

Special Town Meeting
May 2023
Article 3

Transfer to Other Post-Employment Benefits Trust

In June 2016 Town Meeting adopted Chapter 32B, Section 20 to establish the Other Post-Employment Benefits Liability Trust Fund to begin to fund the liability for health and life insurance benefits for the retirees of the Town of Saugus and Saugus Public Schools. At that and subsequent Town Meetings a total of \$900,000.00 has been appropriated to this fund in addition to \$496,194.00 that has been transferred from both the water and sewer enterprise funds on behalf of its employees for future benefit costs. The balance in the fund as of 3/31/2023 is \$1,650,750.66. The amount of this appropriation is \$500,000.00.

The funding source for this appropriation is July 1, 2022 certified free cash.

Part I	ADMINISTRATION OF THE GOVERNMENT
Title IV	CIVIL SERVICE, RETIREMENTS AND PENSIONS
Chapter 32B	CONTRIBUTORY GROUP GENERAL OR BLANKET 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.