



Edward M. Augustus, Jr.  
City Manager

CITY OF WORCESTER

cm2017mar09122942

Attachment for Item #

8.36 B

March 14, 2017

TO THE WORCESTER CITY COUNCIL

COUNCILORS:

On November 21, 2006, the City of Worcester adopted its first long term financial plan, commonly referred to as the Five Point Plan. Creating and adhering to a long term financial plan allows the City to make strategic, forward-looking decisions come budget time. With strong principles to guide us, we are able to plan for the City's financial future with a degree of certainty we would not otherwise enjoy. For a decade, the Five Point Plan has helped the City navigate difficult budget decisions, and we have thrived because of it. Over the past 10 years, bond ratings agencies have upgraded the City **four** times and consistently praised our financial management. We have built up our reserves, giving us stability and flexibility for when times get tough, and put the City on strong fiscal footing.

But in the 10 years since the plan was adopted, it has remained unchanged, with the sole exception of an amendment to recognize Other Post Employment Benefit (OPEB) liabilities and to begin funding these liabilities through a portion of annual free cash. Although the Five Point Plan has served the City well, any financial strategy needs to be reviewed and updated to reflect changes to current situations, an ever changing financial climate, and the financial demands of the community. It is under this premise that I requested the Department of Administration and Finance to review all aspects of the existing Five Point Plan. From this review, I respectfully request the Council's consideration and adoption of the following updates to the City's long term financial integrity and school investment plan:

- 1) Create a new High School Construction Stabilization Fund for new South and Doherty high schools.



OFFICE OF THE CITY MANAGER, CITY HALL, WORCESTER, MA 01608  
TELEPHONE (508) 799-1175 | FAX (508) 799-1208  
EMAIL: [citymanager@worcesterna.gov](mailto:citymanager@worcesterna.gov)



- 2) Base City's borrowing amount on its ability to pay.
- 3) Increase reserve level targets to 10 percent of budget.
- 4) Create an irrevocable OPEB trust and a new city commission to manage it.  
Require annual report on the city's liability.
- 5) Memorialize fixed cost budgetary assumptions based on historic trends.
- 6) Apply excess New Growth to create tax relief.
- 7) Enhance financial reporting and transparency.

**1) Create a new High School Construction Stabilization Fund for new South and Doherty high schools.**

The City is currently embarking upon what could be the biggest transformation of its high school facilities with South High School and Doherty High School being invited into the Massachusetts School Buildings Authority (MSBA) program. This MSBA program is a partnership with the Commonwealth whereby construction costs are shared between the City and the Authority. Although the Authority generally assumes the larger share of the construction costs, due to the size and costs of these two projects, the future debt service requirements of the City's proportional share of costs could be substantial. To mitigate the anticipated debt service costs on the future operating budgets, I respectfully recommend the creation of a new stabilization fund dedicated for new High School construction debt service and further recommend that a minimum of \$2.75M in annual funding be appropriated to said fund commencing with the formulation of the FY18 annual operating budget, increasing in the subsequent fiscal years, initially at 10 percent. For illustrative purposes, the chart below shows an estimated debt and funding schedule assuming a 10 percent budgetary increase in the first three fiscal years (FY19-FY21) and a 25 percent budgetary increase in each of the following four fiscal years (FY22-FY25). When the final costs, building schedules, and reimbursement rates for these two schools are determined, we will adjust these assumptions and annual appropriations as necessary.

New High School Construction Stabilization Fund  
Funding Illustration

Fiscal Year	<u>18</u>	<u>19</u>	<u>20</u>	<u>21</u>	<u>22</u>	<u>23</u>	<u>24</u>	<u>25</u>
Budgetary Increase		10%	10%	10%	25%	25%	25%	25%
Beg. Balance	-	2,750,000	5,775,000	7,477,500	7,887,750	5,963,063	3,557,203	956,129
<b>Budget Contribution</b> <sup>(1)</sup>	<b>2,750,000</b>	<b>3,025,000</b>	<b>3,327,500</b>	<b>3,660,250</b>	<b>4,575,313</b>	<b>5,719,141</b>	<b>7,148,926</b>	<b>8,936,157</b>
Debt Service			(1,625,000)	(3,250,000)	(6,500,000)	(8,125,000)	(9,750,000)	(9,750,000)
Ending Balance	2,750,000	5,775,000	7,477,500	7,887,750	5,963,063	3,557,203	956,129	142,286
<b>Debt Service</b>								
South High <sup>(2)</sup>								
\$25M			1,625,000	1,625,000	1,625,000	1,625,000	1,625,000	1,625,000
\$25M				1,625,000	1,625,000	1,625,000	1,625,000	1,625,000
\$25M					1,625,000	1,625,000	1,625,000	1,625,000
South High Total			1,625,000	3,250,000	4,875,000	4,875,000	4,875,000	4,875,000
Doherty High <sup>(2)</sup>								
\$25M					1,625,000	1,625,000	1,625,000	1,625,000
\$25M						1,625,000	1,625,000	1,625,000
\$25M							1,625,000	1,625,000
Doherty High Total			0	0	1,625,000	3,250,000	4,875,000	4,875,000
<b>Total Annual Debt Service</b>			1,625,000	3,250,000	6,500,000	8,125,000	9,750,000	9,750,000

(1) Budget contribution to Stabilization Fund in the amount of \$2,750,000 commencing in FY18 increasing 10% FY19-21 then 25% FY22-25  
(2) Conservative debt service estimates, to be updated to reflect true costs when determined.

**2) Increase reserve level targets to 10 percent of budget.**

When the Five Point Plan was originally adopted, prior to the 2007/08 financial downturn we have come to know as the “Great Recession”, a reserve level of 5 percent of general fund revenues (or expenditures) was commonly accepted as the base line level of reserves. Because of the length and severity of the recession, this 5 percent threshold proved to be insufficient to provide many municipalities the ability to weather the financial storm for which they were attempting to navigate and many communities exhausted their reserves. This eventually led the rating agencies to rethink their financial matrixes as it relates to reserve levels to a point where 10 percent reserve levels are what is considered the new normal. My administration proposes that the existing reserve level target of the Bond Rating Stabilization Fund to reach a level of 5 percent of general fund revenues be amended to a combined Bond Rating Stabilization Fund and General Fund Undesignated Fund Balance level of 10 percent of General Fund Revenues. As has been the City’s practice, my administration recommends the continuation of funding this goal through the appropriation of 50 percent of available free cash.

**3) Base City’s borrowing amount on its ability to pay.**

The original Five Point Plan contained a provision which limited the City’s annual debt issuance to a fixed amount of principal tied to inflation. The policy was established during a period in which the City’s debt costs were larger due to higher interest rates

associated with the bond market and the City's previously lower bond rating. The methodology did not take into consideration market fluctuations, interest rates, bond ratings, or the City ability to repay the debt. At the urging of City Council, we have reviewed this policy to determine our borrowing capacity.

Based on that review, I recommend that the City's annual borrowing cap be indexed directly to the City's ability to repay the required debt service associated with the bonds issued as projected in the annual Five Point Plan update transmitted to City Council. Annually with the submission of the City's five year Capital Improvement Program (CIP), the Administration shall provide an analysis depicting the current general fund supported debt service requirements for the next five fiscal years as well as the projected new debt service requirements estimated for the general fund supported debt proposed with the CIP. Initial estimates have indexed the level of debt annually to produce debt service requirements of no more than 8-10% of the annual operating budget.

A portion of the increase in debt issuance that may result based on this methodology would be shared with the WPS to address deferred capital needs in multiple schools in areas such as technology, safety, and building maintenance. For over 5 years, the vast majority of the annual allotment of capital funding to the WPS has been used for boilers and window replacement. This has created a backlog of other needs in technology and general upkeep/maintenance of our schools. The WPS annual technology budget has remained unchanged (\$500,000) since its inception 30 years ago. Within the new bonding cap, we believe we can address some of these important WPS capital needs as well as other City priority areas.

**4) Create irrevocable OPEB trust, and a new city commission to manage it.**  
**Require annual report on the city's liability.**

A few years ago, the Government Accounting Standards Board (GASB) required municipalities to measure and report the liabilities associated with Other Post-Employment Benefits, primarily health insurance coverage offered to our retirees. As recently reported to Council, this liability is currently estimated to be in the amount of \$860,873,100 as of July 1, 2015, including both the City (40% including enterprise funds) and the WPS (60%) portions.

The City has made great strides over the last ten years to implement many cost control measures to minimize the cost of health insurance such as self-funding the city's plans, the adoption of Section 18 to shift costs to the Federal Medicare program, carving out prescription drugs and use of a Pharmacy Benefit Management program, adopting GIC-like tiered health plans designed to drive members to lower costs local providers, creating Medical Management programs and introducing Wellness Plans designed to lower claim costs. These reforms have cumulatively saved over \$150,000,000 in premium costs, allowing us to redirect these dollars to critical city services and lower the City's OPEB liability. However, these changes alone are not enough to address this long-term liability.

To begin to meet this obligation, the City adopted M.G.L. Chapter 32B Section 20 and established an "OPEB Trust" in 2012. Unfortunately, this action did not meet the requirements of GASB at the time to provide for an irrevocable trust. This deficiency was recognized and corrected in the recent Municipal Modernization Act, which amended M.G.L. Chapter 32B Section 20 (attached). In accepting this section and establishing the Other Post Employment Liability Trust Fund, I also recommend that the trust fund be managed by a board of trustees to be the investing authority, with the City Treasurer as custodian, in accordance with M.G.L. Chapter 32B, s20(d)(iii). I am submitting a reorganization plan for your adoption to accomplish this goal. This organizational ordinance is a "reorg" under the city charter, which requires that it be referred by the city council to a committee for a public hearing. Such a proposed ordinance is not subject to amendment, but must either be approved or rejected as submitted and is deemed approved if no action is taken within 90 days of transmittal to the city council. Consistent with state statute, the board would include individuals with investment experience, an employee and retiree of the City, and administrative officers of the City, such as the Chief Financial Officers of the City and the WPS, the Human Resources Director who administers the group health insurance programs for the employees and retirees of the City and the WPS, as well as the City Auditor. This representative group of trustees will manage and invest funds, make recommendations, and report annually to create a better awareness with stakeholder groups and the community at large regarding the difficult choices that we need to make in order to meet this large obligation.

In addition to establishing a revised OPEB Trust, the funding of the Trust is imperative to the City's ability to meet these obligations. The current Five Point Plan calls for the OPEB Trust to be funded exclusively through the appropriation of 30 percent of available free cash. However, funding the OPEB Trust solely with potential Free Cash does not provide the consistent and sufficient inflow of assets required to begin to address this ever growing liability. Beginning in fiscal year 2017, I recommended and City Council approved an annual general fund appropriation towards the OPEB liability of \$500,000. I respectfully recommend that the City's long term financial plan be officially amended to include this general fund budgetary appropriation, increasing by 10 percent annually to provided adequate funding of the City's OPEB Trust, which will be in addition to an appropriation of 30 percent of available free cash. In FY18, the general fund budgetary amount will be \$550,000.

5) **Memorialize fixed cost budgetary assumptions based upon historic trends.**

The City's budgetary financial procedures have consistently recognized anticipated fixed costs based upon historic trends or actuarial financial projections. The following is the methodology in which fixed costs shall be formulated for budget development:

- Snow Removal: budget the greater of the five year average (net of federal and/or state reimbursements) or \$5M, which will be the FY18 budgeted minimum based on changes to the snow removal program which lowered the threshold to trigger plowing and incorporated additional ice and snow pretreatment methods. This minimum can be adjusted in future years as more data on the new program become available.
- Retirement: this budgeted amount will be based on the Worcester Retirement System actuarial valuation reports, the City will make the annual required contribution, prorated by department.
- Injured on Duty and Workers Compensation: the annual budgeted amount will be determined using the five year average, factored for medical inflation.
- Pension Obligation Bonds: the City will budget the required annual debt service as laid out in the original debt schedule in December 1998, prorated by department.

6) **Apply excess New Growth to create tax relief.**

Spurred by the Mayor's recommendation and as implemented during the FY17 recap process, I recommend that we adopt a long-term policy to apply New Growth in excess

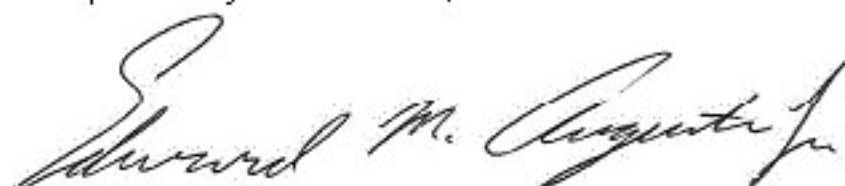
of budgeted amounts to reduce the overall tax rate. With this policy, any New Growth amounts realized above the estimate used in the fiscal year budget process will be used to lower the statutory 2.5 percent allowable tax levy increase, creating tax relief and preserving the unused levy capacity.

**7) Enhance financial reporting and transparency.**

The current practices of the Department of Administration & Finance require quarterly financial updates be provided to City Council. To increase transparency and disclosure of the City's financial position, my administration recommends not only more frequent reporting to occur, but has recommended a change to the format and content of the monthly report. The current reporting is in a format that is inconsistent with the City's comprehensive annual financial report (C.A.F.R.). The proposed new format shall be in the exact same format as what will be presented in the City's CAFR which should provide clarity to the City's financial position at any point in time. Additionally, the monthly reporting shall detail general fund investments in a fashion consistent with the City's investment policy. During the budget process, we will clearly communicate the calculations and assumptions used to estimate revenues, and provide updates throughout the fiscal year.

Our financial goals remain the same as ever – to provide the best possible services to our constituents while maintaining a strong long-term financial position that provides stability and flexibility, as well as an opportunity to realize the necessary capital reinvestments in the Worcester Public Schools. The best way to achieve those goals is to stay on course, but make small adjustments that take into account our current situation and the overall financial climate of the day. The changes being recommended to you in this financial integrity and school investment plan are a necessary refinement of our long term plan, and I believe they will put us in a strong position to continue our path to financial success.

Respectfully submitted,



Edward M. Augustus, Jr.  
City Manager

## CITY OF WORCESTER

**Whereas**, the City Manager presented to the City Council the Worcester Financial Integrity and School Investment Plan, a successor to the Five-Point Plan adopted by City Council on November 21, 2006 as a means to improve the City's financial foundation and long-term fiscal health, thereby our bond rating; and,

**Whereas**, the City Council believes that this plan is an essential component to the continued enhancement of our finances and future, our strategic economic development, the improvement of the City of Worcester's reserve levels, and by doing so creates financial stability and flexibility, and affords the City an opportunity to realize the necessary capital reinvestments in the Worcester Public Schools;

**Now, Therefore, Be It Ordered** that, the City of Worcester, by vote of its City Council hereby endorses the Worcester Financial Integrity and School Investment Plan as presented by the City Manager and authorizes him to create a new High School Construction Stabilization Fund for South High School and Doherty High School and an OPEB Trust Fund; and,

**Be it Further Ordered** that the City Council agrees the General Obligation Bond Authorization cap to be indexed to the City 's ability to repay the required debt service as submitted annually in the City's five year Capital Improvement Plan; provided however, that those loan orders accompanied by a dedicated revenue source demonstrated to be sufficient or to exceed the debt service costs of any borrowing beyond this bonding cap in the current and subsequent fiscal years will be exempt from this General Obligation Bond Cap; and,

**Be It Further Ordered** that the City Council agrees that any New Growth amount in excess the budget amounts may be used to lower the statutory 2.5 percent allowable tax levy increase; and,

**Be It Further Ordered** that the City Council endorses the process to budget fixed costs based on historic trends or actuarial financial projections as necessary, as well as to enhance the frequency and transparency of the City's financial reporting throughout the fiscal year; and,

**Be It Further Ordered** that the City Council reaffirms its Reserve Policy by which any amount of "Net" free cash shall be allocated annually as follows: 20% for use in the Operating Budget; 30% to fund the Other Post Employment Benefit Liability Trust Fund; and 50% to fund the Bond Rating Stabilization Account; and,

**Be It Further Ordered** that the City Council hereby directs the City Auditor to isolate in his calculations and his reporting of the City's Free Cash annually the amount



generated from most recently completed year's operations and the amount that has accumulated from prior years; and,

**Be It Further Ordered** that this policy limiting 50% of any prior-year free cash to remain as Bond Rate Stabilization Fund until such time as this account grows to 10% of the City's total revenues at which time this policy of limiting free cash will be further evaluated.

**AN ORDINANCE ESTABLISHING THE  
OTHER POST-EMPLOYMENT BENEFITS LIABILITY TRUST FUND  
OF THE CITY OF WORCESTER**

Whereas, in 2008, the City Council, acting pursuant to the recommendation of the City Manager made under Article VI of the Home Rule Charter, adopted a Comprehensive Reorganization Plan containing a new Revised Ordinances of 2008, Part Two, Organization of City Agencies; and,

Whereas, pursuant to amendments made to section 20 of chapter 32B of the General Laws by the Municipal Modernization Act, St. 2016 c. 218, the city has legal authority to create an Other Post-Employment Benefits Liability Trust Fund (hereinafter “OPEB Fund”); and,

Whereas, the city council and city manager wish to take full advantage of the benefits, duties and obligations of said section 20 by creating an OPEB fund and establishing a board of trustees who shall be responsible for the management, investment and reinvestment of the OPEB Fund.

Now, Therefore, Be it Ordained by the City Council of the city of Worcester, as follows:

§ 1. The Revised Ordinances of 2008, Part Two, Organization of City Agencies, are hereby amended by inserting at the conclusion of Article IV thereof a new section 14 as follows:

**§ 14. Other Post-Employment Benefits Liability Trust Fund Board of Trustees**

(a) *Acceptance & Establishment of the Other Post-Employment Benefits Liability Fund.* By virtue of adoption of this ordinance, the city of Worcester hereby accepts section 20 of chapter 32B of the General Laws, as amended by section 15 of the Municipal Modernization Act, St. 2016 c. 218, and does further establish on the books of the city a trust fund known as the “Other Post-Employment Benefits Liability Trust Fund” or “OPEB Fund” as an expendable trust fund subject to appropriation for the deposit of gifts, grants, appropriations and other funds for the: (1) benefit of retired employees and their dependents; (2) payment of required contributions by the city to the group health insurance benefits provided to employees and their dependents after retirement; and, (3) reduction and elimination of the unfunded liability of the city for such benefits.

(b) *Establishment of the Board of Trustees.* Under authority of section 20 of chapter 32B of the General Laws, as amended by section 15 of the Municipal Modernization Act, St. 2016 c. 218, there is hereby established under the jurisdiction of the city manager an executive board of the city to be known as the “Other Post-Employment Benefits Liability Trust Fund Board of Trustees” (“OPEB Board” or “Board”).

(c) *Membership.* The OPEB Board shall consist of nine trustees who shall be appointed under the provisions of subsection (e) of section 20 of chapter 32B of the General Laws as follows:

- One trustee shall be a retiree of the city selected by the current retirees of the city by ballot.
- One trustee shall be a city employee selected by the current employees of the city by ballot.
- Three trustees shall be appointed by the city manager.
- The chief financial officer of the city of Worcester, *ex officio*.
- The human resources director of the city of Worcester, *ex officio*.
- The chief financial officer of the Worcester Public Schools, *ex officio*.
- The city auditor of the city of Worcester *ex officio*.

(The chief financial officer of the city shall qualify as the “officer of the city” as specified in said subsection (e)).

(d) *Term – Initial Appointments.* The initial appointments of the trustees shall be staggered such that the first city manager appointee shall serve a term of one year; the second city manager appointee shall serve a term of two years; the third city manager appointee shall serve a term of three years; the city employee appointee shall serve for four years and the retiree appointee shall serve for five years. Thereafter, the terms of all trustees shall be five years commencing on October first in any calendar year. Every trustee shall serve as a member of the Board until the appointment and confirmation of their successor who shall serve for the balance of the term into which they were appointed. All trustees may be reappointed in accordance with the provisions and limitations of the city charter. All trustees shall serve at the pleasure of the city manager except that no trustee shall be removed from office solely on account of any vote or position taken on any matter pending before or decided by the Board. The chair of the Board shall be designated by the city manager.

(e) *Duties & Responsibilities.* The OPEB Board of Trustees shall:

- (1) Perform and exercise the powers, duties and obligations as specified in section 20 of chapter 32B of the General Laws;
- (2) Have general supervision of the management, investment and reinvestment of the OPEB Fund;
- (3) Adopt and from time to time amend a declaration of trust describing in detail its duties, obligations and operations;
- (4) Make a report to the city council, school committee, city manager and superintendent of schools at the earliest possible opportunity in the annual budget cycle as to the balances and investment transactions of the OPEB Fund over the past year and containing its certification of the amount available in the Fund for the cost of the city’s share of health insurance benefits for city retirees and their dependents; such report shall also include the Board’s

- projection as to the city's future unfunded OPEB liability, including an actuarial valuation of the city's liabilities and a funding schedule that conforms to GASB requirements;
- (5) Employ reputable and knowledgeable investment consultants and to pay for those services from the assets of the OPEB Fund, but shall to the extent practicable utilize the resources of the city in the conduct of its affairs.
  - (6) Adopt rules and regulations in accordance with law for the conduct of its affairs; and,
  - (7) Perform such other duties as may be prescribed by law.

(f) *OPEB Trust Fund Custodian – Prudent Investor Rule.* The city treasurer shall be the custodian of the OPEB Trust Fund and shall invest and reinvest the assets of the Fund as directed by the OPEB Trustees. In giving any such direction and making investment and reinvestment decisions the OPEB Trustees are hereby authorized to act under the Prudent Investor Rule established in chapter 203C of the General Laws. The city treasurer shall also be the keeper of the official records of the Board and otherwise administer the affairs of the Board.

#### **Effective Date**

§ 2. In accordance with Article Six of the city charter, this ordinance shall take effect on the earlier of the date of the first administration of the oath of office to the members of the newly established OPEB Board or, in the absence of a vote of approval by the city council, on the ninety-first day after the date the city manager first transmitted this ordinance to the city council.

**Part I** ADMINISTRATION OF THE GOVERNMENT

**Title IV** CIVIL SERVICE, RETIREMENTS AND PENSIONS

**Chapter** CONTRIBUTORY GROUP GENERAL OR BLANKET  
**32B** INSURANCE FOR PERSONS IN THE SERVICE OF  
COUNTIES, CITIES, TOWNS AND DISTRICTS, AND THEIR  
DEPENDENTS

**Section 20** OTHER POST-EMPLOYMENT BENEFITS LIABILITY  
TRUST FUND

---

*[ Text of section effective until November 7, 2016. For text effective November 7, 2016, see below.]*

Section 20. (a) A city, town, district, county or municipal lighting plant that accepts this section may establish an Other Post-Employment Benefits Liability Trust Fund, and may appropriate amounts to be credited to the fund. Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a governmental unit receives as a sponsor of a qualified retiree prescription drug plan under 42 U.S.C. section 1395w-132 may be added to and become part of the fund. All monies held in the fund shall be segregated from

other funds and shall not be subject to the claims of any general creditor of the city, town, district, county or municipal lighting plant.

(b) The custodian of the fund shall be (i) a designee appointed by the board of a municipal lighting plant; (ii) the treasurer of any other governmental unit; or (iii) if designated by the city, town, district, county or municipal lighting plant in the same manner as acceptance prescribed in this section, the State Retiree Benefits Trust Fund board of trustees established in section 24A of chapter 32A, provided that the board of trustees accepts the designation. The custodian may employ an outside custodial service to hold the monies in the fund. Monies in the fund shall be invested and reinvested by the custodian consistent with the prudent investor rule established in chapter 203C and may, with the approval of the State Retiree Benefits Trust Fund board of trustees, be invested in the State Retiree Benefits Trust Fund established in section 24 of chapter 32A.

(c) This section may be accepted in a city having a Plan D or Plan E charter, by vote of the city council; in any other city, by vote of the city council and approval of the mayor; in a town, by vote of the town at a town meeting; in a district, by vote of the governing board; in a municipal lighting plant, by vote of the board; and in a county, by vote of the county commissioners.

(d) Every city, town, district, county and municipal lighting plant shall annually submit to the public employee retirement administration commission, on or before December 31, a summary of its other post-employment benefits cost and obligations and all related information required under Government Accounting Standards Board standard 45, in this subsection called "GASB 45", covering the last fiscal or calendar year for which this information is available. On or before June 30 of the following year, the public employee retirement administration commission shall notify any entity submitting this summary of any concerns that the commission may have or any areas in which the summary does not conform to the requirements of GASB 45 or other standards that the commission may establish. The public employee retirement administration commission shall file a summary report of the information received under this subsection with the chairs of the house and senate committees on ways and means, the secretary of administration and finance and the board of trustees of the State Retiree Benefits Trust Fund.

**Chapter 32B: Section 20. Other Post-Employment Benefits Liability Trust Fund; sources of funding; custodian; trustees; separate OPEB Fund board of trustees as investing authority; expenditures and investments**

*[ Text of section as amended by 2016, 218, Sec. 15 effective November 7, 2016. For text effective until November 7, 2016, see above.]*

Section 20. (a) As used in this section, and section 20A, the following words shall have the following meanings unless the context clearly requires otherwise:

"Chief executive officer", the mayor in a city or the board of selectmen in a town, unless some other municipal office is designated to be the chief executive officer pursuant to a local charter, the county commissioners in a county and the governing board, commission or committee in a district or other governmental unit.

"Commission" or "PERAC", the public employee retirement administration commission established pursuant to section 49 of chapter 7.

"GASB", the Governmental Accounting Standards Board.

"Governing body", the legislative body in a city or town, the county commissioners in a county, the regional district school committee in a regional school district, or the district meeting or other appropriating body in any other governmental unit.

"Governmental unit" or "unit", any political subdivision of the commonwealth, including a municipal lighting plant, local housing or redevelopment authority, regional council of government established pursuant to section 20 of chapter 34B and educational collaborative, as defined in section 4E of chapter 40.

"State Retiree Benefits Trust Fund board of trustees", the board of trustees established by section 24A of chapter 32A.



"Other Post-Employment Benefits Liability Trust Fund" or "OPEB Fund"; a trust fund established by a governmental unit pursuant to this section for the deposit of gifts, grants, appropriations and other funds for the: (1) benefit of retired employees and their dependents, (2) payment of required contributions by the unit to the group health insurance benefits provided to employees and their dependents after retirement and (3) reduction and elimination of the unfunded liability of the unit for such benefits.

"OPEB Fund board of trustees"; an independent board of trustees selected by the governmental unit with investing authority for the OPEB Fund.

"OPEB investing authority" or "investing authority"; the trustee or board of trustees designated by the governmental unit to invest and reinvest the OPEB Fund using the investment standard or investment vehicle established pursuant to this section.

(b) A governmental unit that accepts this section shall establish on its books and accounts the Other Post-Employment Benefits Liability Trust Fund, the assets of which shall be held solely to meet the current and future liabilities of the governmental unit for group health insurance benefits for retirees and their dependents. The governmental unit may appropriate amounts to be credited to the fund and the treasurer of the governmental unit may accept gifts, grants and other contributions to the fund. The fund shall be an expendable trust subject to appropriation and shall be managed

by a trustee or a board of trustees as provided in subsection (d). Any interest or other income generated by the fund shall be added to and become part of the fund. Amounts that a governmental unit receives as a sponsor of a qualified retiree prescription drug plan pursuant to 42 U.S.C. section 1395w-132 may be dedicated to and become part of the fund by vote of the governing body of the governmental unit. All monies held in the fund shall be accounted for separately from other funds of the governmental unit and shall not be subject to the claims of any general creditor of the governmental unit.

(c) The treasurer of the governmental unit shall be the custodian of the OPEB Fund and shall be bonded in any additional amounts necessary to protect fund assets.

(d) The governing body of the governmental unit shall designate a trustee or board of trustees, which shall have general supervision of the management, investment and reinvestment of the OPEB Fund. The governing body may designate as the trustee or board of trustees: (i) the custodian; (ii) the governmental unit's retirement board as the board of trustees; or (iii) an OPEB Fund board of trustees established by the governmental unit pursuant to subsection (e). If no designation is made, the custodian of the fund shall be the trustee and shall manage and invest the fund. The duties and obligations of the trustee or board of trustees with respect to the fund shall be set forth in a declaration of trust to be adopted by the trustee or board, but shall not be inconsistent with this section. The declaration of trust and any amendments thereto

shall be filed with the chief executive officer and the clerk of the governing body of the governmental unit and take effect 90 days after the date filed, unless the governing body votes to disapprove the declaration or amendment within that period. The trustee or board of trustees may employ reputable and knowledgeable investment consultants to assist in determining appropriate investments and pay for those services from the fund, if authorized by the governing body of the governmental unit. The trustee or board of trustees may, with the approval of the State Retiree Benefits Trust Fund board of trustees, invest the OPEB Fund in the State Retiree Benefits Trust Fund established in section 24 of chapter 32A.

(e) The governing body of the governmental unit may vote to establish a separate OPEB Fund board of trustees to be the investing authority. The board of trustees shall consist of 5 to 13 individuals, including a person or persons with the investment experience desired by the governmental unit, a citizen or citizens of the governmental unit, an employee of the governmental unit, a retiree or retirees of the governmental unit, and a governmental unit officer or officers. The governmental unit employee trustee shall be selected by current employees of the unit by ballot, and the retiree trustee or trustees shall be selected by current retirees of the unit by ballot. The remainder of the trustees shall be appointed by the chief executive officer of the governmental unit. The trustees will serve for terms of 3 or 5 years, as determined by the governing body of the governmental unit, and if a vacancy occurs,

a trustee may be elected or selected in the same manner to serve for the remainder of the term. Trustees shall be eligible for reappointment.

(f) The trustee or board of trustees shall: (i) act in a fiduciary capacity, (ii) discharge its duties for the primary purpose of enhancing the value of the OPEB Fund, (iii) act with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise with like character and with like aims and (iv) diversify the investments in the fund to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

In any civil action brought against a trustee, the board of trustees, acting within the scope of official duties, the defense or settlement of which is made by legal counsel for the governmental unit, the trustee or employee shall be indemnified from the OPEB Fund for all expenses incurred in the defense thereof and for damages to the same extent as provided for public employees in chapter 258. No trustee or employee shall be indemnified for expenses in an action or damages awarded in such action in which there is: (i) a breach of fiduciary duty, (ii) an act of willful dishonesty or (iii) an intentional violation of law by the trustee or employee.

(g) Monies in the OPEB Fund not required for expenditures or anticipated expenditures within the investment period, shall be invested and reinvested by the custodian as directed by the

investing authority from time to time; provided such investment or reinvestment is made in accordance with: (i) section 54 of chapter 44, if the treasurer or OPEB Fund board of trustees is the investing authority, unless the governing body of the governmental unit authorizes investment under the prudent investor rule established in chapter 203C; (ii) section 23 of chapter 32, if the retirement board is the investing authority; or (iii) sections 24 and 24A of chapter 32A, if the OPEB Fund is invested in the State Retiree Benefits Trust Fund.

(h) Amounts in the OPEB Fund may be appropriated by a two-thirds vote of the governing body of the governmental unit to pay the unit's share of health insurance benefits for retirees and their dependents upon certification by the trustee or board of trustees that such amounts are available in the fund. The treasurer of the governmental unit after consulting with the chief executive officer of the unit shall determine the amount to be appropriated from the fund to the annual budget for retiree health insurance and notify the trustee or board of trustees of that amount at the earliest possible opportunity in the annual budget cycle. Upon notification, the trustee or board of trustees shall take diligent steps to certify those funds as available for appropriation by the governmental unit, or will be available by the time the appropriation would become effective or provide an explanation why the funds are or will not be available or should not be made available.

(i) In a regional school district, appropriations of amounts to the OPEB Fund may be made only in the annual budget submitted to the member cities and towns for approval. The annual report submitted to the member cities and towns pursuant to clause (k) of section 16 of chapter 71 shall include a statement of the balance in the fund and all additions to and appropriations from the fund during the period covered by such report.

(j) A municipal lighting plant that establishes an OPEB fund shall pay the premiums and assume the liability for the municipal share of retiree healthcare benefits attributable to lighting plant employees and their dependents.

(k) A governmental unit that accepts this section may participate in the OPEB Fund established by another governmental unit pursuant to this section upon authorization of the governing boards of both units and in accordance with the procedures and criteria established by the trustee or board of trustees of the fund. Each governmental unit shall remain responsible for all costs attributable for the health care and other post-employment obligations for its retired employees and their dependents and for completing an actuarial valuation of its liabilities and funding schedule that conforms to GASB requirements.

The participating governmental unit may appropriate or otherwise contribute amounts to the OPEB Fund as provided in subsection (b). Amounts from the fund may be appropriated by the participating unit for its retiree health insurance expenses in the

manner authorized in subsection (h) upon a determination by the treasurer of the unit, after consulting with the chief executive officer of the unit, of the necessary amount and notification of the treasurer of the governmental unit maintaining the fund and the trustee or board of trustees of that amount. The trustee or board of trustees shall certify those funds available for appropriation, as provided in subsection (h), and the treasurer of the governmental unit maintaining the fund shall transfer the amounts certified to the participating governmental unit.

The participating governmental unit shall be separately credited for any contributions made to and appropriations from the OPEB Fund, and interest or other income generated by the fund, in the accounting of the relative liabilities of each governmental unit for its retirees and their dependents.

(l) This section may be accepted in a city or town in the manner provided in section 4 of chapter 4; in a county, by vote of the county commissioners; in a regional school district, by vote of the regional school committee; and in a district or other governmental unit, by vote of the district meeting or other appropriating body.

(m) This section shall also apply to the OPEB Fund established by a governmental unit under a special law, notwithstanding any provision to the contrary, upon the acceptance of this section by the governmental unit.