

SENATE No. 02434

The Commonwealth of Massachusetts

SENATE, September 13, 2012

The committee on Ways and Means, to whom was referred the Senate bill providing for a labor/management workplace and education trust fund at the University of Massachusetts Amherst (Senate, No. 2001); reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2434).

For the committee,

STEPHEN M. BREWER.

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The Commonwealth of Massachusetts

In the Year Two Thousand Twelve

Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to establish forthwith the Labor-Management Workplace and Education Trust Fund at the University of Massachusetts at Amherst, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

□

1 SECTION 1. For the purpose of this act the following words shall have the following
2 meanings:-

3 “Bank”, a national bank, trust company or banking company.

4 “Employee”, a person employed by the University of Massachusetts at Amherst and a
5 member of the collective bargaining units represented by the unions.

6 “Employer”, the University of Massachusetts at Amherst.

7 “Labor-Management Workplace Education Program” or “program”, the joint labor and
8 management educational partnership between the University of Massachusetts at Amherst and
9 the employee unions.

10 “Union”, the American Federation of State, County and Municipal Employees Council
11 93 and its affiliated local American Federation of State, County and Municipal Employees Local
12 1776; the Massachusetts Teachers Association and its affiliated associations, the University Staff
13 Association, and the Professional Staff Union, Unit B.

14 SECTION 2. (a) There shall be at the University of Massachusetts at Amherst a trust
15 fund to be known as the Labor-Management Workplace and Education Trust Fund, hereinafter
16 referred to as the “fund,” to support the operations and activities of the University of
17 Massachusetts Labor-Management Workplace Education Program.

18 (b) The fund shall be overseen by a board of trustees, hereinafter referred to as the
19 “board,” which shall consist of 6 members: 3 of whom shall be selected by the employer and 3 of
20 whom shall be selected by the union; provided however, that no 2 union board members shall be
21 from the same union. The board shall be co-chaired by 2 of the trustees, 1 selected by the
22 employer trustees and 1 selected by the union trustees. The trustees shall be responsible for
23 depositing all contributions, including, but not limited to, employer contributions, donations,
24 funds, stocks, share certificates, bonds, securities and all other obligations in a bank selected by
25 the board in compliance with section 34 of chapter 29 of the General Laws.

26 (c) The trustees shall use all funds exclusively in support of the program; provided, that
27 the board may make appropriations necessary to administer the fund, including the employment
28 of administrative, legal, accounting, expert, consultative and clerical assistance, the purchase or
29 lease of buildings or land, and the purchase or lease of materials, supplies, and equipment the
30 trustees determine necessary in the performance of their duties. The trustees shall serve without

31 compensation but may be reimbursed for all reasonable and necessary expenses which they may
32 incur in the performance of their duties.

33 (d) The trustees shall keep true and accurate books of accounts and records of all
34 transactions of the fund and shall cause said books to be audited by a certified public accountant
35 each fiscal year. The accountant shall be made available to the employer and the union and shall
36 submit a final audit in writing to the trustees. Any employee or beneficiary shall be permitted to
37 inspect the books and records maintained by the trustees; provided, that the request is at a
38 reasonable time and place as determined by a majority of the trustees and that the inspection does
39 not interfere with the operation of the fund.

40 (e) If a civil action is brought against a trustee the trustee shall be indemnified for all
41 expenses incurred in the defense of the action and shall be indemnified for damages if the claim
42 arose out of acts performed by the trustee while acting within the scope of the trustee's official
43 duties; provided, however, that a trustee shall not be indemnified for expenses incurred in the
44 defense of an action, or damages awarded in an action, in which there is shown to be a breach of
45 fiduciary duty, an act of willful dishonesty or an intentional violation of law by the trustee. Such
46 indemnification shall be paid from amounts held in the fund.