

ENABLING ACT

of the

WOODS HOLE, MARTHA'S VINEYARD AND NANTUCKET STEAMSHIP AUTHORITY

(chapter 701 of the Acts of 1960, as amended)

Section 1

As used in this act the word "Authority" unless the context shall indicate another or different meaning or intent, shall mean the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority created by section three of this act, or if said Authority shall be abolished, the board, body or commission succeeding to the principal functions thereof, or to whom the powers given by this act to the Authority shall be given by law.

In order to provide adequate transportation of persons and necessities of life for the islands of Nantucket and Martha's Vineyard, the Authority is hereby authorized and empowered to purchase, construct, maintain and operate necessary vessels, docks, wharves, other vessels, equipment, furniture and supplies and to issue its revenue bonds payable solely from revenues, or funds as hereinafter authorized in section nine of this act.

Section 2

Steamship bonds issued under the provisions of this act shall not be deemed to constitute a debt of the commonwealth, nor a pledge of the faith and credit of the commonwealth, but the bonds shall be payable solely from the funds herein provided therefor. All such bonds shall contain on the face thereof a statement to the effect that neither the Authority nor the commonwealth shall be obligated to pay the same, or the interest thereon except as herein provided, and that the faith and credit of the commonwealth are not pledged to the payment of the principal or of the interest on such bonds.

Section 3

There is hereby created a body corporate to be known as the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority, which shall be deemed to be a public instrumentality for the purpose of this act, and by that name the Authority may sue and be sued, plead and be impleaded, contract and be contracted with, and shall have an official seal and may alter the same at pleasure.

The Authority shall consist of five persons to be appointed as follows: one resident of the county of Dukes County by the county commissioners thereof; one resident of the county of Nantucket by the county commissioners thereof; one resident of the town of Barnstable by the town council thereof; one resident of the town of Falmouth by the selectmen thereof; and one member who is a resident of the city of New Bedford by the mayor of the city of New Bedford with the approval of the city council thereof, each of whom shall serve for a term of three years and until his successor has been appointed and qualified. The successor of each member shall be appointed in a like manner for a like term and serve, except for any person appointed to fill a vacancy who shall serve only for the remainder of the unexpired term. Any member may be removed for cause by the member's appointing authority.

Upon the effective date of this act, the member from the town of Falmouth shall remain chairman of the Authority until December 31, 2002. Beginning on January 1, 2003, the chairmanship of the Authority shall rotate every year in the following order: first, the member from the county of Nantucket; second, the member from the town of Barnstable; third, the member from the county of Dukes County; fourth, the member from the town of Falmouth; and fifth, the member from the city of New Bedford.

The Authority shall elect one of the members as vice-chairman and as secretary and shall also elect a treasurer who need not be a member of the Authority. The votes of the members of the Authority shall be weighted such that the county of Dukes County member's vote shall count as thirty-five percent (35%) of the whole; the Nantucket member's vote shall count as thirty-five percent (35%) of the whole; and the Barnstable, Falmouth and New Bedford members' votes shall each count as ten percent (10%) of the whole, to the end that the votes of the county of Dukes County and Nantucket members, if cast on the same side of any motion placed before the Authority, shall pass or defeat that motion. A vote of greater than fifty percent (50%) of the weighted vote shall be necessary for any action taken by the Authority. Members whose combined votes count as more than fifty percent (50%) of the whole shall constitute a quorum. No vacancy in the membership of the Authority shall impair the right of a quorum to exercise all the rights and perform all the duties of the Authority. Before the issuance of any steamship bonds under this act, each member of the Authority shall execute a surety bond to the commonwealth with a surety company authorized to transact business in the commonwealth as surety in the penal sum of \$10,000, and the treasurer shall execute

such a bond in the penal sum of \$20,000, conditioned upon the faithful performance of the duties of his office. Each surety bond shall be approved by the attorney general and filed in the office of the state secretary. The members of the Authority shall serve without compensation. Each member shall be reimbursed for his actual expenses necessarily incurred in the performance of his duties. All expenses incurred in carrying out this act shall be paid solely from funds provided under the authority of this act, and no liability or obligation shall be incurred by the Authority hereunder beyond the extent to which monies shall have been provided under the authority of this act.

As amended by:

St. 1991, c. 33, §§ 102-103;
St. 2000, c. 235, § 24;
St. 2002, c. 243, §§ 2-4; and
St. 2002, c. 429, §§ 3-4.

Section 4

The Authority is hereby authorized and empowered –

- (a) To acquire, maintain, repair and operate a boat line.
- (b) To issue bonds of the Authority payable solely from the funds herein provided for such payment for the purpose of paying for replacements and new construction or acquisition of vessels and other facilities required to provide adequate service; the total amount to be outstanding at any one time, including refunding bonds but excluding the bonds to be refunded thereby, not to exceed 75 million dollars. Any real estate owned or leased by the Authority in the towns of Bourne and Barnstable that sits on an aquifer from which drinking water is extracted shall be subject to applicable zoning ordinances and by-laws.
- (c) To fix, from time to time, such rates of fare and charges for service furnished or operated as in the judgment of its members are best adapted to insure sufficient income to meet the cost of the service, as hereinafter defined. Rates so fixed shall be and remain in effect until changed by the Authority unless the department of public utilities shall upon petition and after a public hearing disapprove them. Such disapproval, if any, shall not be retroactive in effect.

The cost of the service shall include (1) operating expenses, (2) taxes, (3) rentals, (4) interest on all indebtedness of the Massachusetts Steamship Lines, Incorporated and the New Bedford, Woods Hole, Martha's Vineyard and Nantucket Steamship Authority, created by section three of chapter five hundred and forty-four of the acts of nineteen hundred and forty-eight, if any, (including amortization of discount or premium) assumed by the Authority and still outstanding, (5) interest and amortization (including amortization of discount or premium) on bonds or notes of the Authority issued under this act, (6) such allowance as the Authority may deem necessary or advisable for depreciation of property and for obsolescence and losses in respect to property sold, destroyed or abandoned, (7) salaries and wages of all officers and employees appointed or employed by or subject to the supervision of the Authority, and, to the extent authorized by the Authority, pensions and retirement allowances, if any, to present and former employees of said Massachusetts Steamship Lines, Incorporated and said New Bedford, Woods Hole, Martha's Vineyard and Nantucket Steamship Authority and employees of the Authority, (8) all other expenditures and charges which are properly chargeable against income or surplus.

(d) To adopt by-laws for the regulation of its affairs and the conduct of its business.

(e) To acquire, hold and dispose of real and personal property, including additional vessels and fixtures, for its corporate purposes; to lease or charter any of its vessels when in the opinion of the Authority they are not required for the purposes of this act; and to contract by license, lease, charter or other arrangement for the provision of excursion service by other persons to and from the islands of Martha's Vineyard and Nantucket from any point on the mainland of the commonwealth, when it shall be deemed necessary or desirable to serve the purposes of this act.

(f) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this act, and to employ consulting engineers, superintendents, managers, accounting experts, attorneys and such other employees and agents as may be necessary in its judgment, and to fix their compensation, provided that all such expenses shall be solely from the proceeds of bonds issued under the provisions of this act or of chapter five hundred and forty-four of the acts of nineteen hundred and forty-eight, as amended, or from the revenues of the operation of the steamship line.

(g) To receive and accept from any federal agency grants for any purpose for or in aid of the acquisition or operation of the steamship line, or any vessels, equipment and facilities thereof, and to receive and to accept contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made; and further, to be authorized as a designated agency to receive directly federal participation under Section

139 of Title 23 of the United States Code, withstanding the provisions of section one of chapter seven hundred and sixty-eight of the acts of nineteen hundred and sixty-nine and to be further authorized to match directly any such federal funds as required under such federal participation; and to do all acts and things necessary or convenient to carry out the powers expressly granted in this act.

(h) To employ, in so far as may be practicable, the regular employees of said New Bedford, Woods Hole, Martha's Vineyard and Nantucket Steamship Authority, and to recognize such seniority and pension benefits as the said employees currently enjoy under any health, sickness or retirement program.

(i) To insure its employees under the provisions of the Employment Security Law and to become liable for payments instead of contributions as provided in subsection (o) of section fourteen of chapter one hundred and fifty-one A of the General Laws.

(j) 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. The notes shall be payable within three years from their dates, but the principal of and interest on notes issued for a shorter period may be renewed or paid from time to time by the issue of other notes hereunder maturing within the required time from the date of the original loan being refunded. When bonds are issued for the purposes for which the notes were issued, the proceeds of the bonds shall be used to repay the notes and interest on the notes will be charged to current expense. The notes may be secured by the provisions of a resolution, as in the case of bonds. Bond anticipation notes may be issued either before or after the authorization of the bonds being anticipated.

(k) To maintain the confidentiality of all information relating to specifically named customers using the authority's reservations system including, but not limited to, passenger names, home addresses, email addresses, telephone numbers, credit and account data and the dates and times of their reservations and sailings. Such information shall not be a public record, although it may be used and disclosed by the authority as necessary in connection with the appropriate conduct of its operations and in connection with law enforcement activities. The authority shall provide to a customer requesting any such information, all information that the authority has pertaining to that customer. The authority shall obtain the express, written consent of a customer before releasing customer information to a third party for commercial or noncommercial purposes.

As amended by:

St. 1963, c. 528;

St. 1965, c. 437;

St. 1968, c. 317;
St. 1969, c. 779;
St. 1976, c. 517;
St. 1978, c. 524;
St. 1985, c. 460, §§ 1-2;
St. 1991, c. 33, §§ 104-105;
St. 2002, c. 243, §§ 5-7; and
St. 2003, c. 26, § 651

Section 5

The Authority is hereby authorized to provide by resolution at one time or from time to time for the issuance of bonds of the Authority for the purpose of paying for replacements and new construction or acquisition of vessels and other facilities required to provide adequate service. The principal and interest of such bonds 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 rates, shall mature at such time or times not exceeding forty 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 the bonds. The Authority shall determine the form of the bonds, including any interest coupons to be attached thereto, and the manner of execution of the bonds, and shall fix the denomination or denominations of the bonds and the place or places of payment of principal and interest, which may be at any bank or trust company within the commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until such delivery. All bonds issued under the provisions of this act shall have and are hereby declared to have all the qualities and incidents of negotiable instruments under the Uniform Commercial Code. The bonds may be issued in coupon or in registered form, or both, as the Authority may determine, and provision may be made for the registration of any coupon bonds as to principal alone, and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The Authority may sell such bonds 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.

The proceeds of such bonds shall be used solely for replacements and new construction or acquisition of vessels and other facilities required to provide adequate service and shall be disbursed in such manner and under such restrictions, if any, as the Authority may provide. The Authority may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost. Bonds may be issued under the provisions of this act without obtaining the consent of any department, division, commission, board, bureau or agency of the commonwealth, and without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this act.

The Authority is hereby authorized to provide by resolution for the issuance of refunding bonds of the Authority for the purpose of refunding any bonds that are outstanding and issued under the provisions of this act or of said chapter five hundred and forty-four of the acts of nineteen hundred and forty-eight, as amended, including payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption of such bonds, and, if deemed advisable by the Authority, for the additional purpose of purchasing additional vessels or equipment. The issuance of such bonds, the maturities and other details thereof, and the duties of the Authority in respect to the same, shall be governed by the provisions of this act in so far as the same may be applicable.

While any bonds issued by the Authority or by said New Bedford, Woods Hole, Martha's Vineyard and Nantucket Steamship Authority remain outstanding, the powers, duties or existence of the Authority shall not be diminished or impaired in any way that will affect adversely the interests and rights of the holders of such bonds.

Except as provided in this act, no person shall operate a vessel with a Coast Guard approved capacity rating in excess of forty passengers or a vessel of more than seventy-five gross tons for the carriage of passengers for hire by water between the mainland and the island of Martha's Vineyard or the island of Nantucket or between said islands unless licensed or permitted in writing to do so by the Authority. Except as provided in this act, no person shall operate a vessel for the carriage of vehicles or freight for hire or resale by water between the mainland and the island of Martha's Vineyard or the island of Nantucket or between said islands unless licensed or permitted in writing to do so by the Authority. The superior court shall have jurisdiction, on a petition in equity by the Authority, to enjoin any such operation. This section shall not apply to continuance of existing services by vessels or a replacement of similar capacity thereof, which were in service on a daily seasonal basis on or before May thirtieth, nineteen hundred and seventy-three, or which were under contract for construction or purchase therefor executed on or before May thirtieth, nineteen hundred and seventy-three. The foregoing exclusion, however, shall not be applicable to vessels operating on a charter basis from a non-financial institution.

The provisions of the foregoing paragraph shall not apply to the continuance of the existing service from the port of New Bedford to the island of Martha's Vineyard by the motor vessel Manisee or a replacement of similar capacity, nor shall said provisions be construed to prohibit the operation of another motor vessel for a period of twenty days, in the event that the motor vessel Manisee or a replacement is unable to operate because of a breakdown or an emergency situation.

As amended by:

St. 1962, c. 675;
St. 1973, c. 942; and
St. 1981, c. 584

Section 6

The exercise of the powers granted by this act will be in all respects for the benefit of the people of the commonwealth, for the increase of their commerce and prosperity, and for the improvement of their health and living conditions, and as the operation and maintenance of the steamship line by the Authority will constitute the performance of essential governmental functions, the Authority shall not be required to pay any taxes or assessments upon any property acquired or used by the Authority under the provisions of this act or upon the income therefrom, and the bonds and refunding bonds issued under the provisions of this act, their transfer and the income therefrom (including any profit made on the sale thereof), shall at all times be free from taxation within the commonwealth.

Section 7

Section 12 of chapter 63 of the General Laws is hereby amended by inserting after paragraph (*s*) the following: --

(*t*) Bonds issued by the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.

Section 8

In the discretion of the Authority such bonds or refunding bonds shall be secured by a trust agreement by and between the Authority and a corporate trustee, which may be any trust company or bank having the powers of a trust company within the commonwealth. Such trust agreement may pledge or assign the revenues to be received, but shall not convey or mortgage the vessels, equipment or property. Either the resolution providing for the issuance of bonds or such trust agreement may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of law, including covenants setting forth the duties of the Authority in relation to the acquisition, improvement, maintenance, operation, repair and insurance of the project, and the custody, safeguarding and application of all moneys.

It shall be lawful for any bank or trust company incorporated under the laws of the commonwealth to act as depository of the proceeds of bonds or of revenues and to furnish such indemnifying bonds or to pledge such securities as may be required by the Authority. Such trust agreement may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders as is customary in trust agreement or trust indentures securing bonds and debentures of corporations. In addition to the foregoing, such trust agreement may contain such other provisions, including a provision for a sinking fund, as the Authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement may be treated as a part of the cost of the operation of the steamship line.

Section 9

The revenues derived from the operation of the steamship line shall be set aside at regular intervals in the following order, in the following amounts and for the following purposes:

First: to an operations fund, an amount sufficient to pay the cost of maintenance, repair and operation of the steamship line for the current month and the next ensuing month, and to maintain working capital for such purposes in an amount not exceeding one thirty-sixth of the operating budget for the then current fiscal year;

Second: to a sinking fund, an amount sufficient to provide for the payment of the interest on and for the amortization and payment of the principal of all bonds as the same shall become due and payable;

Third: to a replacement fund, if so provided in the resolution authorizing the issuance of bonds, such amount, if any, as the Authority may deem necessary or advisable for depreciation of property and for obsolescence and losses in respect to property sold, destroyed or abandoned, and for improvements to and acquisitions of real and personal property, provided that accumulated amounts not needed for the foregoing purposes may from time to time be transferred to the sinking fund to be used for the purchase or redemption of bonds;

Fourth: to a reserve fund, an amount sufficient to maintain said fund at a level equal to five per cent of the principal amount of all bonds outstanding or six hundred thousand dollars, whichever is greater; and

Fifth: to the sinking fund, all of the remaining revenues, to be used within a reasonable time for the purchase or redemption of bonds or, in the Authority's discretion, to be transferred to the replacement fund or to the capital improvement fund to be used for any purposes for which bonds may be issued.

Whenever the income of the Authority is insufficient to meet the cost of the service, as defined in section four, the reserve fund shall be used as far as necessary to make up said deficiency.

If as of the last day of December in any year the amount remaining in the reserve fund shall be insufficient to meet the deficiency hereinbefore referred to, the Authority shall notify the state treasurer of the amount of such deficiency, less the amount, if any, in the reserve fund applicable thereto, and the commonwealth shall thereupon pay over to the Authority the amount so ascertained and the Authority shall apply the amount so received from the commonwealth in payment of such deficiency. Pending such payment, the Authority shall borrow such amount of money as may be necessary to enable it to make all payments as they become due.

If as of the last day of December in any year the reserve fund shall exceed the amount established therefore, the Authority shall deposit such excess in the sinking fund, to be used within a reasonable time for the purchase or redemption of bonds outstanding. When there are no such bonds outstanding to be redeemed, then such excess funds shall be first paid to the commonwealth for any amounts which it may have paid to the Authority under the provisions hereof and the commonwealth shall thereupon distribute the amounts so received to the towns assessable for a deficiency, as provided in this section in proportion to the amounts for which they may be so assessed.

In order to meet any payment required of the commonwealth under this section, the state treasurer may borrow at any time, in anticipation of the assessments to be levied upon the towns hereinafter specified, such sums of money as may be necessary to make said payments and he shall repay any sums so borrowed as soon after said assessments are paid as is expedient.

In case the commonwealth shall be called upon in the calendar year nineteen hundred and sixty-one to pay the Authority any amount under this section on account of any such deficiency for the calendar year nineteen hundred and sixty, such amount with interest or other charges incurred in borrowing the money for the purpose, except such amounts as may be appropriated by the general court therefor, shall be assessed on the city of New Bedford and the towns of Falmouth and Nantucket and the county of Dukes county, in the following proportions, viz: forty per cent on the city of New Bedford; ten per cent on the town of Falmouth; twenty per cent on the town of Nantucket; and thirty per cent on the county of Dukes County. The county commissioners of the county of Dukes county shall allocate such assessment upon said county to be paid severally by the towns in said county, excepting the town of Gosnold, in the same proportions as in the assessment of the county tax.

In case the commonwealth shall be called upon in the calendar year 2002 or a subsequent calendar year to pay the Authority any amount under this section on account of a deficiency for the calendar year 2001 or a subsequent calendar year, such amount, with interest or other charges incurred in borrowing the money for the purpose, except such amounts as may be appropriated by the general court therefor, shall be assessed on the towns of Barnstable, Falmouth and Nantucket and the city of New Bedford and the county of Dukes County, in the following proportions: 10 per cent each on Barnstable, New Bedford and Falmouth, 35 per cent on Nantucket and 35 per cent on the county of Dukes County. The county commissioners of the county of Dukes County shall allocate such assessment upon the county to be paid severally by the towns in the county, excepting the town of Gosnold, in the same proportions as in the assessment of the county tax. The city of New Bedford shall be assessed 50 per cent of any net operating losses, not to exceed \$650,000 annually, accrued for any Authority passenger and freight service run from the port of New Bedford which is directly attributable to such service excluding any net operating losses resulting from the operation of the Authority's *Schamochi*, in the calendar years 2003, 2004 and 2005 and 25 per cent of any such net operating losses, not to exceed \$650,000 annually, accrued in calendar years 2006 and 2007. In calendar year 2008 and thereafter, the city of New Bedford shall pay 10 per cent of any annual deficiency, in an identical fashion, to the towns of Falmouth and Barnstable, pursuant to this section. At the end of each calendar year beginning with the calendar year subsequent to the effective date of this act, the Authority shall prepare a report calculating the operating losses in accordance with generally accepted accounting principles and shall submit the same to the auditor of the commonwealth for his approval. The amount certified by the auditor shall be paid to the Authority by the state

treasurer and assessed on the city of New Bedford in accordance with the above principles.

If at any time the Authority has not sufficient cash to make payments required in the course of its management and operation of the steamship line and other properties under its control, the Authority may temporarily borrow money and issue notes of the Authority therefor.

If at any time any principal or interest is due or about to become due on any bond or note issued or assumed by the Authority, and funds to pay the same are not available, the Authority shall certify to the state treasurer the amount required to meet such obligations, and the commonwealth shall thereupon pay over to the Authority the amount so certified. If the commonwealth shall not make such payments within a reasonable time, the Authority or any holder of an unpaid bond or note issued or assumed by the Authority, acting in the name of and on behalf of the Authority, shall have the right to require the commonwealth to pay the Authority the amount remaining unpaid, which right shall be enforceable as a claim against the commonwealth. The Authority or any such holder of an unpaid bond or note may file a petition in the superior court of Suffolk county to enforce such claim or intervene in any such proceeding already commenced, and the provisions of chapter two hundred and fifty-eight of the General Laws shall apply to such petition insofar as it relates to the enforcement of a claim against the commonwealth. Any such holder who shall have filed such a petition may apply for an order of said court requiring the Authority to apply funds received by the Authority on its claim against the commonwealth to the payment of the petitioner's unpaid bond or note, and said court, if it finds such amount to be due, shall issue such an order.

As amended by:

St. 1965, c. 779, § 1;
St. 1969, c. 654;
St. 1971, c. 1038, § 2;
St. 1975, c. 717, § 1;
St. 1978, c. 502;
St. 1985, c. 460, § 3; and
St. 2002, c. 243, § 9.

Section 9A

Notwithstanding any other provisions of this act, the Authority is hereby authorized to enter into a contract or contracts with the commonwealth, and the commonwealth, acting by and through the executive office for administration and finance, may enter into a contract or contracts with the Authority whereby the commonwealth agrees to reimburse the Authority for an amount equal to ninety per cent of the debt service on any bonds issued in respect to any vessels, equipment or facility for mass transportation purposes acquired by the Authority after the establishment of the Massachusetts Bay Transportation Authority, less the amounts available from revenues or any reserve fund or sinking fund for such debt service. Such contract shall also provide that in the event that the reserve fund provided in section nine in any year shall exceed the amount established therefor, then the amount of excess paid the commonwealth for distribution to the towns shall first be reduced by any amount previously advanced by the commonwealth for the purposes of this section and not otherwise repaid to it. Such sum shall be returned to the cigarette tax fund for mass transportation purposes, as set forth in paragraph (b) of section twenty-eight of chapter sixty-four C of the General Laws.

As amended by:

St. 1964, c. 563, § 17.

Section 10

All moneys received pursuant to the authority of this act, whether as proceeds from the sale of bonds or as revenues, shall be deemed to be trust funds, to be held and applied solely as provided in this act. The Authority shall, in the resolution authorizing the issuance of bonds or in the trust agreement, provide for the payment of the proceeds of the sale of such bonds, and all revenues to be received, to any officer who, or to any agency, bank or trust company which, shall act as trustee of such funds and shall hold and apply the same to the purposes hereof, subject to such regulations as this act and such resolution or trust agreement may provide.

Section 11

Bonds and refunding bonds issued under the provisions of this act are hereby made securities in which all public officers and public bodies of the commonwealth and its political subdivisions, all insurance companies, trust companies in their commercial departments and within the limits set by section fourteen of chapter one hundred and sixty-seven E of the General Laws, banking associations, investment companies, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of a similar nature may properly and legally invest funds, including capital in their control or belonging to them, and such bonds are hereby made obligations which may properly and legally be made eligible for the investment of savings deposits and the income thereof in the manner provided by paragraph 2 of section fifteen B of chapter one hundred and sixty-seven of the General Laws. Such revenue bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the commonwealth for any purpose for which the deposit of bonds or other obligations of the commonwealth now or may hereafter be authorized by law.

As amended by:

St. 1983, c. 371, § 101.

Section 12

Any holder of bonds or refunding bonds issued under the provisions of this act or of any of the coupons appertaining thereto, and the trustee under the trust agreement, if any, except to the extent the rights herein given may be restricted by such resolution or trust agreement, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the commonwealth or granted hereunder or under such resolution or trust agreement, and may enforce and compel the performance of all duties required by this act or by such resolution or trust agreement to be performed by the Authority or by any officer thereof, including the fixing, charging and collecting of tolls and charges for the use of the project.

Section 13

On or before the first day of April in each year, the Authority shall make an annual report of its activities for the preceding calendar year to the governor and to the general court. Each such report shall set forth a complete operating and financial statement covering its operations during the year. The state auditor shall cause an audit of the books of the Authority to be made at least once each year. The cost of such audit shall not be borne by the Authority. Such audits made by the state auditor shall be conducted on a completely independent basis from the Authority and shall be deemed to be public records within the meaning of chapter sixty-six of the General Laws.

As amended by:

St. 1962, c. 276; and
St. 1967, c. 575

Section 14

There is hereby established a board to be known as the Port Council of the Woods Hole, Martha's Vineyard and Nantucket Steamship Authority which shall consist of seven members: one member to be appointed by the board of selectmen of the town of Falmouth for a term of one year; one member to be appointed by the mayor with the approval of the city council of the city of New Bedford for a term of one year; one member to be appointed by the town council of the town of Barnstable for a term of two years; one member to be appointed by the selectmen of the town of Oak Bluffs for a term of two years; one member to be appointed by the board of selectmen of the town of Tisbury for a term of two years; one member to be appointed by the board of selectmen of the town of Nantucket for a term of three years; and one member to be appointed by the board of selectmen of the town of Fairhaven for a term of three years. Upon the expiration of the term of a member, a successor shall be appointed in like manner for a term of two years. Said board shall have the power to review the annual budget of the Authority and advise the Authority members concerning any activities underway or proposed in any port community in which the Authority operates. The board shall have access to such books, records and files of the Authority as it may deem necessary or desirable for the exercise of its powers. The members of the board shall serve without compensation but shall be reimbursed from the funds of the Authority for any actual expenses necessarily incurred in the performance of their duties.

As amended by:

St. 1964, c. 313, § 1;
St. 1979, c. 316;
St. 1980, c. 48, § 1; and
St. 2002, c. 243, § 9.

Section 15

If transportation of passengers on the steamship line of the Authority is interrupted by reason of any group of employees calling a strike or going out on strike, or causing any such stoppage or slow down, or by reason of any other labor dispute, the provisions of chapter one hundred and fifty B of the General Laws shall apply, in so far as they are applicable.

Any member, agent or employee of the Authority who contracts with the Authority or is interested, either directly or indirectly in any contract with the Authority, other than a contract relating to labor or wages, shall be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year or both.

No member of the Authority shall be in the employ of, or be in any way, directly or indirectly, financially interested in any person, partnership, corporation or association having any business or financial transactions with the Authority, or which is furnishing any transportation of freight or passengers in the area of the Authority, or rendering any service similar to that performed by the Authority.

No contract shall be awarded by the Authority for construction work or for the purchase of equipment, supplies or materials, whether for repairs or original construction, the estimated cost of which amounts to \$10,000 or more, except in cases of special emergency involving the health, convenience or safety of the people using the facilities of the Authority, unless proposals for the same have been invited by advertisements in at least one newspaper circulating in each of the towns of Falmouth, Nantucket and Barnstable, the city of New Bedford and the county of Dukes County, once a week for at least two consecutive weeks, the last publication to be at least one week before the time specified for the opening of said proposals. Such advertisements shall state the time and place where plans and specifications of proposed work or supplies may be had and the time and place for opening the proposals in answer to said advertisements. Every such contract shall be awarded to the lowest responsible and

eligible bidder, provided, however, the Authority may reject any such proposal if it is in the public interest. Nothing hereinbefore contained shall be construed as requiring the invitation of proposals for engineering or architectural work in connection with a proposed project.

The Authority may indemnify any member, officer or employee from personal expense or damages incurred, arising out of any claim, suit, demand or judgment which arose out of any act or omission of the individual, including the violation of the civil rights of any person under any federal law, if at the time of such act or omission the member, officer or employee was acting within the scope of his official duties or employment; provided, that the defense or settlement of such claim shall have been made by counsel for the Authority, by an attorney retained for such purpose by the Authority, or by an attorney provided by an insurer obligated under the terms of a policy of insurance to defend against such claims.

As amended by:

St. 1964, c. 278;
St. 1978, c. 427;
St. 1990, c. 167; and
St. 2002, c. 243, § 10.

Section 15A

The Authority shall post and advertise in at least one newspaper circulating in each of the towns of Falmouth, Nantucket and Barnstable, the city of New Bedford, and the county of Dukes County, all proposed schedule changes no later than 60 days prior to the effective date of the proposed changes. In the event that the Authority shall receive, within 30 days of the posting and advertising, a petition signed by not less than 50 persons who are residents of the towns of Falmouth, Nantucket and Barnstable, the city of New Bedford and the county of Dukes County requesting a public hearing on the proposed changes, the Authority shall, within 14 days of receiving the petition, conduct a public hearing. The location of the hearing shall be in either the town of Falmouth or Barnstable or in the city of New Bedford or on the islands of Martha's Vineyard or Nantucket, wherever the greatest number of petitioners reside.

The Authority shall, after considering the testimony at said public hearing, and at least seven days prior to the effective date of the proposed changes issue a report either

maintaining its original proposed schedule changes, or making modifications thereto, and explaining their reasons therefor. In the event that modifications are made to a proposed schedule change as a result of a public hearing, said modifications may take effect on the original proposed effective date.

For the purposes of this section, proposed schedule changes shall not include any changes necessitated by weather, equipment failure, or other emergency conditions, but shall include all seasonal schedule changes of said Authority.

As amended by:

St. 1979, c. 102; and
St. 2002, c. 243, § 11.

Section 16

Said New Bedford, Woods Hole, Martha's Vineyard and Nantucket Steamship Authority is hereby abolished; and all its assets, including its real property, shall, without further conveyance and by virtue of this act, be and become vested in said Woods Hole, Martha's Vineyard and Nantucket Steamship Authority; and all its outstanding indebtedness and liabilities shall, without further action and by virtue of this act, be assumed by said Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.

When used in any instrument acknowledging indebtedness or other obligation the words "New Bedford, Woods Hole, Martha's Vineyard and Nantucket Steamship Authority" shall mean said Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.

All books, records and papers in the possession of the said New Bedford, Woods Hole, Martha's Vineyard and Nantucket Steamship Authority shall, upon the effective date of this act, be turned over to said Woods Hole, Martha's Vineyard and Nantucket Steamship Authority.

Except as provided herein, nothing contained in this act or in said chapter five hundred and forty-four of the acts of nineteen hundred and forty-eight, as amended by chapter one hundred and forty-two of the acts of nineteen hundred and forty-nine, chapter four hundred and forty-nine of the acts of nineteen hundred and fifty-four, chapter six hundred and twenty-two of the acts of nineteen hundred and fifty-four and

chapter seven hundred and forty-seven of the acts of nineteen hundred and fifty-six, shall be deemed or construed to require that said Woods Hole, Martha's Vineyard and Nantucket Steamship Authority provide ferry runs or such transportation of passengers, vehicles or freight to or from any point on the mainland of the commonwealth to or from any other such point or to and from the islands of Martha's Vineyard or Nantucket; provided, however, that except in cases of emergency or necessity, said ferry runs or such transportation shall be provided to and from the port of Woods Hole to and from the island of Martha's Vineyard; provided, further, that except in cases of emergency or necessity, said ferry runs or such transportation shall be provided to and from the mainland to and from the island of Nantucket; and provided, further, that for no less than the period of April first to December thirty-first of each year said ferry runs or such transportation shall be provided to and from inner Lewis Bay, in the town of Barnstable, to and from the island of Nantucket.

In addition to the service required by the preceding paragraph, the Authority may in its discretion provide ferry runs or such transportation between any other port on the mainland, except the town of Fairhaven, and the islands when it shall be deemed necessary or desirable to serve the purposes of this act, and may acquire any business enterprise necessary or convenient for such purpose.

As amended by:

St. 1965, c. 413;
St. 1969, c. 573;
St. 1974, c. 392;
St. 1979, c. 133, § 1;
St. 2002, c. 243, § 12; and
St. 2002, c. 429, § 5.

Section 17

This act, being necessary for the welfare of the commonwealth and its inhabitants, shall be liberally construed to effect the purposes thereof.

Section 18

The provisions of this act are severable, and if any of its provisions shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

Section 19

All other general or special laws, or parts thereof, inconsistent herewith are hereby declared to be inapplicable to the provisions of this act.

Section 20

This act shall take effect on January first, nineteen hundred and sixty-one.