B) So long as any funds remain invested in any stocks, securities, or other obligations of
241 any such company, the PRIM board shall annually, on or before January 31, file with the clerk of
242 the senate and the clerk of the house of representatives a report listing all such related
243 investments held by the fund and their book value as of the preceding December first. The
244 investment and fund management policies adopted by the PRIM board shall not be subject to any
245 rules or regulations promulgated by the public employee retirement administration commission
246 governing the investment of funds by the retirement boards.

247 (i) at least two members of the PRIT board shall be minority people, as set forth in the
248 definition of "Minority" contained in section forty C of chapter seven of the General Laws, as
249 added by section seven of chapter five hundred and seventy-nine of the acts of nineteen hundred
250 and eighty.

251 (j) The PRIM board shall be subject to the provisions of sections 39A and sections 40(E)
252 to 40 (J), inclusive, of chapter seven.

253 (3) Fiduciary Standards. — A fiduciary as defined in section one shall:

254 (a) discharge their duties for the exclusive purpose of providing benefits to members and
255 their beneficiaries with the care, skill, prudence and diligence under the circumstances then
256 prevailing that a prudent person acting in a like capacity and familiar with such matters would
257 use in the conduct of an enterprise of a like character and with like aims and by diversifying the
258 investments of the system so as to minimize the risk of large losses unless under the
259 circumstances it is clearly prudent not to do so.

260 (b) Discharge their duties in the best interests of members and their beneficiaries by
261 equally considering investment returns, employer contributions to the fund, and employee
262 contributions to the fund.

263 Each member of a retirement board established under this chapter shall upon the
264 commencement of the member's term file with the commission a statement acknowledging the
265 member is aware of and will comply with the standards set forth in chapter 268A, this chapter
266 and rules and regulations promulgated under this chapter.

267 (4) Orders to protect the system. — If the commission determines after a hearing that the
268 investment or record keeping practices of any board are not being conducted with reasonable
269 care, skill, prudence or diligence, he may order such board to take or desist from any action that
270 in his judgment is necessary to preserve the integrity of the system. If the commission has reason
271 to believe that the investment and record keeping practices of any board are not being conducted
272 with reasonable care, skill, prudence or diligence, he may issue a temporary order which shall
273 remain in effect until an investigation, hearing and determination can be made. Violation of any
274 such order shall be punished as provided for in section 24.

275 (5) Confidentiality of certain records. Any documentary material or data made or
276 received by a member of the PRIM board which consists of trade secrets or commercial or
277 financial information that relates to the investment of public trust or retirement funds, shall not
278 be disclosed to the public if disclosure is likely to impair the government's ability to obtain such
279 information in the future or is likely to cause substantial harm to the competitive position of the
280 person or entity from whom the information was obtained. The provisions of the open meeting
281 law shall not apply to the PRIM board when it is discussing the information described in this
282 subdivision. This subdivision shall apply to any request for information covered by this
283 subdivision for which no disclosure has been made by the effective date of this subdivision.

284 (6) The guidelines for investing in small businesses with a principal place of business in
285 the commonwealth shall be:

286 (a) For the purposes of this section small business shall be a business entity, including its
287 affiliates, that: (i) is independently owned and operated; (ii) has a principal place of business in
288 the commonwealth; and (iii) would be defined as a "small business" under applicable federal law,

289 as established in the United States Code and promulgated from time to time by the United States
290 Small Business Administration.

291 (b) Investments shall be made by banks or financial institutions with demonstrated
292 experience making capital available to small businesses with good management, which are fast
293 growing and identify the potential to use increased capital to create jobs and which are
294 experiencing difficulty in accessing capital.

295 (c) Capital shall be provided to small businesses in a variety of financial instruments,
296 including but not limited to: working capital and expansion loans to businesses, both secured and
297 non-secured; provide lines of credit; capital expenditure loans; term loans; project finance loans;
298 grants; loan guarantees; and mezzanine and structured finance loans.

299 (d) Capital shall not be provided unless financial and managerial advisory services are
300 also provided to the business that is served.

301 (7)(a) It shall be the policy of the PRIM board to use minority investment managers to
302 manage PRIT Fund assets, encompassing all asset classes, and to increase the racial, ethnic, and
303 gender diversity of PRIT Fund investments to the greatest extent feasible, consistent with sound
304 investment policy. The PRIM board and the executive director shall take affirmative steps to
305 remove any barriers to the full participation of minority investment managers in investment
306 opportunities. Such affirmative steps shall include, but not be limited to, consideration of
307 whether current investment policy discourages the use of minority investment managers through
308 quantitative or qualitative restrictions, including, but not limited to, number of years track record
309 and minimum assets under management.

310 (b) It shall be the goal of the PRIM board that not less than 20 per cent of investment
311 managers be minorities, females and persons with disabilities. It shall further be the goal of the
312 PRIM board to utilize businesses owned by minorities, females and persons with disabilities for
313 not less than 20 per cent of total contracts awarded pursuant to section 23B.

314 (c) Annually, not later than January 15 of each year, the PRIM board shall file with the
315 house and senate committee on ways and means and with the joint committee on public service a
316 report detailing its progress toward implementing the policies and goals outlined above. Such
317 report shall include documentation related to all minority investment managers considered for
318 investment, including documentation, where applicable, of the reasons for declining any such
319 investment.