

Accompanying the fourth recommendation of the Office of the Inspector General (House, No. 138). State Administration.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Ninety-Seven.

AN ACT FURTHER REGULATING THE ESTABLISHMENT AND ADMINISTRATION OF CERTAIN FUNDS BY STATE AGENCIES.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section two of chapter 29 of the General Laws, as
2 appearing in the 1994 Official Edition, is hereby amended by
3 striking out in line 6, the word "or" and inserting in place thereof
4 the following word: — and.

1 SECTION 2. Said section two of said chapter 29, as so appear-
2 ing, is hereby amended by inserting after line 11, the following
3 paragraph: —

4 No officer or employee of any state agency shall establish,
5 maintain, cause to be established or maintained, or deposit or
6 cause to be deposited any money into a sinking fund, trust fund,
7 trust deposit, agency fund, or revolving fund, consisting in whole
8 or in part of state revenue from taxes, fees, fines, assessments, or
9 charges, unless the establishment, maintenance, and deposit of
10 such money into such sinking fund, trust fund, trust deposit,
11 agency fund, or revolving fund has been authorized by the general
12 court. The income, including but not limited to interest from
13 deposit or investment, from money in a sinking fund, trust fund,
14 trust deposit, agency fund, or revolving fund shall be added to the
15 principal and shall, for the purpose of this chapter, be deemed
16 money from said sinking fund, trust fund, trust deposit, agency
17 fund, or revolving fund.

1 SECTION 3. Chapter 29 of the General Laws, as appearing in
2 the 1994 Official Edition, is hereby amended by inserting after
3 section 2DD, the following five sections: —

4 Section 2EE. Any state agency requesting authorization from
5 the general court to establish a sinking fund, trust fund, trust
6 deposit, agency fund, or revolving fund shall include with such
7 request the following information: (a) the specific purpose for
8 which the fund shall be established; (b) the project, activity, or
9 other specific source from which the revenue shall be derived; (c)
10 the identity of the trustees; (d) the identity of the beneficiaries; (e)
11 the projected revenues and expenditures of the fund for the first
12 five years.

13 Section 2FF. No persons shall withdraw or cause to be with-
14 drawn, or expend or cause to be expended, any money from any
15 sinking fund, trust fund, trust deposit, agency fund, or revolving
16 fund except in accordance with the purpose of the sinking fund,
17 trust fund, trust deposit, agency fund, or revolving fund as has
18 been authorized by the general court. No person shall transfer or
19 cause to be transferred any money from any sinking fund, trust
20 fund, trust deposit, agency fund, or revolving fund unless the
21 transfer is authorized by the general court.

22 No state agency shall enter into any contract, incur any other
23 obligation, or cause to be performed any service payable wholly
24 or in part from any sinking fund, trust fund, trust deposit, agency
25 fund, or revolving fund, nor expend any money from such sinking
26 fund, trust fund, trust deposit, agency fund, or revolving fund
27 unless the agency has complied with any general or special law
28 regarding the award of contracts by such agency.

29 Section 2GG. No person shall expend or cause to be expended
30 any money from a sinking fund, trust fund, trust deposit, agency
31 fund, or revolving fund to provide for or supplement the compen-
32 sation or any state employee unless such expenditure has been
33 expressly authorized by the general or special law. No expenditure
34 shall be made pursuant to such authorization prior to the date
35 upon which the following information has been filed with the per-
36 sonnel administrator on a form prescribed by the commissioner of
37 administration and a copy of the same has been filed with the
38 house and senate committees on ways and means: the employee's
39 name, job title, and classification; the source and amount of the

40 employee's annual salary payable from monies other than from a
41 sinking fund, trust fund, trust deposit, agency fund, or revolving
42 fund; and the forms and amounts of compensation payable from a
43 sinking fund, trust fund, trust deposit, agency fund, or revolving
44 fund.

45 Section 2HH. Every state agency having charge of any sinking
46 fund, trust fund, trust deposit, agency fund, or revolving fund
47 shall maintain the accounts of any such sinking fund, trust fund,
48 trust deposit, agency fund, or revolving fund in accordance with
49 the accounting system prescribed by the comptroller.

50 Section 2II. Every state agency having charge of any sinking
51 fund, trust fund, trust deposit, agency fund, or revolving fund
52 shall, not later than the thirtieth day of September of each year,
53 file with the commissioner of administration a report containing
54 the following information for each such sinking fund, trust fund,
55 trust deposit, agency fund, or revolving fund: (a) the name of the
56 fund; (b) the depository; (c) the statutory authority for the exis-
57 tence of the fund; (d) the names of the trustees; (e) the identity of
58 the beneficiaries; (f) the total of revenues and total of expendi-
59 tures for the prior fiscal year; (g) the balance at the close of the
60 prior fiscal year; (h) and projected revenues and expenditures for
61 the current fiscal year and the ensuing fiscal year. The commis-
62 sioner of administration shall, no later than the thirtieth day of
63 November of each year, file a consolidated report containing the
64 information set forth in the first sentence of this section with the
65 state auditor, the house and senate committees on ways and
66 means, the clerk of the house of representatives, the clerk of the
67 senate, and the inspector general.

1 SECTION 4. Section 66 of chapter 29 of the General Laws, as
2 appearing in the 1994 Official Edition, is hereby amended by
3 adding at the end thereof, the following paragraph: —

4 Any person who causes or conspires to cause any violation of
5 any provision of this chapter, any rule or regulation promulgated
6 thereunder, or any other provision of law or regulation relating to
7 the incurring of liability or expenditure of money received on
8 account of the commonwealth, shall, in addition to any other
9 penalties prescribed by law, forfeit and pay to the commonwealth
10 a sum of not more than two thousand dollars for each violation. In

11 addition, the person shall pay double the amount of damages sus-
12 tained by the commonwealth by reason of the violation, together
13 with the costs of any action. If more than one person participates
14 in the violation, the damages and costs may be apportioned among
15 them.