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Chapter 800. AN ACT FURTHER REGULATING THE BORROWING POWER AND CERTAIN OTHER POWERS OF THE MASSACHUSETTS STATE COLLEGE BUILDING AUTHORITY.

Whereas, The deferred operation of this act would cause great inconvenience in the issuance of bonds and notes by the Massachusetts State College Building Authority to carry out its purposes of providing urgently needed facilities for the state colleges and improvements to existing facilities, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public safety and convenience.

Be it enacted, etc., as follows:

SECTION 1. Section 1 of chapter 703 of the acts of 1963 is hereby amended by striking out paragraph (b) and inserting in place thereof the following paragraph:–

(b) "Trustees", the board of regents, established under section two of chapter fifteen A of the General Laws, to be the governing authority of the system of public institutions of higher education, or if such regents shall hereafter be abolished, the board, body or commission succeeding to the principal functions thereof or to which the powers given by said chapter fifteen A with respect to state colleges shall be given by law.

SECTION 2. Said section 1 of said chapter 703 is hereby further amended by striking out paragraph (e) and inserting in place thereof the following paragraph:–

(e) "Project", the construction of new buildings or structures and the acquisition, addition to, alteration, enlargement, reconstruction, rehabilitation, remodeling and other work, including, but not limited to, the alteration or modification of existing facilities or the construction of additional or new facilities required or made desirable by changes in or enactments of new law or regulation or changes in or new circumstances such as, by way of example and not by way of limitation, provision for access or use by handicapped persons, provision for conservation of energy, provision for safety and security of persons and property, provision for other compliance with changed or new law, regulation or circumstance, in or upon or respecting existing buildings or structures, the provision and installation therein or in respect thereof of furnishings, furniture, machinery, equipment, facilities, approaches, driveways, walkways, parking areas, planting and landscaping, the acquisition of land, other property, rights, easements and interests acquired for or in respect to any thereof, the demolition or removal of any buildings or structures on land so acquired or interests in which are so acquired and site preparation, with respect to which the Authority shall provide by resolution for the issuance of a series of bonds or notes. Whenever appropriate the word shall also mean such land, buildings or structures and such appurtenances.

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SECTION 3. Said section 1 of said chapter 703 is hereby further amended by striking out paragraph (h) and inserting in place thereof the following paragraph:–

(h) "State college", any of the following public institutions of higher education: Bridgewater State College, Fitchburg State College, Framingham State College, the Massachusetts College of Art, the Massachusetts Maritime Academy, North Adams State College, Salem State College, Westfield State College, Worcester State College.

SECTION 4. Section 2 of said chapter 703 is hereby amended by striking out the second paragraph, as most recently amended by chapter 347 of the acts of 1968, and inserting in place thereof the following paragraph:–

The Authority shall consist of nine members to be appointed by the governor, of whom three members shall be appointive members of the trustees and may, but need not, be graduates of a state college. The members appointed from the appointive members of the trustees shall continue in office so long as they continue in office as trustees, and such dual membership shall not invalidate any action heretofore or hereafter taken by the Authority or by the trustees in which such a member of the Authority holding such dual membership has participated or may participate. Each member appointed other than from the appointive members of the trustees shall continue in office for a term expiring on June thirtieth in the sixth calendar year next after the calendar year in which the term of office of such member began, except that a person appointed to fill a vacancy in any such membership shall serve only for the unexpired term. Each member shall continue in office until the successor of such member shall have been appointed and qualified, but the term of office of a member appointed other than from the appointive members of the trustees shall be deemed to have commenced in the calendar year in which the stated term of office of the predecessor of such member shall have expired. Any member of the Authority may be removed by the governor for cause after notice and a public hearing unless such notice and hearing are expressly waived in writing. The Authority shall annually elect from its members a chairman and a vice-chairman, and shall also elect a secretary-treasurer and may elect an assistant secretary-treasurer who need not be members of the Authority. If any member is absent from four regular monthly meetings in any calendar year, the office of such member as a member of the Authority shall be deemed vacant. The chairman shall forthwith notify the governor that such vacancy exists.

SECTION 5. Said chapter 703 is hereby further amended by striking out section 3 and inserting in place thereof the following section:–

Section 3. Purposes.– The Authority is created for the general purposes of aiding and contributing to the performance of the educational and other purposes of the state colleges by providing dormitories, dining commons and other buildings and structures for the use of one or more state colleges, students, staff and their dependents, which may be located at such place or places as the trustees may

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designate and which may be provided in collaboration with, and for joint use by, other agencies, boards, commissions or departments of the commonwealth and authorities created by the laws of the commonwealth. The Authority shall not initiate any project except upon written request made by authority of the trustees and upon written approval from the commissioner of administration and the chancellor of the board of regents of higher education, and notwithstanding any other provisions of this act the Authority shall have power to initiate only such projects as the trustees determine to be designed primarily to provide facilities for the housing, feeding, medical care or extra curricular use by students, staff and dependents or facilities for use by a research foundation or other research organization as defined above.

SECTION 6. Section 4 of said chapter 703 is hereby amended by striking out clause (g) and inserting in place thereof the following clause:–

(g) To borrow from time to time to achieve any one or more of its corporate purposes and to refund obligations earlier incurred for any such purpose and for refunding, and to sell its bonds and notes therefor, payable solely from its revenues, as provided in section seven.

SECTION 7. Said section 4 of said chapter 703 is hereby further amended by striking out clause (i) and inserting in place thereof the following clause:–

(i) To acquire, by lease, purchase or otherwise, provided that the Authority shall have no power to acquire property by any eminent domain proceedings, hold and dispose of real and personal property and rights and interests therein in the exercise of its powers and the performance of its duties under this act.

SECTION 8. Said section 4 of said chapter 703 is hereby further amended by striking out clause (n) and inserting in place thereof the following clause:–

(n) To invest any funds held by it pending disbursement, which investment may be made in any one or more of the following:

(i) direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America;

(ii) obligations of the Federal National Mortgage Association, the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Banks, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation, or of any other agency or corporation which has been or is hereafter created pursuant to an act of Congress of the United States as an agency or instrumentality thereof;

(iii) interest-bearing time deposits or certificates of deposit of banking institutions or trust companies organized under the laws of any state of the United States or any national banking association, provided that such deposits or certificates shall be continuously and fully secured

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by obligations described in subclauses (i) and (ii) having a market value, exclusive of accrued interest, at least equal to the aggregate amount of such deposits and certificates; or

(iv) any of the securities described in subclauses (i) and (ii) which are subject to repurchase agreements with any bank or trust company organized under the laws of any state of the United States or any national banking association.

SECTION 9. Section 7 of said chapter 703 is hereby amended by striking out the first paragraph, as most recently amended by section 1 of chapter 845 of the acts of 1970, and inserting in place thereof the following paragraph:-

The Authority is hereby authorized to provide by resolution at one time or from time to time for the issue of bonds of the Authority to achieve any of its corporate purposes or for the purpose of refunding outstanding indebtedness of the Authority incurred under this act or incurred under any other similar act or any other authority, including the payment of all or any part of the cost of projects, the payment of interest on notes and bonds of the Authority, the establishment of reserves to secure such bonds and notes, including the reserve funds created pursuant to section ten, and the payment of all other expenditures of the Authority incident to and necessary or convenient to carry out its corporate purposes and powers and any refunding; provided, that the Authority shall not issue bonds the principal amount of which, when added to the principal amount of bonds and notes theretofore issued hereunder, excluding bonds and notes previously refunded or being or to be refunded thereby, shall exceed one hundred five million dollars; and provided, further, that the Authority shall not issue notes or bonds for the purpose of refunding bonds theretofore issued and then outstanding hereunder except with the prior written approval of the trustees of such refunding issue, which approval need not be of the interest rate, the maturity or any of the other terms thereof; and provided, further, that the Authority shall not issue such notes or bonds until a majority of the members of the Authority certify in writing to the secretary of administration and finance: (1) that they have notified all qualified managing underwriters based in the commonwealth of the Authority's intention to issue said notes or bonds; and (2) that said underwriters have been given an equal opportunity to submit proposals.

SECTION 10. Said section 7 of said chapter 703 is hereby further amended by striking out the third and fourth paragraphs and inserting in place thereof the following two paragraphs:-

The Authority is further authorized to provide by resolution at one time or from time to time for the issue of interest-bearing or discounted notes for the purposes and in the amounts that bonds may be issued as provided above. Such notes shall be payable within five years from their respective dates, but the principal of and any interest on notes issued for such period or for a shorter period may be renewed or paid from time to time by the issue of other notes hereunder; provided, that the period from the date of an original note to the maturity of any note issued to

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renew or pay the same debt or the interest thereon shall not exceed ten years.

The principal and interest of any bonds or notes issued hereunder shall be payable solely from the funds herein provided for such payment. The bonds of each issue shall be dated; shall bear interest at such rate or rates, but not including rates variable from time to time, determined in such manner as the Authority shall approve; shall mature or otherwise be payable at such time or times, not exceeding fifty years from their date or dates as may be determined by the Authority; and may be made redeemable before maturity, at the option of the Authority, at such price or prices and under such terms and conditions as may be fixed by the Authority prior to the issuance of any such bonds. The bonds may be issued as serial bonds with maturities in such years as the Authority may determine or as term bonds or as a combination of both.

SECTION 11. The fifth paragraph of said section 7 of said chapter 703 is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following sentence:– The Authority may sell such bonds and notes in such manner, either at public or at private sale, and for such price as it may determine to be for the best interests of the Authority; provided, however, that no bonds or notes shall be sold by the Authority unless such sale and the terms thereof have been approved by the treasurer and receiver general or his designee and the commissioner of administration or his designee.

SECTION 12. The sixth paragraph of said section 7 of said chapter 703 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:– The proceeds of such bonds and notes shall be used solely for the purposes for which they are issued and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide in the resolution authorizing the issuance thereof or in the trust agreement securing the same.

SECTION 13. Said chapter 703 is hereby further amended by striking out section 10, as most recently amended by section 4 of chapter 639 of the acts of 1969, and inserting in place thereof the following section:–

Section 10. Guaranty by Commonwealth.– The commonwealth, acting by and through the trustees, may enter into a contract or contracts with the Authority for state financial assistance in the form of a guaranty by the commonwealth of bonds of the Authority issued to achieve any of its corporate purposes or to refund outstanding indebtedness of the Authority incurred under this act or any other authority for any such purpose. Such guaranty shall be executed on each bond by the signature or facsimile signature of an officer of the trustees. In case any officer of the trustees whose signature or a facsimile of whose signature shall appear on any bond shall cease to be such officer before the delivery thereof, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery. Each such contract shall contain such limitations as to the cost of any project or projects to be financed by the

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bonds to be guaranteed pursuant thereto and current operating and administrative expenses of the Authority to be allocated thereto, and such other provisions as the trustees may require.

The Authority shall create a reserve for principal and interest on all bonds with respect to which such a contract or contracts shall have been executed and which are secured by a single trust agreement and shall make deposits in such reserve as hereinafter required. For the purposes of this paragraph the term "annual series requirement" shall mean one-twelfth of the largest amount of principal and interest payments due in any one year on any one issue or series of bonds secured by a single trust agreement and the term "year" shall mean a calendar year. Such annual series requirement shall be in effect as to any such issue or series of bonds for and only for the twelve years next succeeding the year in which the same was issued. At the time of initial issue of any issue or series of bonds the Authority may deposit in such reserve an amount, from the proceeds of such bonds or from other available funds of the Authority, not greater than the aggregate of the annual series requirements in respect of such issue. If the amount of such deposit is less than such aggregate, the Authority shall, at the time such deposit is made, designate to which of such annual series requirements such deposit shall apply. In each year commencing with the first year succeeding the year in which the initial such issue or series of bonds shall be issued the Authority shall deposit in such reserve an amount equal to the aggregate of the annual series requirements in effect for such year in respect of all such issues or series of bonds of which are outstanding on the first day of such year plus or, at the option of the Authority, minus, as the case may be, the deficiency or excess of the amount on deposit in such reserve on such first day, including in such amount interest accrued but unpaid on obligations in which such amount may then be invested, under or over the aggregate of all annual series requirements in effect for prior years in respect of all such issues or series of bonds of which are outstanding on such first day; provided, however, that if there shall be any application of such reserve or any portion thereof to the payment of principal or interest on bonds, the amount of any deficiency in the amount thereafter on deposit in such reserve resulting from such application shall be taken into account in computing the amount required to be deposited in such reserve in any year thereafter only to the extent that it is practicable to do so. The principal and interest payments due in any year on any issue or series of bonds shall be determined in accordance with the following when applicable: (1) the principal of bonds for the payment, prepayment, redemption or refunding of which funds are held in trust by the trustee appointed pursuant to the trust agreement under which such bonds were issued shall be treated as not outstanding, and after notice of any prepayment, redemption or refunding of bonds has been given in accordance with the trust agreement, all interest accruing on such bonds after the date with respect to which the requirements of such trust agreement for prepayment, redemption or refund thereof have been fulfilled shall be treated as not due, and (2) if the Authority shall establish a sinking fund for the payment of the principal of bonds at or prior to maturity, such

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principal amount of bonds as will be paid or prepaid from any deposit required to be made into such sinking fund shall be treated as if it matured on the date of such deposit and not on the maturity date of such bonds. Unless the trust agreement or a resolution of the Authority shall otherwise provide, all amounts required to be deposited into a reserve under any trust agreement shall be held for the equal benefit and security of all issues and series of bonds issued under such trust agreement. Any reserve may be used whenever necessary to pay principal or interest on bonds of any such issue or series of bonds, but such reserve shall be restored to the required level as soon as practicable. At any time when the amount on deposit in any reserve equals or exceeds (a) the aggregate of the twelve annual series requirements to be in effect with respect to any particular such issue or series of bonds bonds of which are then outstanding plus (b) all annual series requirements in effect for all prior years and for the then current year with respect to all other such issues or series of bonds bonds of which are then outstanding, and when such aggregate plus any other funds of the Authority available for the purpose shall equal or exceed the aggregate amount required to pay in full the principal and redemption price of and interest on all bonds of such particular issue or series then outstanding, the Authority may apply to such payment an amount from such reserve not exceeding such aggregate. If on the first day of any year the amount on deposit in any reserve equals or exceeds the sum of (i) the aggregate of all annual series requirements in effect for prior years plus (ii) the annual series requirements for such year, in each case in respect of all such issues or series of bonds bonds of which are outstanding on such first day, the Authority shall not be obliged to make a deposit in such reserve in respect of such year and, if such amount on deposit exceeds such sum but the conditions for application of the preceding sentence are not then met, the Authority may apply such excess to the payment of interest coming due in such year on bonds of such issues or series.

Any such contract may provide for the guaranty by the commonwealth of notes of the Authority issued under section seven, the total amount of which shall not exceed the amount specified in the contract for state financial assistance. Such guarantee shall be executed on each note by the signature or facsimile signature of an officer of the trustees. In case any officer of the trustees whose signature or a facsimile of whose signature shall appear on any note shall cease to be such officer before the delivery thereof, such signature or facsimile signature shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until such delivery.

The guaranty of the commonwealth provided pursuant to such contract shall be of the payment of the principal of, and interest on, all such notes and bonds as the same become due and payable, and the full faith and credit of the commonwealth is hereby pledged for any such guaranty; provided, however, that the total principal amount of notes and bonds so guaranteed shall not exceed one hundred five million dollars in the aggregate, exclusive of bonds and notes refunded or being refunded or to be refunded thereby.

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SECTION 14. Nothing in this act shall be deemed to affect the tenure of any member of the Authority appointed thereto prior to the effective date of this act, and each such member shall continue to serve as a member of said Authority until the expiration of the term for which such member was appointed. Upon the expiration of the term of any such member, or in the event of a vacancy in the membership of the said Authority due to the death, resignation, or removal of any such member, the successor to such member shall be appointed as provided in section two of said chapter seven hundred and three.

Approved January 10, 1986.

Chapter 801. AN ACT AUTHORIZING THE VOTERS OF BARNSTABLE COUNTY TO ADOPT A CHARTER DEFINING THE FUNCTIONS TO BE PERFORMED BY THE COUNTY TO PRESERVE, PROTECT, AND DEVELOP THE RESOURCES OF THE COUNTY.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide for Barnstable county to adopt a charter defining the functions to be performed by the county to preserve, protect, and develop the resources of the county, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted, etc., as follows:

SECTION 1. As used in this act, the terms "board of registrars of voters", and "board of selectmen" shall include any local authority of different designation performing like duties.

SECTION 2. Barnstable county shall have the power to adopt a charter or to amend an existing charter in accordance with procedures prescribed by this act. This act shall not limit any charter adoption or amendment procedures allowed by prior law or the Constitution of the Commonwealth.

SECTION 3. Submission of the charter study question.

(A) Whenever authorized by resolution of the Barnstable county commissioners or by the Barnstable advisory board on county expenditures, or on petition of the registered voters of Barnstable county, an election shall be held in Barnstable county upon the question "Shall a charter study commission be created to study the present governmental structure of Barnstable county to consider and make findings concerning the form of government and make recommendations thereon?".

(B) A petition calling for such an election must be signed by at least five per cent of the number of registered voters residing in said county at the preceding state election, but in determining the number of