

SECTION 27. Said chapter 10, as most recently amended by section 48 of chapter 26 of the acts of 2003, is hereby further amended by adding the following section:

Section 73.(a) There is hereby established a Water Supply Protection Pilot Program to be administered by and through a separate trust to be known as the Water Supply Protection Trust. Monies in said trust shall be deposited with the state treasurer in such manner as will secure the highest interest rate available consistent with safety of the trust and with the requirement that all amounts on deposit be available for immediate use.

(b)There shall be a board of trustees of the trust, which shall consist of the executive director of the Massachusetts water resources authority, the secretary of the executive office of environmental affairs or his appointee, a member appointed by the speaker of the house, a member appointed by the president of the senate, and a member jointly selected by the North Worcester County Quabbin Anglers and the Quabbin Fishermen's Association.

(c)The board of trustees shall meet on or before October 1, 2004 and at least quarterly thereafter, and shall serve without compensation. For purposes of board of trustee meetings and voting, a quorum shall be comprised of 3 of the board members. The board of trustees shall choose a chairperson by majority vote and shall make all decisions by majority vote. At a meeting held annually, said board of trustees shall review and approve the operating plan, the operating budget, the capital budgets, and other aspects of the annual work plan prepared jointly by the department of conservation and recreation and the Massachusetts water resources authority pursuant to that interagency memorandum of understanding between the department and the authority on or about April 27, 2004, as it may be amended from time to time, and which memorandum and the annual work plan prepared thereunder shall provide for the watershed and water supply protection responsibilities established for the authority and department under chapter 372 of the acts of 1984, chapter 36 of the acts of 1992, chapter 26 of the acts of 2003, and chapters 92 and 92A 1/2 of the General Laws to be satisfactorily discharged. Any amendment to said memorandum shall not include an authorization to enter into any agreement to acquire, purchase or transfer any property, the title of which is vested in the commonwealth and/or is considered to be watershed property by Massachusetts statute, as of the effective date of this act. The restriction in the preceding sentence shall not be construed to be inconsistent with the terms and conditions of this section as they relate to the operation and governance of the trust or any other provisions of this section.

Any provisions in the memorandum, as it may be amended from time to time, regarding the operation and governance of the trust shall be consistent with this section. In the event of an inconsistency between that memorandum and the terms and conditions of this section as they relate to the operation and governance of the trust, the terms and conditions of this section shall be dispositive.

(d)There shall be credited to the trust the following:

(1)all assessments against the authority established pursuant to section 11 of chapter 92A 1/2, except for amounts to be paid in trust by the authority to the division of

water supply protection for application to payments in lieu of taxes pursuant to chapter 59 of the General Laws, and against any other public or private entity by the commissioner of the department for the purpose of supporting the watershed and water supply activities set forth in subsection (e);

(2)all revenues generated by the department's division of water supply protection required to be offset from assessments against the authority pursuant to section 11 of said chapter 92A 1/2, which shall include, but not be limited to, the sale of hydroelectricity, recreational or permits fees, and shall also include any access fees established pursuant to chapter 436 of the acts of 1990;

(3)all revenues from the sale of wood products harvested on those watershed lands under the management of the division of water supply protection;

(4)all payments from the authority for debt service under section 12 of said chapter 92A 1/2;

(5)all interest earned on monies in the trust; and

(6)gifts, grants, donations, or other contributions made for the purpose of supporting the watershed and water supply activities set forth in subsection (e).

(e)Notwithstanding any general or special law or other restriction to the contrary, expenditures from the trust shall not be subject to appropriation and balances remaining at the end of any fiscal year shall not revert to the general fund, and expenditures from the trust shall be made only for the purposes set forth in the memorandum and annual work plan as approved by the board pursuant to subsection (c), including:

(1)the maintenance and operating costs of the department's division of water supply protection, as established in sections 1 to 20, inclusive, of chapter 92A 1/2, including the costs of capital improvements necessary to ensure the safety and purity of the water supply and protection of watershed lands pursuant to state and federal standards, capital costs, and the costs of the purchase or leasing of vehicles and all other equipment as considered necessary by the division, and other authorized charges of the division of water supply protection, as set forth in the Annual Work Plan's operating plan, operating budget, and capital budgets prepared jointly by the department and authority, and reviewed and approved by the board of trustees pursuant to subsection (c); provided, that no expenditure may be made for operating, maintenance, and capital costs of the department's division of water supply protection that were previously budgeted as expenses of the former department of environmental management that were non-reimbursable by the authority;

(2)department salaries, staffing levels, other employee expenses, operational expenses, acquisition of capital equipment, and all other expenses, as set forth in the Annual Work Plan's operating plan, operating budget, and capital budgets prepared jointly by the department and authority, and reviewed and approved by the board of trustees pursuant to subsection (c); and

(3)debt service payments for bonds authorized by the general court for the acquisition of fee simple, development, and other rights or interests in land in the areas regulated by

said division of water supply protection, if the bonds were authorized and bonded indebtedness incurred before the establishment of the trust.

(f)For the purpose of accommodating timing discrepancies between the trust's receipt of revenues and related expenditures, the trust may incur expenses and the comptroller may certify payments from the trust in anticipation of trust receipts; but, the board of trustees shall annually certify to the comptroller that expenditures for the previous fiscal year did not exceed related assessments and trust receipts. No expenditures from said fund shall cause said fund to be in deficiency at the close of a fiscal year.

(g)The board of trustees shall not enter into any agreement to acquire, purchase, or transfer any assets and/or property the title of which is vested in the commonwealth, and/or considered to be watershed property by Massachusetts statute, as of the effective date of this act. Said restriction shall not be construed to be inconsistent with the terms and conditions of this section as they relate to the operation and governance of the trust, or any other provisions of this section.

SECTION 29. Section 4 of chapter 15A of the General Laws, as most recently amended by section 683 of chapter 26 of the acts of 2003, is hereby further amended by striking out the first sentence and inserting in place thereof the following sentence:-The board of higher education, hereinafter referred to as the board, shall be composed of 11 voting members, consisting of the commissioner of education, ex officio, the commissioner of early education and care, ex officio, 6 members appointed by the governor reflecting regional geographic representation, and 3 members chosen to represent public institutions of higher education.

SECTION 30. Section 5 of said chapter 15A of the General Laws, as appearing in the 2002 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

The board shall coordinate activities among the public institutions of higher education and shall engage in advocacy on their behalf, which advocacy shall include a sustained program to inform the public of the needs, importance, and accomplishments of the public institutions of higher education in the commonwealth.

SECTION 31. Section 7A of said chapter 15A, inserted by section 687 of chapter 26 of the Acts of 2003, is hereby amended by striking out subsection (f) and inserting in place thereof the following subsection:-

(f)The board shall use accountability objectives, performance measures and each institution's mission implementation plan to conduct annual evaluations of the performance of each institution. If an institution fails to meet a reasonable number of the accountability objectives, as determined by the performance measures, within a given year, the institution's board of trustees shall develop and implement a performance improvement plan and timetable to be approved by the board of higher education. Each plan shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities. If the institution fails to achieve the agreed to targeted improvements and timeline, funds appropriated for the institution in the following fiscal year shall be disbursed by the board of higher education to the

institution's board of trustees subject to the board's approval. The board shall not be prevented from amending the institutional allocation of any such institution.