

SENATE, No. 2638

[October 21, 2010 - Text of the Senate amendment (Senator Tolman) to the House Bill relative to town of Belmont other post employment benefits trust fund, House, No. 4223.]

The Commonwealth of Massachusetts

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In the Year Two Thousand and Ten
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1 **SECTION 1.** Chapter 97 of the acts of 2007 is hereby amended by striking out sections
2 2 and 3, and inserting in place thereof the following 2 sections:

3 Section 2(a). There shall be, in the town of Belmont a special trust fund to be known as the
4 Belmont Other Post Employment Benefits Trust Fund. The Belmont treasurer
5 shall transfer funds to that trust fund as such funds are appropriated or those
6 received from other sources specifically dedicated to OPEB purposes become
7 available. The trust fund shall be irrevocable as required by GASB 43 and 45.
8 Notwithstanding any general or special law to the contrary, the town of Belmont
9 may appropriate funds in order to offset the anticipated cost of premium or
10 direct payments for OPEB to be made to retired employees of the town and to
11 any eligible surviving spouse or dependents of deceased employees of the town.

12 (b). Beginning in fiscal year 2008, the trust fund shall be credited with all amounts
13 appropriated or otherwise made available by the town to meet the current and
14 future OPEB costs payable by the town. Interest or other income earned by the
15 trust fund shall be added to and become part of the trust fund. Except as

16 otherwise expressly provided in this act, amounts expended from the trust fund
17 shall be expended only for the costs payable by the town for OPEB.

18 (c). The Belmont contributory retirement board shall be the custodian of the trust fund
19 and may employ an outside custodial service to hold the monies in the fund. The
20 retirement board and the custodian shall be bonded and the bonding costs shall be
21 paid for out of the trust fund. The Belmont contributory retirement board may
22 invest and re-invest the monies held in the trust fund not required for current
23 disbursement under the investment powers granted to retirement boards under
24 paragraph (g) of subdivision (2) of section 23 of chapter 32 of the General Laws,
25 under the regulations of the public employees retirement administration
26 commission and with any applicable general laws. Monies held in the trust fund
27 shall be segregated from other funds held by the Belmont retirement board and by
28 the town. Trust fund monies shall not be subject to the claims of the town's
29 general creditors. The trust fund shall be subject to the public employee
30 retirement commission's triennial audit and the town's contributory retirement
31 system annual audit.

32 (d) . The Belmont contributory retirement board may employ any qualified bank, trust
33 company, corporation, firm or person to provide advice on the investment of
34 amounts held in the trust fund and may pay for the advice or service from
35 amounts held in the fund. Procurement for these services shall be subject to the
36 procurement procedures and rules followed by the Belmont contributory
37 retirement board for services to the town's contributory retirement system.

38 (e). If a civil action is brought against a member of the retirement board, the defense
39 or settlement of which action is made by an attorney employed by the retirement
40 board, the member shall be indemnified for all expenses incurred in the defense of
41 the action and shall be indemnified for damages to the same extent as provided for
42 public employees in chapter 258 of the General Laws if the claim arose out of acts
43 performed by the member while acting within the scope of the member's official
44 duties; provided, however, that a member of a retirement board shall not be
45 indemnified for expenses incurred in the defense of an action, or damages
46 awarded in an action, in which there is shown to be a breach of fiduciary duty, an
47 act of willful dishonesty or an intentional violation of law by the member. Such
48 indemnification shall be paid from amounts held in the fund.

49 Section 3.(a). The town shall engage an actuary, who shall be a member of the American
50 Academy of Actuaries, to perform an actuarial valuation of the town's OPEB
51 liabilities and funding schedule, as of January 1, 2006, and no less frequently than
52 every second year thereafter. The determinations shall be made in accordance
53 with generally accepted actuarial standards and shall conform to the requirements
54 of GASB 43 and 45 and the actuary shall make a report of the determinations to
55 the town meeting and include it in the town report. The report shall, without
56 limitation, detail the demographic and economic actuarial assumptions used in
57 making the determinations and each report after the first report shall also include
58 an explanation of the changes, if any, in the demographic and economic actuarial
59 assumptions employed and the reasons for the changes. The cost of the bi-annual
60 actuarial evaluation shall be at the town's expense.

61 (b). Beginning in fiscal year 2008, payments for the purposes of meeting the town's
62 cost of OPEB under this act may be made from the trust fund.

63 **SECTION 2.** This act shall take effect upon its passage.