# CHAPTER 32 HB 297 – FINAL VERSION

08Jan2014... 2381h

### 2014 SESSION

13-0556 08/04

HOUSE BILL 297

AN ACT relative to the management of trust funds and capital reserve funds and

pertaining to library trustees.

SPONSORS: Rep. F. Rice, Rock 21; Rep. Roberts, Ches 4; Rep. Hagan, Rock 4; Rep. Emerick,

Rock 21; Sen. Stiles, Dist 24; Sen. Boutin, Dist 16

COMMITTEE: Municipal and County Government

### AMENDED ANALYSIS

This bill:

I. Allows municipalities to keep certain trust records in electronic format.

II. Changes the date by which certain municipal sums shall be transferred.

III. Allows municipalities to contract for brokerage assistance with town trust funds.

IV. Allows library trustees to govern investments through application of the prudent investor rule.

Explanation: Matter added to current law appears in bold italics.

Matter removed from current law appears [in brackets and struckthrough.]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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13-0556 08/04

### STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to the management of trust funds and capital reserve funds and pertaining to library trustees.

Be it Enacted by the Senate and House of Representatives in General Court convened:

- 1 32:1 Trust Funds; Records. Amend RSA 31:34 to read as follows:
- 2 31:34 Records. The trustees shall keep a record of all trusts in a record book *or maintained in*3 *electronic format*, which shall be open to the inspection of all persons in their town.
- 4 32:2 Trust Funds; Reports. Amend RSA 31:38 to read as follows:
  - 31:38 Reports. A copy of the reports required of the town and city trustees and of the auditor thereof shall be filed annually with the attorney general, the department of revenue administration, and with the governing body of the town or city.
- 8 32:3 Appropriation. Amend RSA 35:12 to read as follows:
  - 35:12 Appropriation. Whenever the vote of the town is to appropriate any sum for the capital reserve fund, the same duties shall devolve upon the town clerk, selectmen, and town treasurer, as specified in RSA 35:11, except that the order must be drawn, and the sum transferred on or before December [31] 15 following the vote, or, in the case of an optional fiscal year town, after July 1, but no later than June [30] 15, of the fiscal year for which the sum was appropriated.
- 32:4 New Section; Professional Banking or Brokerage Assistance. Amend RSA 34 by inserting
  after section 15 the following new section:
  - 34:16 Professional Banking or Brokerage Assistance.
  - I. Any trustee or trustees of trust funds having custody of capital reserve funds authorized by this chapter may contract with the trust department or departments of a bank, a brokerage firm, a portfolio management department, or investment advisor in the same manner and for the same purposes as described in RSA 31:38-a, III. They may also place securities in the nominee name of a trust department or departments of a bank a brokerage firm, a portfolio management department, or investment advisor to facilitate transfers for such securities. Capital reserve fund records maintained by any bank, brokerage firm, portfolio management department, or investment advisor shall be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments of banks, brokerage firms, portfolio management departments, or investment advisors, the trustees may enter into contracts or agreements delegating the management of such capital reserve funds to those departments or brokerage firms subject to investment guidelines adopted by the trustees

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under applicable statutes and subject to at least quarterly review and approval of such management by the trustees. For purposes of this section, the terms "bank," "brokerage firm," "portfolio management department," and "investment advisor" shall have the definitions set forth in RSA 31:38-a.

II. The governing body may authorize the trustees of trust funds to charge any expenses incurred pursuant to paragraph I against the capital reserve funds involved, and such authority shall remain in effect until rescinded by the governing body. No vote by the governing body to rescind such authority shall occur within 5 years of the original adoption of such article. Any professional banking and brokerage fees incurred shall be reported in the annual report of the trustees of trust funds as expenditures out of capital reserve funds.

32:5 New Section; Professional Banking or Brokerage Assistance. Amend RSA 35 by inserting after section 9 the following new section:

35:9-a Professional Banking or Brokerage Assistance.

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I. Any trustee or trustees of trust funds having custody of capital reserve funds authorized by this chapter may contract with the trust department or departments of a bank, a brokerage firm, a portfolio management department, or investment advisor in the same manner and for the same purposes as described in RSA 31:38-a, III. They may also place securities in the nominee name of a trust department of a bank, or departments, a brokerage firm, a portfolio management department, or investment advisor, to facilitate transfers for such securities. Capital reserve fund records maintained by any bank, brokerage firm, portfolio management department, or investment advisor shall be available at all times for examination by local auditors, by independent accountants or auditors retained by a municipality, or by the auditors of the department of revenue administration; and such records shall be municipal records and property. In employing such trust departments of banks, brokerage firms, portfolio management departments, or investment advisor, the trustees may enter into contracts or agreements delegating the management of such capital reserve funds to those departments or brokerage firms subject to investment guidelines adopted by the trustees under applicable statutes and subject to at least quarterly review and approval of such management by the trustees. For purposes of this section, the terms "bank," "brokerage firm," "portfolio management department" and "investment advisor" shall have the definitions set forth in RSA 31:38-a.

II. The town meeting may adopt an article authorizing the trustees of trust funds, without further action of the town meeting, to charge any expenses incurred pursuant to paragraph I against the capital reserve funds involved. Such authority shall remain in effect until rescinded by a vote of the town meeting. No vote by the town to rescind such authority shall occur within 5 years of the original adoption of such article. In a town that has a town council, such authority may be granted by the town council and shall remain in effect until rescinded by the town council. No vote by the town council to rescind such authority shall occur within 5 years of the original adoption of such

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- article. Any professional banking and brokerage fees incurred shall be reported in the annual report of the trustees of trust funds as expenditures out of capital reserve funds.
- 3 32:6 Library Trustees; Exceptions. Amend RSA 202-A:23 to read as follows:
- 4 202-A:23 Exceptions. Nothing in this chapter shall preclude the library trustees from accepting,
- 5 receiving, investing, and administering directly any trust funds and donations when so specified by
- 6 the donor. Library trustees administering and investing such special funds shall be governed by the
- 7 provisions of RSA 31:25, RSA 31:25-d, and RSA 41:6.
- 8 32:7 Effective Date. This act shall take effect 60 days after its passage.
- 9 Approved: May 27, 2014
- 10 Effective Date: July 26, 2014